



An  
Bord  
Pleanála

## Inspector's Report ABP-308663-20.

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<b>Development</b>	Demolition of dwelling house and construction of dwelling house and domestic garage.
<b>Location</b>	Rahaneena, The Weir, Kilcolgan, Co. Galway.
<b>Planning Authority</b>	Galway County Council.
<b>Planning Authority Reg. Ref.</b>	20/1210.
<b>Applicant(s)</b>	Thomas Neylon.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Thomas Neylon.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	10/02/2021.
<b>Inspector</b>	A. Considine.

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## 1.0 Site Location and Description

The appeal site is located in an area of Galway known as Weir Village, approximately 2km to the west of the village of Kilcolgan. The cul-de-sac road continues past the site to the west to Rahaneena and Corraun Point. The public road ends just to the west of the proposed new access to the site at which point it becomes a private road.

The site has a stated area of 0.935 hectares and comprises part of a larger landholding. The site is set back from the public road and lies to the rear of two existing houses. One of the existing houses comprises part of the subject site and it is proposed to demolish this house and construct a new house approximately 40m to the north (rear). The existing house on the site comprises a single storey hipped roofed house with a stated floor area of 84.4m<sup>2</sup>. The house is unoccupied and appears to be in a poor state of repair. Access to this existing house is via a shared laneway (right of way) which also serves the neighbouring property to the south (roadside). The house is currently served by water and a private septic tank.

The subject site levels lie above those of the houses to the south with the land rising gently from the public road. The boundaries comprise low dry-stone walls with a sprinkling of trees and hedgerows.

## 2.0 Proposed Development

Permission is sought, as per the public notices for revisions to previously permitted residential and agricultural development granted under PI. Ref. No.'s 19/1380 & 19/763 respectively, on revised site boundaries at Rahaneena, The Weir, Kilcolgan, Co. Galway. The development will consist of:

- (1) Demolition of existing dwelling house and construction of replacement dwelling house with associated domestic garage/store further to the north, in lieu of the permitted extension to the existing dwelling house and permitted garage granted under PI. Ref. No. 19/1380
- (2) Decommissioning of existing septic tank and construction of replacement proprietary treatment system and percolation area

- (3) Relocation of previously permitted slatted shed/slurry tank further to the north and
- (4) Revised access arrangements including closure of site access via existing right of way and construction of new access road further to the west, together with all associated site works and services.

A Natura Impact Statement will be submitted to the planning authority with the application. Gross floor space of proposed works; 285sqm (total area of house & garage), Gross floor space of any demolition; 84.4sqm, all at Rahaneena, The Weir, Kilcolgan, Co. Galway.

█ The application included a number of supporting documents including as follows;

- Plans, particulars and completed planning application form
- Cover letter
- Planning Statement -

This statement is prepared by James O'Donnell, Planning Consultancy Services, on behalf of his client. The report considers the site location and context, planning history, background to the proposed development and Section 5 of the report raises key planning issues.

The report seeks to establish the site as a brownfield site and submits that the current proposal will supersede the permission granted to extend the existing house under PL Ref. No. 19/1380 and will relocate the permitted slatted shed granted under PL. Ref. No. 19/763. The report also notes the planning / legal dispute between the applicant and the neighbouring resident to the south which was referred to the Circuit Court for a resolution. The current application has been informed by a Circuit Court "Terms of Settlement" between the parties. The settlement notes that the applicant agreed to alter plans for the proposed dwelling house Pl. Ref. No. 19/1380 to ensure that any development on the site shall not extend beyond the front façade of the existing dwelling house.

The statement continues to address matters relating to the proposed development in terms of the principle of the development, Flood Risk Assessment, wastewater treatment, AA, access and visual impact. The Board will note that the current access to the existing house and lands is via a

shared laneway with the neighbours to the south. It is indicated that this access will be closed off – to the subject proposed development site only – and a new access, across the neighbours land to the south west, will be constructed in its place.

The report concludes that the proposed development can be considered favourably as it represents an acceptable amendment to the previously permitted residential and agricultural development on the site. Photographs are included with the report.

- Construction & Environmental Management Plan -

This plan was prepared by James O'Donnell, Planning Consultancy Services, on behalf of his client. The Plan seeks to detail the works necessary to ensure sustainable construction, environmental protection and waste prevention associated with the proposed development. Mitigation and environmental best practice measures are outlined and it is submitted that the pCEMP will be updated throughout the project as required.

The plan includes a method statement for the project, while section 6 deals with environmental controls and mitigation measures. These measures relate to the site setup, construction of the new access road, earthworks, noise control measures, dust control, groundwater contamination, drainage and water quality. The plan also indicates the intention to protect buried services, sourcing materials, working hours, welfare, logistics relating to transport and roads and a traffic management plan.

- Natura Impact Statement -

See Section 8 of this report for full details of Appropriate Assessment.

- Structural Report of Existing Cottage -

The report, prepared by John Diskin & Associates, Consulting Engineers Ltd., notes that the house was last occupied in 2001 and has fallen into a state of disrepair. The report includes a number of photographs both internally and externally and concludes, recommending that the house be demolished, and new house be constructed in its place. It is submitted that the cost of trying to modernise the house so that it meets current minimum insulation and building regulation standards would be entirely prohibitive.

