



An  
Bord  
Pleanála

## Inspector's Report ABP-304457-19

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| <b>Development</b>                  | Construction of 24 houses and associated garages and for all ancillary site works. |
| <b>Location</b>                     | Lackagh Beg, Turloughmore, Co Galway.  |
| <b>Planning Authority</b>           | Galway County Council  |
| <b>Planning Authority Reg. Ref.</b> | 19248  |
| <b>Applicant(s)</b>                 | Maria Flynn  |
| <b>Type of Application</b>          | Permission   |
| <b>Planning Authority Decision</b>  | Refuse   |
| <b>Type of Appeal</b>               | First Party  |
| <b>Appellant(s)</b>                 | Maria Flynn  |
| <b>Observer(s)</b>                  | None   |
| <b>Date of Site Inspection</b>      | 18 <sup>th</sup> July 2019   |
| <b>Inspector</b>                    | Irené McCormack  |

## 1.0 Site Location and Description

- 1.1. The village of Lackagh is located approx. 13km northeast of Galway City and 7km south of Tuam on the R353, approx. 3k west of junction 19 of the M17 motorway. The site is located on the southwestern edge of the village approx. 300m from the village centre within the 50kph speed limit.
- 1.2. Lackagh is a small settlement comprising of two existing housing developments and low-density single sites. Local amenities include a church, national school, a supermarket, post office, pharmacy, hardware store and pub. A footpath and public lighting connect the site to the village centre.
- 1.3. The appeal site is a greenfield site in agricultural use. The site is 3.18 hectares in area and falls gently from north to south. The site is located directly south of the village graveyard and west of the residential estate of Woodlands. Site boundaries are defined by a mix of walling and fencing. There is very little vegetation on the site.

## 2.0 Proposed Development

- 2.1. The proposal seeks permission for the construction of 24 detached houses and associated domestic garages and all ancillary site works, services, street lighting, roads, footpaths, open spaces and all other works necessary to facilitate the development.
- 2.2. The development will be connected to the existing private treatment plant and polishing filter constructed under pl. ref. 01/2035, with upgrades permitted under pl. ref. 17/546, which services the proposed development site and the Flynn's of Lackagh complex.

## 3.0 Planning Authority Decision

### 3.1. Decision

Galway County Council issued notification to refuse planning permission for the following reasons:

1. Development of the kind proposed on the land would be premature and potentially prejudicial to public health (irrespective of proposals for connection

to existing communal on-site wastewater treatment system which are not considered a sustainable or effective long term resolution to the absence or deficiency of public services), by reference to the existing deficiency in the provision of public sewerage facilities serving Lackagh and the period within which the constraints involved may reasonable be expected to cease. The proposed development would therefore be contrary to the proper planning and sustainable development on the area.

2. Having regard to the proposed connection to existing communal on-site wastewater treatment system (developer provided), and in the absence of satisfactory documentary evidence to confirm the adequate installation and operation of the existing and permitted system, and in the absence of any guarantee of the long-term management and adequate maintenance of same, the Planning Authority is not satisfied that the development would not be prejudicial to public health. The proposed development would therefore be contrary to the proper planning and sustainable development on the area.
3. The proposed development, by reason of its isolated outer edge location relative to the existing pattern of development in the village, does not adequately connect with not reinforce the existing urban form of Lackagh, contributing to sense of place or perpetuating existing or creating new connected streets, thereby assimilating its edge of centre setting, is contrary to the provisions of Section 3.4.4 of the current Galway County Development Plan 2015-2021, the provisos of Section 6.3 and 6.8 of Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) DEHLG (2009) and Sections 2,6,7 of Urban Design Manual – a Best Practice Guides DEHLG (2009). The proposed development would therefore be contrary to the proper planning and sustainable development on the area

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- 3.2.2. Assistant Planner's report deems the proposed development to be peripheral and poorly connected to the settlement notwithstanding the location of the site within the GTPS in close commuting catchment. The report sets out the Local Authority do not

take in charge private wastewater treatment plants because of the lack of satisfactory long-term maintenance and management. The proposal to connect to the existing wastewater treatment plant is unsustainable, and it is noted that there is no discharge licence in place for the existing treatment plant (01/2035) and the upgraded works conditioned under 17/546 have not yet been constructed and is not operational. The report refers to the proximity of the site to a significant electricity and gas related network infrastructure in close proximity to the site and the requirement to consult with the relevant operators. Planner recommended refusal for three reasons based on:

- Deficiency in the provision of public sewerage facilities serving Lackagh.
- Absence of satisfactory documentary evidence to confirm the adequate installation and operation of the existing and permitted wastewater treatment plant.
- Isolated outer edge location relative to the existing pattern of the village.

### 3.2.3. **Other Technical Reports**

Environment Section - Report dated 16<sup>th</sup> April 2019 notes that there is no discharge licence in place and recommends no further development be permitted until this situation is regularised. Additional hydrogeological assessment is required and the proposal to gravity feed the polishing filter on a system of the size proposed is not suitable. A pumped distribution system is required. Works permitted under 17/546 have not been carried out and certification that the plant and polishing filter has been correctly installed is required in addition to a maintenance contract. Concern is expressed regarding a developer providing water and wastewater infrastructure for multi-unit housing developments. It is recommended that the proximity of the wastewater treatment plant to the River Clare to be reviewed.

### 3.3. **Prescribed Bodies**

None

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

A total of five submissions were made in relation to the development. A brief summary of the issues raised in the submission to the Planning Authority are set out below:

- Overlooking and impact on privacy

- Impact on sunlight/daylight
- Noise, dirt and additional traffic detrimental to health
- Light pollution
- Proposed development will de-value existing houses
- Proximity to ESB pylons and gas line
- Concern raised with respect to construction works
- Concern raised with respect sewerage treatment
- Impact of additional traffic
- Existing views of the rural landscape will be lost
- Revised landscaping plan required to reduce potential loss of light from the species of trees proposed as they mature and screen
- Additional landscaping required to screen area where there is the potential for anti-social behaviour.

## 4.0 Planning History

### Site

PL. Ref.16/1530 - Permission granted in 2017 to construct a serviced dwelling house and domestic garage. This permission has not been taken up.

PL. Ref. 11/325 - Permission granted in 2011 for the construction of a13 no. residential units, 13 no domestic garages and ancillary roads and services to include a foul sewer connection to an existing treatment plant permitted under planning ref no 01/2035. This permission was not taken up.

PL. Ref. 05/2856 – Permission granted in 2006 for the construction of a13 no. residential units, 13 no domestic garages and ancillary roads and services to include a foul sewer connection to an existing treatment plant.

### Adjoining

PL. Ref. 17/546 – permission granted in 2017 for the upgrading of an existing treatment plant and polishing filter which was previously constructed under PI. Ref.

01/2035 and for all other ancillary works and services. An Appropriate Assessment Screening report accompanied this planning application. This permission has not been taken up.

PL. Ref. 01/2035 – permission granted in 2001 for the retention of revision to elevations of new supermarket and minor alterations to plans, revised location of sewage treatment plant and percolation area, access road, footpaths and associated services and ESB sub-station.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **5.1.1. Galway County Development Plan 2015-2021**

The site is located in the settlement of Lackagh on un-zoned lands

#### **Section 2.6.1 Settlement Hierarchy**

In the context of the settlement hierarchy the village of Lackagh is identified as in the category of Other Settlements & the Countryside in Chapter 2 of the Development Plan. These smaller settlements provide basic services to their community, such as convenience goods and primary education and religious services. They are distinguished from rural housing by the presence of these services which provide an important community purpose and the basis for further future development.

#### **Objective SS 7 – Development of Small Settlements**

In the case of smaller settlements for which no specific plans are available, development shall be considered on the basis of its connectivity, capacity (including social, cultural, and economic, infrastructural and environmental capacity) and compliance with the Core Strategy and Settlement Strategy, good design, community gain and proper planning and sustainable development.