- Wastewater Treatment Report -  
A Site Characterisation Report was prepared by Clarke Construction Design Ltd. Details of the proposed WWTP system are included.
- Letter of consent for sightlines
- Terms of Settlement
- Response to the further information request under Pl. Ref. No. 19/763 (slatted shed)

### 3.0 Planning Authority Decision

#### Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reason:

1. Notwithstanding the visual impact assessment submitted and justification put forward by the applicant, the planning authority have serious concerns regarding the siting of the proposed development (dwelling house), by reason of its location at a significant remove from the footprint of the original cottage on site which it proposes to replace and its siting together with that of the agricultural shed, in a elevated area on an open and exposed site overlooking Kilcolgan River Estuary, located within a Class 3 landscape sensitivity designated area. It is considered that, if permitted as proposed, the development would form visually intrusive and dominant features on this Class 3 landscape, at a prominent location, which would not assimilate satisfactorily or integrate effectively into the receiving sensitive rural landscape and would seriously injure the amenities, or depreciate the value, of property in the vicinity, setting and undesirable precedent for similar developments in the area. To grant the proposed development would also materially contravene Objectives RH09 and LCM 2 of the Galway County Development Plan 2015-2021 and therefore would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the identification of an indicative flood risk within the site, the planning authority is not satisfied that the site and development is not at risk of flooding in the future. Therefore, it is considered that the proposed development would materially contravene Objectives FL 1, FL 4 and FL 5 of the Galway County Development Plan 2015-2021 in relation to flood risk, would be contrary to Ministerial Guidelines issued under Section 28 of the Planning and Development Act, 2000 (as amended) and would be contrary to the proper planning and sustainable development of the area.
3. In the absence of a bat survey for the older dwelling houses proposed to be demolished, the planning authority are not satisfied that if permitted as proposed, the development would not materially contravene Objective NHB 6 of the Galway County Development Plan 2015-2021 in relation to Protection of Bats and Bat Habitats and therefore would be contrary to the proper planning and sustainable development of the area.
4. Having regard to roadside alterations required to joining lands, to provide for sightlines from the proposed new access to the site from the private road (for which evidence of any way leaves / right of ways along same have not been provided), it is considered that the roadside alterations / alignment works proposed outside of the application site area cannot be implemented under the current planning application, as per Section 34(4)(a) of the Planning and Development Act, 2000 (as amended), as such development works are outside the control of the applicant. Accordingly, to grant the proposed development where there is limited visibility to east of the proposed site entrance, would interfere with the safety and free flow of traffic on the public road, would endanger public safety by reason of traffic hazard or obstruction of road users or otherwise, and therefore, would be contrary to the proper planning and sustainable development of the area.

## **Planning Authority Reports**

### **3.2.1. Planning Reports**

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and



the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report and notes the submission of the NIS.

The report raises concerns in terms of the proposed access to the site, and particularly in terms of the proposed sightlines and issues of the submitted letter of consent. In addition, the report considers that the proposed development will give rise to visual impacts in terms of the relocated house and slatted shed to a more prominent location on the landholding and significantly beyond the location of the existing house and permitted extension and slatted shed. Concerns were also raised in terms of the loss of existing roadside screening in order to accommodate the relocated entrance. The report notes that in the event of a grant of planning permission, an enurement clause will be required in accordance with the requirements of Objective RHO 7.

The Planning Report concludes that proposed development is not acceptable. Planning Officer recommends that permission be refused for the proposed development, for reasons relating to visual impact, flood risk, absence of bat survey and proposed access arrangements, including proposed roadside alterations.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

### 3.2.2. **Other Technical Reports**

**Environment Section:** The Environment Section advises no objection subject to compliance with conditions.

### 3.2.3. **Prescribed Bodies**

None.

### 3.2.4. **Third Party Submissions**

None.

## 4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

**PA ref: 19/1380:** Permission was granted for (1) The construction of extensions to the front, side and rear of existing Dwelling house (2) New roof to existing Dwelling House (3) New domestic Garage / Garden store (4) New sewage treatment system and (5) All associated site works and services. Gross floor of proposed works: Garage = 60sqm and extension = 137.3sqm, all at Rahaneena , The Weir, Kilcolgan, Co. Galway.

The Board will note that a third-party appeal was lodged but withdrawn prior to a decision issuing.

**PA ref: 19/763:** Permission was granted to build a slatted shed and slurry storage tank for housing animals. Gross floor space of proposed works: 238.5 sqm, all at Rahaneena, The Weir, Kilcolgan, Co. Galway.

The location of the permitted slatted shed is approximately 6m of the proposed location of the house the subject of the current appeal. The permitted slatted shed also comprises part of the current appeal and it is proposed to relocate the shed approximately 85m further north and up-hill from the originally permitted site. The Board will also note that the proposed relocated shed will be accessed via a newly constructed access road which will run from the proposed new entrance to the rear of the shed, approximately 140m in length.

Adjacent site to South (to the east of the existing access laneway):

**PA ref: 14/649:** Permission granted to Deirdre Ni Chonchubhair, to (a) erect single storey extensions to front, sides, rear and carry out internal alterations to existing dwelling (b) demolish the existing shed and water tank and construct a new garage/store to rear (c) to replace the existing septic tank with a new wastewater treatment system and percolation area (d) to provide a new vehicular entrance and a new pedestrian entrance and carry out works in relation to blocking up the current entrance and amending the offstreet carparking arrangements (gross floor area extensions 88sqm; garage 65sqm).

**PA ref: 15/235:** Permission granted to Deirdre Ni Chonchubhair, to demolish the existing sub-standard dwelling and replace same with a new dwelling, new

wastewater treatment system and percolation area and new pedestrian entrance and garage. Part of the above mentioned has already been approved under planning reference 14/649 (gross floor space demolition 107sqm; proposed dwelling 268sqm; garage 56sqm)

Adjacent site to South (to the west of the existing access laneway):

**PA ref: 15977:** Permission granted to Deirdre Ni Chonchubhair, to extend the existing agricultural shed. Gross floor space of proposed works, 108.50sqm.

Adjacent lands to south west of the site:

**PA ref: 17/54:** Permission refused to William Moran for construction of dwelling house, waste water treatment and all associated services. Gross floor space of proposed works: 173sqm.

**PA ref: 17/760:** Permission sought by William Moran for construction of dwelling house, waste water treatment and all associated services. Gross floor space of proposed works: 173sqm. This application was withdrawn prior to a decision issuing.

**PA ref: 18/9:** Permission granted to William Moran for construction of dwelling house, waste water treatment and all associated services. Gross floor space of proposed works: 173sqm.