#### *Section 3.3.4 Housing Density*

The DoEHLG Guidelines for Sustainable Residential Development in Urban Areas (2009), promotes increased densities in appropriate locations where there is adequate capacity in infrastructure, compliance with open and private space requirements, no undue impact on amenities, is in keeping with the character of the area and is in line with the principles set out in the Design Manual for Urban Roads and Streets. In line with the Department's Guidelines, higher densities will be encouraged at appropriate locations. However, in order to attract development back into towns/villages, lower densities will be permitted, in instances where it is demonstrated that development can provide an attractive living environment especially in town centres and areas comprehensively serviced by public transport, subject to appropriate design and amenity standards, while safeguarding residential amenity, internal space standards, private and public open spaces, car parking and other requirements

#### *Section 3.4.5 Edge of Centre Sites Within Small Towns/Villages*

The emphasis is on achieving successful transition from central areas to areas at the edge of the smaller towns and villages. Development of such sites tends to be predominantly residential in character and given the transitional nature of such sites, the density range will be assessed depending on the characteristics of the small town/village, and the subject site, on a case by case basis. There will also be an encouragement of appropriate housing types with a high standard of design. This form of development needs to ensure the definition of a strong urban edge and design that creates a clear distinction between the urban area and the open countryside while discouraging ribbon development on the approaches to towns and villages.

#### *Section 3.6 Urban Hosing Policies and Objectives*

Objective UHO 10 – Sequential Development seeks to promote the orderly and phased development of residential development in accordance with the principles of the sequential approach and as set out in the Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Guidelines 2009 (or as updated). In un-zoned towns and villages, the presumption shall be in favour of sequential development emanating from the town/village core outwards, subject to compliance

with the principles of proper planning and sustainable development and the County Development Plan.

DM Standard 1: Qualitative Assessment-Design Quality, Guidelines and Statements (Urban and Rural Areas)

a) Design Quality

b) Design Guidelines sets out that - On brownfield, infill sites or all other sites, a minimum of 10% public open space will be required.

DM Standard 22: Parking Standards

c) Parking in Residential Areas

In general, residential layouts should not be dominated by car parking along access roads. New residential development should take account of the following criteria:

- Car parking for detached and semi-detached housing should be within the curtilage of the individual house site.

The site is located within 15km of Galway City Centre and within the GTPS.

The Galway Transportation and Planning Study (GTPS) was adopted in 1999 and later updated in 2003. This strategy sets out the spatial planning and transportation strategy for the future of the GTPS area.

#### 5.1.2. Water and Wastewater

##### Chapter 2

Section 2.4.13 Water and Wastewater Capacity states - In preparation of the Core Strategy cognisance has been taken of the provision of water and wastewater infrastructure and the availability of capacity within the public supply networks. The responsibility for the provision of these services now lies with Irish Water, supported by Galway County Council, as appropriate. The objectives set out in this section of the plan clearly assert that development may not proceed unless the necessary water and wastewater infrastructure is in place to service same.

Objective CS 4 – Development of Serviced Lands states - Galway County Council shall ensure that the zoning of lands for residential use is in accordance with the Core Strategy and Settlement Strategy in order to meet the development needs of



the County, and ensure that the development of zoned lands is subject to adequate capacity being available in the relevant water and wastewater treatment facilities, prior to or in tandem with the development, in the interest of the protecting water resources in the area.

Objective RHO 12 - Waste Water Treatment Associated with Development in Un-Serviced Areas - Permit development in un-serviced areas only where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with the Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses EPA (2009)/ EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999) (or any superseding documents) and subject to complying with the provisions and objectives of the EU Water Framework Directive

#### DM Standard 29: Effluent Treatment Plants

The suitability of a site for the treatment of wastewater shall be determined, in accordance with the criteria set down in the EPA Wastewater Treatment Manuals (1999, 2009) or any revision or replacement of these manuals or any guidelines issued by the EPA concerning the content of these manuals.

- For larger developments the EPA *Wastewater Treatment Manuals-Treatment Systems for Small Communities, Business, Leisure Centres and Hotels* shall apply.

The following requirements shall apply with respect to effluent treatment facilities:

#### b) Clustered Housing

In the case of clustered housing schemes, wastewater treatment plants shall be permitted provided that they are designed and built in accordance with EPA Treatment Manuals.

#### c) Certification

Certification will be required that septic tanks have been de-sludged in accordance with EPA Guidelines.

The following will be a requirement of Planning Permission:

- Design Details - Design calculations supporting the selection of a particular type and size of system;
- Maintenance - A maintenance agreement specifying associated terms and conditions;
- Certification - Certification that septic tanks have been de-sludged in accordance with EPA Guidelines.

### 5.1.3. **National Policy and Guidelines**

- National Planning Framework (2018)
- Water Services, DRAFT Guidelines for Planning Authorities Department of Housing, Planning and Local Government (January 2018).

Section 5.3.1 states:

It is the policy of Irish Water to facilitate connections to existing infrastructure, where capacity exists, in order to maximise the use of existing infrastructure and reduce additional investment costs. There is a general presumption that development will be focused into areas that are serviced by public water supply and wastewater collection networks. Alternative solutions such as private wells or waste water treatment plants should not generally be considered by planning authorities. Irish Water will not retrospectively take over responsibility for developer provided treatment facilities or associated networks, unless agreed in advance.

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009)

Density Standards

6.9(c) Edge of small town / village

In order to offer an effective alternative to the provision of single houses in surrounding unserviced rural areas, it is appropriate in controlled circumstances to consider proposals for developments with densities of less than 15 - 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than about 20% of the total new planned housing stock of the small town or village in question. This is to ensure that planned new development in small towns and villages offer a range of housing types,

avoiding the trend towards predominantly low-density commuter-driven developments around many small towns and villages within the commuter belts of the principal cities and other Gateway locations. Such lower density development also needs to ensure the definition of a strong urban edge that defines a clear distinction between urban and the open countryside.

- Quality Housing for Sustainable Communities, Best Practice Guidelines (2007).
- The Residential Density - Guidelines for Planning Authorities 1999

## **5.2. Natural Heritage Designations**

- 5.2.1. Lough Corrib SAC (Site Code 000297) is located 1.5km east of the site. Lough Corrib SPA (Site Code 004042) is located 7.8km west of the site.

### 5.3. EIA Screening

On the issue of Environmental Impact Assessment screening I note that the relevant classes for consideration are class 10(b)(i) "Construction of more than 500 dwelling units" and 10(b)(iv) "Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere". Having regard to the size of the development site (.3.18ha) on un-zoned lands and the scale of the development it is sub threshold and the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The applicant's grounds of appeal can be summarised as follows:

- Current treatment plant serves the commercial complex to the north of the site know as Flynn's of Lackagh. The capacity of the current plant equates to a population equivalent (PE) is 150. The upgrade works permitted under 17/546 will increase the PE to 200.
- It is set out that effluent results are taken on a frequent basis in order to ensure that the effluent standard is maintained. The plant is currently functioning adequately in accordance with the original permitted design.
- The upgrade of the treatment plant permitted under 17/546 will comply with the discharge standards set out in the EPA Wastewater Treatment Manual – Treatment Systems for Small, Communities, Business, leisure Centres and Hotels. It is set out

that the required PE for the existing and proposed development is 150.5 PE. Hence the 200 PE is sufficient capacity to cater for development.

- In relation to refusal reason one the validity of the reason for refusal is questioned as the reason is based on an aspect of the development that is not part of the current proposal. The land is serviced, and it is set out that there has been an acknowledged residential context on this site for 14 years based on the planning history applicable to the site.
- The validity of refusal reason no. two is also queried as the wastewater treatment upgrade relates to a separate planning permission. It is also argued that the reference to an “existing communal on-site treatment system” is incorrect as the proposed connection is to the upgraded treatment plant. It is set out that a condition controlling the commencement of development until such time as the upgrade works have been completed would have been an appropriate approach.
- In terms of the management of the plant it is set out that there is a legal management company known as “Knockdoemore Management Company Limited” in place to maintain the treatment plant. This company is also responsible for the upgrade works.
- In relation to refusal reason no. three it is set out the development is within 500m of the village and the reason does not take cognisance of the established context or the existing defined pattern of the village. It is set out that the reason is illogical and convoluted by virtue of the fact that residential development was previously permitted on the site.