**PA ref: 19/947:** Permission refused to William Moran for amendments to previously granted planning permission (GCC REF: 18/9), for the construction of a dwelling house, wastewater treatment and all associated services. The proposed amendments include a change of house type, revised site layout, relocated vehicular entrance location and the provision of an ancillary shed, with all associated site works. Gross floor space of proposed works: House - 369 sqm, Garage - 29 sqm.

**PA ref: 20/604:** Permission refused to William Moran for amendments to previously granted planning permission (GCC REF: 18/9), for the construction of a dwelling house, wastewater treatment and all associated services. The proposed amendments include a change of house type, revised site layout, relocated vehicular entrance location and the provision of an ancillary shed, with all associated site works. Gross floor space of proposed works: House - 369 sqm, Garage - 29 sqm.

## 5.0 Policy and Context

### **████████ National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

- 5.1.1. The National Planning Framework – Project Ireland 2040 is a high level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.
- 5.1.2. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

### **████████ Sustainable Rural Housing Development Guidelines 2005**

- 5.2.1. The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.
- 5.2.2. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

## Development Plan

- 5.3.1. The Galway County Development Plan 2015-2021 is the relevant policy document relating to the subject site. The site is located outside the development boundary for the village of Kilcolgan and lies within a Rural Area under Strong Urban Pressure (GTPS).
- 5.3.2. Section 3.8.1 of the Galway CDP deals with rural areas under strong urban pressure and Objective RHO 1 Rural Housing Zone (Rural Area Under Strong Urban Pressure – GTPS) is relevant in this regard. The key objective of the Council is to facilitate genuine housing requirements in local rural communities, subject to satisfactory site suitability and technical considerations. The plan also seeks to direct urban generated development to areas for new housing development in the adjoining urban centres (towns and villages as identified in the County Settlement/Core Strategies).
- 5.3.3. Objective RHO3 relates to rural housing zones within landscape categories 3, 4 and 5. This objective notes that documentary evidence will be required to justify the development and will be assessed on a case by case basis. The subject site lies within a Class 3 landscape.
- 5.3.4. Objective RHO6 deals with Replacement Dwellings. It is an objective of the Council that the refurbishment of existing habitable dwelling houses would be encouraged, as a more sustainable option than the demolition and construction of a new dwelling house, unless a conclusive case for demolition based on technical evidence is made for the Planning Authority's consideration on a case by case basis. It will be a requirement that any new dwelling house be designed in accordance with Galway County Council's Design Guidelines for Rural Housing in the countryside. Applicants, who require the demolition of an existing dwelling house shall be accommodated without the requirement to establish a Housing Need or proof of residence and will not be subject to an enurement clause.
- 5.3.5. Objective RHO7 deals with the Renovation of Existing Derelict Dwellings / Semi Ruinous Dwellings. It is an objective of the Council that proposals to renovate, restore or modify existing derelict or semi-derelict dwellings in the County are generally dealt with on their merits on a case by case basis, having regard to the relevant policies and objectives of this plan, the specific location and the condition of the structure and the scale of any works required to upgrade the structure to modern

standards. The derelict/semi ruinous dwelling must be structurally sound, have the capacity to be renovated and/or extended and have the majority of its original features/walls in place. A structural report will be required to illustrate that the structure can be brought back into habitable use, without compromising the original character of the dwelling. Where the total demolition of the existing dwelling is proposed an Enurement Clause for seven years duration will apply.

5.3.6. Objective RHO9 states that it is an objective of the Council to have regard to the Council's Design Guidelines for Single Rural Houses with specific reference to the following:

- (a) It is an objective to encourage new dwelling house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.
- (b) It is an objective to promote sustainable approaches to dwelling house design and encouraging proposals to be energy efficient in the design and layout.
- (c) It is an objective to require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings.

5.3.7. The subject site is located within a Class 3 Landscape, LCA 13 – East Galway Bay (Oranmore to Kinvarra Bay and inland to N18 road) which has a medium sensitivity rating a landscape value rating of High. In terms of landscape conservation and management policies and objectives, the following are relevant:

**Policy LCM 1 – Preservation of Landscape Character**

Preserve and enhance the character of the landscape where, and to the extent that, in the opinion of the Planning Authority, the proper planning and sustainable development of the area requires it, including the preservation and enhancement, where possible of views and prospects and the amenities of places and features of natural beauty or interest.

**Objective LCM 2 – Landscape Sensitivity Ratings**

Consideration of landscape sensitivity ratings shall be an important factor in determining development uses in areas of the County. In areas of high

landscape sensitivity, the design and the choice of location of proposed development in the landscape will also be critical considerations.

- 5.3.8. DM Standard 6 deals with assimilation of development into landscape and requires that all permissible buildings should avoid locally obtrusive elevated locations and should be located on mid slopes or lower slopes of rising ground where possible. Development should seek to preserve traditional field patterns and established hedgerow and woodland. A visual impact assessment may be required where the proposal is located in an area identified as “Focal Points/Views” in the Landscape Character Assessment of the County or in Class 4 and 5 designated landscape sensitivity areas.

### **██████ Natural Heritage Designations**

- 5.4.1. The site is not located within any designated site. The closest Natura 2000 site is the Galway Bay Complex SAC (&pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031) which are located approximately 13m to the south of the site entrance.
- 5.4.2. The Board will note that the applicant submitted an Natura Impact Statement in support of the proposed development. I will address all matters of AA in Section 8.0 of this report.

### **██████ EIA Screening**

- 5.5.1. Having regard to nature and scale of the development, together with the brownfield nature of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### Grounds of Appeal

6.1.1. This is a First party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal is prepared by James O'Donnell, Planning Consultancy Services on behalf of his client and the issues raised are summarised as follows:

- The application has been informed by a Circuit Court "Terms of Settlement" between the applicant and his neighbour.
- The decision to refuse issued without an opportunity for the applicant to address the concerns of the PA.
- The proposed development complies with all relevant National, Regional and County Planning Policy pertaining to replacement dwellings and agricultural development.
- The applicant has no objection to an enurement clause, but the imposition of such a condition would be contrary to the provisions of the County Development Plan with respect to the proposal for a replacement house.