## 6.2. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

## 6.3. **Observations**

None

## 7.0 **Assessment**

7.1.1. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following

- Design, Layout, and Site Location

- Water Services
- Other Matters - Impact on established residential amenity
- Appropriate Assessment.

## 7.2. **Design, Layout, and Site location.**

- 7.2.1. The appeal site is located to the southwest of Lackagh Village on the edge of the established Village. The appeal site is accessed via and cul de sac serving a number of suburban detached dwellings, a graveyard and the private wastewater treatment plant serving the commercial centre to the north of the site. It is proposed to connect to this wastewater treatment plant. The proposal provides for 24 contemporary designed dwellings reflecting a mix of ten different house types consisting of single-storey, dormer and two storey dwellings each with domestic garages occupying large individual plots characterised by front gardens enclosed behind boundary walls and significant building line setbacks. The scheme is divided into two cul de sacs with pedestrian linkages and shared green areas. I am satisfied that the general layout is acceptable.
- 7.2.2. Section 3.4.5 *Edge of Centre Sites Within Small Towns/Villages* of the Galway County Development Plan 2015-2021 sets out the emphasis is on achieving successful transition from central areas to areas at the edge of the smaller towns and villages through appropriate housing types with a high standard of design and the need to ensure the definition of a strong urban edge and design that creates a clear distinction between the urban area and the open countryside.
- 7.2.3. The density of the scheme is low at 7.5 dwellings/hectare. Section 6.9 of the County Development plan and Section 6.12 of the Sustainable Residential Development in Urban Areas, 2009 state that a density of less than 15 – 20 dwellings per hectare along or inside the edge of a small town or village will be considered as an alternative to the provision of single houses in the surrounding unserviced rural lands, so long as such lower density developments do not represent more than about 20% of the total new planned housing stock of the small town or village. A planning history search has not identified any other planning applications for residential development in the village.

- 7.2.4. The appeal site is located within 15km of Galway City on un-zoned and unserviced lands. Consequently, I consider the proposed detached 24 dwellings on large individual plots contrary to the Sustainable Residential Development in Urban Areas, 2009 and its accompanying Urban Design Manual – a Best Practice Guides DEHLG (2009), which seeks to ensure that planned new development in small towns and villages offer a range of housing types, avoiding the trend towards predominantly low-density commuter-driven developments in small towns and villages within the commuter belts.
- 7.2.5. The Planning Authority's decision to refuse permission for the proposed development considered the isolated outer edge location relative to the existing pattern of development in the village, does not adequately connect with not reinforce the existing urban form of Lackagh, contributing to sense of place or perpetuating existing or creating new connected streets.
- 7.2.6. The general character of the area is reflective of a rural cul de sac characterised by existing detached houses on one side and a graveyard. Site inspection indicated a public footpath link from the site to the village core. The applicant argues that the site is easily accessible to village and the principle of residential development was previously approved on the site. In this regard, I note that the settlement growth has been concentrated to the southeast of the village immediately adjacent to the existing village core, I also note the lands to the north of the site and lands directly opposite the village core have not been developed.
- 7.2.7. It is an objective of the Development Plan as set out in objective UHO 10 – *Sequential Development* to promote the orderly and phased development of residential development in accordance with the principles of the sequential approach and as set out in the Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) Guidelines 2009. In un-zoned towns and villages, the presumption shall be in favour of sequential development emanating from the town/village core outwards. Furthermore, the principle of compact growth development is a key objective of the National Planning Framework. With this in mind new development shall extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public transport routes being given preference, encouraging infill opportunities. This is not the case in this instance.

7.2.8. Having regard to the location of the site removed from the village core, I consider the development would represent a disjointed pattern of development and is contrary to the National Planning Framework to “carefully managing the sustainable growth of compact cities, towns and villages” which “add value and create more attractive places in which people can live and work” and Section 3.4.5 Edge of Centre Sites Within Small Towns/Villages of the Galway County Development Plan 2015-2021 which the emphasis is on achieving successful transition from central areas to areas at the edge of the smaller towns and villages. The development should be refused for this reason.

### 7.3. **Water Services**

7.3.1. It is proposed to connect to the existing waste water treatment plant serving the commercial centre to the north of the site including Supervalu supermarket, existing hardware building, public house, health centre, private residential units and other ancillary commercial units within the complex. Permission was granted in 2017 under planning reg. 17/546 for the upgrade of the treatment plant to accommodate an increased capacity from a P.E. of 150 to a P.E. of 200. No works have commenced pursuant to this planning permission.

7.3.2. The Planning Authority’s decision to refuse planning permission raised particular concerns with respect to the disposal of effluent on site relating to the existing deficiency in the provision of public sewerage facilities serving Lackagh notwithstanding the existing communal on-site wastewater treatment system which are not considered a sustainable or effective long term resolution to the absence or deficiency of public services, and the absence of satisfactory documentary evidence to confirm the adequate installation and operation of the existing and permitted wastewater treatment plant to service the development.

7.3.3. The appellant argues that matters relating to the wastewater treatment upgrade relate to a separate planning permission and therefore is not a valid reason for refusal. In this regard, I note that the appellant proposes to connect to the permitted upgraded wastewater treatment plant (17/546) and referenced the upgrade works associated with the wastewater treatment plant in the development description



associated with appeal application. The current application is therefore inherently linked to the permitted upgrade works, and the current proposal cannot proceed without the upgrade of the treatment plant. Furthermore, I note that the upgrade works permitted under 17/546 were justified on the basis that the existing treatment plant is reaching the end of its life and the percolation area requires renewal ad to meet the EPA *Wastewater Treatment Manuals-Treatment Systems for Small Communities, Business, Leisure Centres and Hotels* standards. The additional infrastructure necessary to accommodate 24 additional dwellings did not form part of the design proposal or the assessment of pl. ref.17/546.

7.3.4. The report from the Environment Section dated the 16<sup>th</sup> April 2019 notes that there is no discharge licence in place for the existing wastewater treatment plant and recommends no further development be permitted until this situation is regularised. It is also stated that an additional hydrogeological assessment is required as part of the discharge licence required. Furthermore, as stated in the Tricel site specific report submitted with 17/546 the proposal to gravity feed the polishing filter on a system of the size proposed is not suitable. A pumped distribution system is required. Therefore, I am not satisfied on the basis of the evidence submitted with the planning application that the permitted wastewater treatment plant will adequately service the existing and proposed development and that the development would not be prejudicial to public health.

7.3.5. The Environment Section report also expresses concern regarding a developer providing water and wastewater infrastructure for multi-unit housing developments. In this regard, I note policy DM Standard 29: Effluent Treatment Plants states that in the case of clustered housing schemes, wastewater treatment plants shall be permitted provided that they are designed and built in accordance with the EPA *Wastewater Treatment Manuals-Treatment Systems for Small Communities, Business, Leisure Centres and Hotels*. The development plan therefore allows for the use of communal treatment plants. Furthermore, it is the appellant's contention that the treatment plant is in accordance with the EPA Manual.

7.3.6. Notwithstanding the above, Section 5.3.1 of the Water Services, DRAFT Guidelines for Planning Authorities Department of Housing, Planning and Local Government (2018) states that it is the policy of Irish Water to facilitate connections to existing infrastructure... Alternative solutions such as private wells or waste water treatment plants should not generally be considered by planning authorities. Irish Water will not retrospectively take over responsibility for developer provided treatment facilities or associated networks, unless agreed in advance. The guidelines state that the quantum, location and distribution of planned new development, must have regard to the capacity of public water services and seek to make efficient use of and maximise the capacity of existing and planned water services infrastructure. It is important to deliver certainty, consistency and efficiency in the alignment between development planning policy and management and water services provision. In the absence of a public sewerage system to service the development, I consider the development would be premature and potentially prejudicial to public health.