6.1.2. Reason 1:

- The design and layout of the subject application is necessitated by a Circuit Court Terms of Settlement, requiring a replacement house to be set further back from the neighbours house and a new driveway in lieu of the extinguishment of an existing right of way.
- The proposal to provide an increased set back is not precluded by the provisions of the CDP.
- A Visual Impact Assessment was submitted and it is submitted that the proposed development will result in a reduced visual impact compared to the permitted developments.
- The site is screened from the Weir to the south and south west of the site which the PA failed to take into consideration.



- It is regretted that the PA has effectively disregarded the planning history, which is considered unreasonable.
- The proposed dwelling height is lower than the permitted slatted shed.
- The proposed siting and design is not inconsistent with the prevailing character of buildings in the area.
- In terms of the slatted shed, should the Board be concerned with the visual impact, the appeal includes revised elevations reducing the overall height by 0.8m from 7.13m to 6.33m.

#### 6.1.3. Reason 2:

- A site-specific flood risk assessment was prepared in relation to the proposed development. The assessment is cross referenced in both the Planning Statement and the NIS.
- This FRA was not submitted to the PA in error and the PA did not give the applicant the opportunity to submit the report as part of the assessment of the case.
- The FRA concludes that the proposed development is not at risk of adverse flood risk and would not cause adverse flood impact onto neighbouring properties.
- It is considered that a recommendation to refuse with respect to flood risk would be unreasonable in the context of the PAs recent decisions to grant permission for a variety of developments along the Weir Road in recent years.

#### 6.1.4. Reason 3:

- The applicant is bewildered by the reason for refusal relating to bats.
- Permission was granted for development works to the house, including extensions and a new roof and no concerns in relation to bats were raised.
- No species of bat are listed as one of the QIs of the Galway Bay Complex SAC. The Lough Fingall Complex SAC, 4.1km from the site, is the closest known Lesser Horseshoe Bat Roost and as part of the conservation objectives for that site, the NPWS have mapped a 2.5km buffer zone around the roost site.

- This roost would be entirely unaffected by the proposed development.
- In the unlikely event that a roost did exist on the site, this is afforded protection outside of the planning process and the removal of a roost is subject to an 'other consent'.

6.1.5. Reason 4:

- It is considered that this reason for refusal is entirely inconsistent with the permitted and established planning history on site and alongside.
- With reference to a private road, it is submitted that this ownership issue is not a relevant planning matter.
- The issue of the private road was not raised as an issue in the granting of permission for the neighbouring house.
- The applicant has the benefit of long-established habitual use of the access to and from the Weir Road and the agricultural breen as part of the farming of his lands.
- The relocation of the access forms part of the Circuit Court 'Terms of Settlement'.
- It is submitted that the PA has always accepted letters of consent for the achievement of sight lines and there is nothing in the CDP precluding the acceptance of same.

6.1.6. The appeal includes a number of enclosures and requests that permission be granted for the proposed development.

**Planning Authority Response**

None.

**Observations**

None.

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & compliance with the County Development Plan & General Development Standards
2. Visual Impacts
3. Roads & Traffic
4. Site Suitability Issues
5. Flood Risk Assessment
6. Other Issues

The Board will note that Appropriate Assessment will be dealt with separately under section 8.0 of this report.

### **Principle of the development & Compliance with the County Development Plan & General Development Standards:**

- 7.1.1. While I acknowledge that the subject site lies within an unzoned rural area, outside any designated settlement boundary, and within an area identified as being under Strong Urban Pressure in the Galway County Development Plan 2015-2021, I am satisfied that the principle of the replacement of an existing substandard dwelling is provided for in the Plan under Objective RHO6. I do have concerns however, in terms of the proposed relocation of both the house and the slatted shed on the site.
- 7.1.2. The Plan states that 'It is an objective of the Council that the refurbishment of existing habitable dwelling houses would be encouraged, as a more sustainable option than the demolition and construction of a new dwelling house, unless a conclusive case for demolition based on technical evidence is made for the Planning Authority's consideration on a case by case basis. It will be a requirement that any

new dwelling house be designed in accordance with Galway County Council's Design Guidelines for Rural Housing in the countryside. Applicants, who require the demolition of an existing dwelling house shall be accommodated without the requirement to establish a Housing Need or proof of residence and will not be subject to an enurement clause'.

- 7.1.3. In addition to the above, the Board will note the planning history associated with the subject site. Permission has already been granted for works to be undertaken to the existing house on the site, including extensions and the construction of a new roof. Planning permission also has been granted for the construction of a slatted shed on the site. In the context of Objective RHO6, I am satisfied that the submitted structural survey would suggest that it is not economically viable to renovate the existing house and that it should be demolished. I also accept that the proposed house design as submitted reflects that previously permitted by Galway County Council. I have no objections in principle to the overall design presented.
- 7.1.4. While I note the comments of the Planning Officer in terms of the inclusion of an enurement clause should permission be granted, I am inclined to agree with the appellant that such a condition is not required in this case. The proposed development is for the replacement of the existing dwelling and Objective RHO6 clearly states that 'Applicants, who require the demolition of an existing dwelling house shall be accommodated without the requirement to establish a Housing Need or proof of residence and will not be subject to an enurement clause'. As such, should the Board be minded to grant permission in this instance, no such condition should be included.
- 7.1.5. I also note the extensive references to the Circuit Court 'Terms of Settlement' in the application and appeal documents. It is noted that this settlement would appear to have necessitated the submission of the current application. While I acknowledge the document, it does not relieve the applicant or any party of their requirements to accord with planning legislation and the Board is bound to consider the proposed development in accordance with the proper planning and sustainable development of the area.

- 7.1.6. As such, the principle of the proposed development can be considered acceptable. However, and notwithstanding the above, the development must be considered *de novo* and in terms of all relevant planning matters.

## Visual Impacts

- 7.2.1. While I accept the principle of the replacement house on this site, I would agree with Planning Authority in terms of the concerns arising in relation to the visual impact associated with the current proposal. While I also acknowledge the Circuit Court Terms of Settlement, planning matters are a separate issue that must be addressed. I would not accept that the proposed relocation of the dwelling approximately 40m, and the slatted shed 85m, uphill from the existing house location and permitted slatted shed location is either appropriate or acceptable. The existing house, and indeed, the permitted extensions to same, are located within the setting of a mature site with adequate screening and boundaries.
- 7.2.2. In terms of the proposed house design, I have no objections. I consider that the design has had due regard to the sensitivity of the landscape in which it is proposed to be located and consider that the scale and proposed materials reflect that of the previously approved planning permission for the site and are acceptable at this location.
- 7.2.3. With regard to the siting of the house and the slatted shed on the site, DM Standard 6 of the County Development Plan requires all permissible buildings to avoid locally obtrusive elevated locations and that they should be located on mid slopes or lower slopes of rising ground where possible. The site is also located within a Class 3 Landscape, LCA 13 – East Galway Bay (Oranmore to Kinvarra Bay and inland to N18 road) which has a medium sensitivity rating a landscape value rating of High. While I note the submitted Visual Impact Assessment, the relocation of the house uphill is unacceptable in my opinion. The ‘replacement house’ does not relate in any way to the existing residential site. I also note that the submitted site layout plans do not reflect the existing level of planting in the vicinity of the existing house, which further screens the existing house.
- 7.2.4. In addition to the proposed buildings, I have serious concerns in terms of the proposed new access to the site and the proposal to construct a new road the full

length of the site from the public road to the slatted shed, approximately 240m from the road. The road width will range from between 6m at the roadside, to 15m mid-way and at the entrance to the proposed relocated house, to 5m the remaining distance to the slatted house and the rear of the site.

- 7.2.5. The visual impacts associated with this access, separate to the road safety issues, in my opinion, would have a significant visual impact on this landscape. As such, I consider that the proposed development, if permitted would contravene Objectives RHO9 and LCM2 of the Galway County Development Plan 2015-2021, which requires the Planning Authority to consider the sensitivity of the landscape in considering the design and choice of location of developments within the landscape.

## **Roads & Traffic**

- 7.3.1. The development proposes to construct a new access to the subject site off the existing road. The Board will note that the site access is off a road which runs into a private agricultural track, providing access to lands to the west of the site. Sight distances at the proposed entrance are restricted due to the alignment of the road and a letter from the adjoining landowner has been submitted advising consent to maintaining visibility across their boundary to the east.
- 7.3.2. The Planning Officers report indicates that such letters of consent are not acceptable to the Council and as works are required to lands outside the control of the applicant, and do not form part of the planning unit, refusal of permission is recommended. The report recommends, and the Council has, refused permission on the basis of traffic hazard or obstruction of road users.
- 7.3.3. In response to the above, I note the comments in the appeal documents. I would not consider that the PA has raised an issue in terms of the access onto a private road, rather, the issue arises due to the need for alterations to a roadside boundary that is outside the ownership of the applicant in order to achieve necessary sight distances. In any case, I would accept the content of the letter of consent as submitted to carry out the necessary alterations to the roadside boundary to achieve the required sight distances.
- 7.3.4. That said, I have raised concerns in terms of the visual impacts associated with the proposed development generally and, in particular, the proposed access road. In

addition, and given the lack of clear detail, I would have concerns in terms of the visual impacts arising from the proposed road boundary works. While I would not consider the development to give rise to a significant traffic hazard or obstruction, given that the road is a cul-de-sac, the proposed works will impact on the visual amenity of the wider area. In the absence of the works, sightlines at the proposed entrance will be restricted.

## **Site Suitability Issues**

- 7.4.1. In terms of site suitability, the Board will note that the applicant submitted a Site Characterisation Report for the proposed development. It is intended to install a Klargest BioFicient+1 Gravity Sewage Treatment Plant to service the proposed dwelling which will discharge to groundwater through a soil polishing filter. It is also noted that the house is to be serviced via an existing connection to the public water mains.
- 7.4.2. Having considered the information provided with regard to the proposed development, I am satisfied that the applicant submitted a robust and complete site assessment regarding its suitability in terms of the treatment and disposal of wastewater generated on the site. The site assessment appears to have been carried out by a suitably qualified professional. The submitted plans however, do not identify the location of the waste water treatment system for the house immediately adjacent to the south of the site.
- 7.4.3. The Site Assessment Report notes that neither the bedrock nor water table were encountered in the trial pit, which was dug to 2.42m bgl. The assessment identifies that the site is located in an area where there is a Groundwater Protection Scheme and categorises the site as being a regionally important aquifer (Rk) with moderate vulnerability. A Groundwater Protection Repose of R1 is indicated. The soil type is described as BminDW – Deep well drained mineral (Mainly basic) and the bedrock type is Pale grey clean skeletal limestone. \*T tests were carried out on the site at levels ranging from 870mm to 1,050mm bgl, yielding an average value of 20.33, and a \*T result of 7.22. \*P tests were also carried out at the site at a level of between 0.37m 0.4m bgl, yielding an average value of 29.33 and a \*P result of 9.53. The report concludes, recommending a packaged wastewater treatment system and

polishing filter with trench at an invert level of 6.17m. The system will discharge to groundwater at a hydraulic loading rate of 20l/m<sup>2</sup>.d.

- 7.4.4. I am satisfied that the applicant has submitted a robust and complete site suitability assessment regarding the suitability of the proposed site in terms of the treatment and disposal of wastewater generated on the site. I am further satisfied that the site appears capable of accommodating the development in the context of wastewater treatment and disposal. The Board will note that the current proposal seeks to replace an existing house, for which planning permission has been granted for its extension upgrading of the WWTP.
- 7.4.5. I have considered all of the information presented on the file and I am generally satisfied that the subject site has been adequately assessed to show that it is capable of accommodating the proposed development in terms of the treatment and disposal of wastewater arising from the development of a house. I am therefore satisfied that the development, if permitted, is unlikely to result in a public health hazard or impact on the quality of ground or surface waters in the area. I will discuss matters of flood risk further in section 7.5.1 below.