7.3.7. With respect to the discharge licence, the Environmental Protection Agency (EPA) regulates the discharges from waste water treatment plants. The aim of these licences is to ensure that discharges do not have any significant impact on the receiving water body (e.g. river). The owners of properties connected to larger on-site systems where the discharge is in excess of 5 cubic metres per day require a licence from the relevant local authority under Section 4 of the Water Pollution Act 1977. This is a separate process to the planning process.

#### 7.4. **Other Matters - Residential Amenity**

7.4.1. I note concerns were raised in the third-party submissions to the planning authority regarding the proximity of the proposed development to existing dwellings and the potential negative impact on existing amenities, including overlooking and an overbearing impact. It is generally acknowledged that a 22m separation distance between opposing first floor windows is acceptable. In this instance a minimum separation distance of 35m applies, and as a result I am satisfied that the development will not result in undue overlooking or have an overbearing impact.

7.4.2. Concerns were also raised regarding the negative impact the proposed development would have on established views. In this regard, I note no individual is entitled to a view. The site is not subject to any landscape designations for natural heritage or

scenic amenity. It is considered that the proposed residential scheme would not unduly impact on the established residential or visual amenities of the area.

- 7.4.3. In note the proximity of the site to a significant electricity and gas related network infrastructure and the requirement to consult with the relevant operators.

#### **7.5. Appropriate Assessment**

- 7.5.1. The proposed development is not directly connected with or necessary to the management of any European site.
- 7.5.2. The Planning Authority carried out an Appropriate Assessment Screening report at application stage and it was concluded that the proposed development will not have a significant effect on the Natura 2000 network and a Stage 2 Appropriate Assessment is not required.
- 7.5.3. The site is neither in nor near a Natura 2000 site. The closest Natura 2000 site to the appeal site is Lough Corrib SAC (Site Code 000297) is located 1.5km east of the site. Lough Corrib SPA (Site Code 004042) is located 7.8km west of the site. There is no obvious direct pathway from the appeal site to the above sites, nor any other Natura 2000 sites beyond.
- 7.5.4. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the distance to the nearest European Sites and the lack of an apparent pathway to same, it is reasonable to conclude on the basis of the information available on the file, which I consider adequate in order to issue a screening determination, that the development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European sites, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

### **8.0 Recommendation**

I recommend that permission be refused for the reasons stated in the attached schedule.

## 9.0 Reasons and Considerations

1. It is considered that the proposed development constitutes a significant expansion of the settlement of Lackagh, which currently has no public wastewater treatment system. Having regard to the proposal to connect to the private wastewater treatment, the Board is not satisfied that the drainage proposal represents a sustainable approach to servicing the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the proposed connection to existing communal on-site wastewater treatment system (developer provided), the Board is not satisfied on the basis of the evidence submitted with the planning application that the permitted wastewater treatment plant granted under planning reference 17/546 will adequately service the existing and proposed development, the Board is not satisfied that the development would not be prejudicial to public health. The proposed development would therefore be contrary to the proper planning and sustainable development on the area.
3. The proposed 24 detached dwellings on large individual plots located at an isolated outer edge location relative to the existing pattern of development in the village, does not adequately connect with or reinforce the existing urban form of Lackagh, contributing to sense of place or perpetuating existing or creating new connected streets, thereby assimilating its edge of centre setting. Accordingly, the development is contrary to Section 3.4.5 of the Galway County Development Plan 2015-2021 and Section 6.9 of Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) DEHLG (2009) and accompanying Urban Design Manual – a Best Practice Guides DEHLG (2009). The proposed development would therefore be contrary to the proper planning and sustainable development on the area

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Irené McCormack  
Planning Inspector

22<sup>nd</sup> August 2019