## **Flood Risk Assessment**

- 7.5.1. The Board will note that the Planning Authority refused planning permission for four reasons, including a reason relating to flood risk. I note the submission of the appellant that the FRA prepared for the site was omitted from the planning documents in error. This site-specific FRA is included with the appeal documents, in Appendix 4.
- 7.5.2. The report notes that the townland in which the applicant site lies is subject to occasional coastal flood risk, with the Weir Road subject to periodic flooding, as determined by the OPW Preliminary Flood Risk Assessment mapping and Irish Coastal Protection Strategic Study data. The periodic flooding is short, caused by a combination of winds and high tides and lasts for a duration of 1 to 2 hours. It is submitted that such flooding can be anticipated and is very forecastable.
- 7.5.3. The assessment sets out the scope of the FRA and provides a background to the site and the proposed development. The spread lands are also detailed and the writer refers to the detailed Nutrient Management Plan which was submitted



following the request for further information associated with PA ref. 19/763 for the slatted shed. It is noted that none of the spread lands associated with the slatted shed are at risk of flooding.

- 7.5.4. The site lies to the north of the Kilcolgan Estuary (Dunkellin River) and is within the Western River Basin District, OPW Hydrometric Area No. 29 (Galway Bay South East). It is situated on limestone till (carboniferous), which is underlain with Burren Formation Limestone bedrock. The soil has a Winter Rainfall Acceptance Potential classification of 1 – soil of very high permeability. The maximum water level on record at Kilcolgan was +4.001mOD, recorded in January 2018. The finished floor level of the existing house on the site is +6.788m and the proposed ffl is indicated at +8.3m. At the roadside, the entrance to the site is at +2.783.
- 7.5.5. The FRA submitted by the applicant notes that the Weir Road, which is used to access the proposed development site, lies within Flood Zone A, while the site itself, and the spread lands associated with the slatted shed, are located within Flood Zone C. It is noted that the OPW Flood Maps show recurring flood events approximately 1.5km to the east of the site and that the road in the vicinity of the site is located within the 0.5% and 0.1% Annual Exceedance Probability Event extends for coastal flooding. While the FRA notes that there is no flood mapping for the area of interest in this study, I note photographs submitted under history files indicate that the road to the front of the site has been subject to flooding in the past.
- 7.5.6. The preliminary FRA considers that the proposed site is at risk in terms of coastal flooding at the proposed entrance to the site, while the probability of fluvial flooding (only) is low. In terms of pluvial flooding, again the initial FRA considers that OPW PFRA mapping suggests that the probability of pluvial flooding at the site itself is low, however, a section of the Weir Road is at pluvial flood risk.
- 7.5.7. The submitted FRA identifies a number of mitigation measures including as follows:
- The FFLs of the house, garage and slatted shed will be set above the 0.5% AEP flood level, with an additional 0.7m provided as an appropriate freeboard and a 0.5m allowance for climate change. The recommended minimum FFL is +5.00mOD.
  - The proposed levels of the access road range from 2.78m to 9.90m and as such, a short section of the road will be below the recommended FFL of

5.00mOD. During the period of coastal flooding of the Weir Road, 1-2 hours, this portion of the access road would be under water.

- The spread lands associated with the slatted shed are at low flood risk

7.5.8. I accept that the development has been designed in order not to increase flood risk. In terms of the justification test criteria of the FRM Guidelines, the following is relevant:

1. The subject lands have been zoned or otherwise designated for the particular use or form of development in an operational plan, which has been adopted or varied taking account of these guidelines:

The subject site is not zoned, being located in the open countryside area of Co. of Galway. It is notable however, that the site is currently occupied by a house with the proposal to replace a substandard house. As such, I am satisfied that the subject site might be reasonably considered to be appropriately designated for use proposed.

2. The development has been subject to an appropriate flood risk assessment that demonstrates:
  - (i) The development proposal will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk:
  - (ii) The development proposal includes measures to minimise flood risk to people, property, the economy and the environment as far as reasonably possible;
  - (iii) The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any future flood risk management and provisions for emergency services access;  
and
  - (iv) The development proposed addresses the above in a manner that is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.

7.5.9. In terms of a consideration of part 2 of the JT Criteria, I would accept that the FRA, has presented mitigation measures which, if adhered to, will minimise flood risk to people, the subject development site, adjacent properties as well as the economy and environment, and that the development will not have a negative impact in this regard. As such, I am satisfied that the development, if permitted, will not exacerbate or add to flooding risk in the area.

## **Other Issues**

### **7.6.1. Bat Survey**

The Board will note that the Planning Authority included a reason for refusal on the basis that the applicant did not submit a bat survey for the house to be demolished. While I acknowledge the Development Plan requirements in relation to bats, I would have to agree with the applicant in this regard.

Under PA ref. 19/1380, the PA granted planning permission for works to the existing house, including the construction of a new roof to the existing dwelling, and this permission remains valid. There were no issues relating to bats arising at that time, and I would consider it inappropriate to introduce the issue at this stage.

I would also note that the closest Natura 2000 sites, the Galway Bay Complex SAC (&pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031), do not include bats as a qualifying interest. In the event of a bat roost being discovered in the existing house, a grant of planning permission does not remove the requirement to comply with other consents, including the requirement to secure a Derogation licence from the Department of Culture, Heritage and the Gaeltacht. As such, I do not consider it reasonable to refuse permission on this issue.

### **7.6.2. Water Services**

The Board will note that the applicant indicates that there is an existing connection to the public water supply. I have no objections in this regard.

### **7.6.1. Development Contribution**

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

## 8.0 Appropriate Assessment

### Introduction:

- 8.1.1. The site is not located within any designated site. The closest Natura 2000 site is the Galway Bay Complex SAC (&pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031) which are located approximately 13m to the south of the site entrance. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The Board will note that a Natura Impact Statement (NIS) was submitted as part of documentation for permission for the proposed development to assess the likely or possible significant effects, if any, arising from the proposed development on any European site.
- 8.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 8.1.4. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
  - Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

Both documents provide guidance on Screening for Appropriate Assessment and the process of Appropriate Assessment itself.

## **Natura Impact Statement**

8.2.1. The application was accompanied by a Natura Impact Statement (NIS, dated August 2020) which scientifically examined the potential impacts of the proposed development on the following European Sites:

- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031)

8.2.2. The NIS is presented in two parts with an Appropriate Assessment Screening Report presented in a separate document to the NIS. The document includes details of the spread lands associated with the proposed slatted shed. It identifies the relevant Natura 2000 sites that have the potential to be affected by the proposed development, presents a description of the proposed development and sought to identify other projects or plans or activities in the vicinity. The NIS outlines the assessment methodology employed to identify and assess the potential impacts on habitats and species identified as qualifying interests of a number of European Sites and their conservation objectives, including cumulative / in-combination impacts. The NIS sets out mitigation measures and addresses potential residual impacts on the European sites.

8.2.3. Having reviewed the revised NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential impacts, and uses best scientific information and knowledge. Details of mitigation measures are summarised in Section 2.3 of the NIS and it is noted that no site-specific mitigation measures, other than best practice measures, are required. The NIS concludes that it is considered that the proposal will not adversely affect the integrity of any of the European Sites considered in the report including:

- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031)

I am satisfied that the information is sufficient to allow for Appropriate Assessment of the proposed development.

## █ Consultations and Observations

8.3.1. The NIS lists all data sources and guidance documents used in the preparation of the report. I also note that no third-party submission was made in terms of appropriate assessment.

## █ Screening for Appropriate Assessment:

8.4.1. The purpose of AA screening, is to determine whether appropriate assessment is necessary by examining:

- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
- b) the likely effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives and considering whether these effects will be significant.

The Screening Report considered Natura 2000 sites within 15km of the site. Table 2.1 of the report identifies 21 sites within this distance as follows:

Site Code	Site Name	Distance in KMs	Screening Status
000268	Galway Bay Complex SAC	0.013	In
004031	Inner Galway Bay SPA	0.016	In
000606	Lough Fingall Complex SAC	1.68	Out
004142	Cregganna Marsh SPA	4.15	Out
001285	Kiltiernan Turlough SAC	4.31	Out
000242	Castletaylor Complex SAC	5.00	Out
000322	Rahasane Turlough SAC	5.53	Out
002244	Ardrahan Grassland SAC	5.59	Out
004089	Rahasane Turlough SPA	5.59	Out

002294	Cahermore Turlough SAC	9.92	Out
000252	Coole-Garryland Complex SAC	10.26	Out
000238	Caherglassaun Turlough SAC	11.39	Out
002295	Banninduff Turlough SAC	11.40	Out
001926	East Burren Complex SAC	11.48	Out
004107	Coole-Garryland SPA	12.14	Out
000297	Lough Corrib SAC	12.50	Out
000318	Peterswell Turlough SAC	13.03	Out
002293	Carrowbaun, Newhall and Ballylee Turloughs SAC	13.14	Out
000286	Kilartan Cave (Coole) SAC	13.40	Out
002117	Lough Coy SAC	13.41	Out
004168	Slieve Aughty Mountains SPA	14.85	Out

8.4.2. All but the above two Natura sites were screened out due to lack of relevant pathways between the site and the Natura site, distance to the sites and identified roosts and foraging grounds for the Lesser Horseshoe Bat. I would concur with this determination in relation to the following Natura 2000 sites:

Site Name	Site Code	Distance to Site	Assessment
<b>Special Areas of Conservation (SAC)</b>			
Galway Bay Complex SAC	000268	0.013km to south of proposed site	<p>No habitat loss arising from the proposed development.</p> <p>A 20m section of the proposed access road is located within a flood risk zone and is known to flood during extreme tidal events. Flooding during the construction phase could cause unconsolidated materials to be carried into the Galway Bay Complex SAC, causing an impact on water quality.</p> <p>Flooding during the operational phase could cause hydrocarbons / oils from the access route to be carried into</p>

			<p>the Natura 2000 sites, again impacting on water quality.</p> <p>With regard to the slatted shed, a Nutrient Management Plan has been prepared for the development. There is no surface water, groundwater or underground features connecting the sites.</p> <p><b>Screened In</b></p>
<b>Special Protection Areas (SPA)</b>			
Galway Bay Complex SAC	004031	0.016km to south of proposed site	<p>No habitat loss arising from the proposed development.</p> <p>A 20m section of the proposed access road is located within a flood risk zone and is known to flood during extreme tidal events. Flooding during the construction phase could cause unconsolidated materials to be carried into the Galway Bay Complex SAC, causing an impact on water quality. Flooding during the operational phase could cause hydrocarbons / oils from the access route to be carried into the Natura 2000 sites, again impacting on water quality.</p> <p>With regard to the slatted shed, a Nutrient Management Plan has been prepared for the development. There is no surface water, groundwater or underground features connecting the sites.</p> <p><b>Screened In</b></p>

8.4.3. The Screening Report also includes a description of the proposed development details of the onsite habitats present. Section 2.3 of the AA Screening Report



considers the soils, geology and hydrogeology of the site in the context of proposed spreading. Section 2.4 deals with Flood Risk Assessment noting that the FRA submitted confirms that none of the spread lands are at risk of flooding. A portion of the site, a section of the proposed access road, is however, identified as being within a coastal flood risk area and the FRA recommends a minimum design flood level of 5.00mOD Malin. Section 2.5 identifies other plans and projects in the area in terms of the in-combination effect.

### Conclusion on Stage 1 Screening:

- 8.5.1. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on the following European sites, in view of the sites' conservation Objectives and that a Stage 2 Appropriate Assessment is not required in respect of any of the identified sites, other than the Galway Bay Complex SAC (&pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031).
- 8.5.2. The AA Screening Report concludes that in the absence of mitigation, significant impacts cannot be ruled out on the Galway Bay Complex SAC (&pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031) during the construction and operation of the proposed development. In light of this, a stage 2 AA was carried out in relation to these sites. The potential impacts (direct / indirect and in-combination effects) of the development on the site are examined in light of the sites' conservation objectives.

### Stage 2 Appropriate Assessment

The Qualifying Interests for the relevant European Sites are set out below.

European Site	Qualifying Interests
<b>Galway Bay Complex SAC (Site Code: 000268)</b>	Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150]

	<p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Turloughs [3180]</p> <p><i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Phoca vitulina</i> (Harbour Seal) [1365]</p>
<p><b>Inner Galway Bay SPA</b> <b>(Site Code: 004031)</b></p>	<p>Black-throated Diver (<i>Gavia arctica</i>) [A002]</p> <p>Great Northern Diver (<i>Gavia immer</i>) [A003]</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Grey Heron (<i>Ardea cinerea</i>) [A028]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p>

	<p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Sandwich Tern (<i>Sterna sandvicensis</i>) [A191]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Wetland and Waterbirds [A999]</p>
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### **Galway Bay Complex Special Area of Conservation (Site Code: 000268)**

- 8.6.1. The Galway Bay Complex 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 number of small islands composed of glacial deposits are located along the eastern side. These include Eddy Island, Deer Island and Tawin Island. A diverse range of marine, coastal and terrestrial habitats, including several listed in Annex I of the E.U. Habitats Directive, occur within the site, making the area of high scientific importance.
- 8.6.2. Galway Bay South holds a very high number of littoral communities (12). They range from rocky terraces, to sandy beaches with rock or sand dunes behind. The intertidal sediments of Galway Bay support good examples of communities that are moderately exposed to wave action. The area has the country's only recorded example of the littoral community characterized by *Fucus serratus* with sponges, ascidians and red seaweeds on tide-swept lower eulittoral mixed substrata. This community has very high species richness (85 species), as do the sublittoral fringe communities on the Finavarra reef (88 species).

- 8.6.3. Saltmarshes are frequent within this extensive coastal site, with both E.U. Habitats Directive types, 'Atlantic Salt Meadow' and 'Mediterranean Salt Meadow' well represented. Most of the saltmarshes are classified as the bay type, with the substrate being mud or mud/sand. There is one lagoon type and one estuary type. Lagoon saltmarshes are the rarest type found in Ireland. The best examples of saltmarsh are located in inner Galway bay, east of a line running between Galway city and Kinvarra. In this area the coastline is highly indented, thus providing the sheltered conditions necessary for extensive saltmarsh development.
- 8.6.4. This large coastal site is of immense conservation importance, with many habitats listed on Annex I of the E.U. Habitats Directive, four of which have priority status (lagoon, *Cladium fen*, turlough and orchid-rich calcareous grassland). The examples of shallow bays, reefs, lagoons and saltmarshes found within this site are amongst the best in the country. The site supports an important Common Seal colony and a breeding Otter population (Annex II species). Galway Bay is a very important ornithological site. The shallow waters provide excellent habitat for six regular Annex I E.U. Birds Directive species. The intertidal areas and shoreline provides feeding and roosting habitat for wintering waterfowl, with Brent Goose (517) having a population of international importance and a further 11 species having populations of national importance. The site also has four Red Data Book plant species, plus a host of rare or scarce marine and lagoonal animal and plant species.
- 8.6.5. The area in proximity to the subject site is identified in particular terms with regard to:
- Mudflats and sandflats not covered by sea water at low tide
  - Reefs
  - Sandy mud to mixed sediment community complex
  - Mediterranean salt meadows
  - Otter commuting 250m HWM buffer
  - Harbour Seal habitat
- 8.6.6. Detailed Conservation Objectives for the Galway Bay Complex SAC (Site Code 000268) are included in the NPWS Conservation Objectives Series for the site, dated April 2013, with the overall objective being to maintain or restore the

favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been designated.

- To maintain the favourable conservation condition of habitats in the SAC which is defined by lists of attributes and targets including habitat area and distribution, community distribution, appropriate hydrological connections, water quality, plant and animal species, physical structures and vegetation structures.
- To restore the favourable conservation condition of Otters in the Galway Bay Complex SAC which is defined by lists of attributes and targets including distribution of species, no significant decline in populations, no significant increase in barriers to connectivity. The subject site lies within the commuting buffer for otters.
- To maintain the favourable conditions of Harbour Seal in the Galway Bay Complex SAC and in particular in terms of disturbance approximate to the site. human activities should occur at levels that do not adversely affect the harbour seal population.

#### **Inner Galway Bay Complex Special Protection Area (Site Code 004031)**

8.6.7. The Inner Galway Bay SPA is a very large, marine-dominated site situated on the west coast of Ireland. The inner bay is protected from exposure to Atlantic swells by the Aran Islands and Black Head. The long shoreline is noted for its diversity, and comprises complex mixtures of bedrock shore, shingle beach, sandy beach and fringing salt marshes. Intertidal sand and mud flats occur around much of the shoreline, with the largest areas being found on the sheltered eastern coast between Oranmore Bay and Kinvarra Bay.

8.6.8. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for a number of species, and the E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds. The SPA supports an excellent diversity of wintering wetland birds, with divers, grebes, cormorants, dabbling duck, sea duck and waders all well represented. There are internationally important wintering populations of Great Northern Diver and Light-Bellied Brent Goose and nationally important wintering populations of an additional

sixteen species. The site provides both feeding and roost sites for most of the species.

8.6.9. The site has several important populations of breeding birds, most notably colonies of Sandwich Tern and Common Tern. A large Cormorant colony occurs on Deer Island. Inner Galway Bay SPA is of high ornithological importance with two wintering species having populations of international importance and a further sixteen wintering species having populations of national importance. The breeding colonies of Sandwich Tern, Common Tern and Cormorant are also of national importance. Also, of note is that six of the regularly occurring species are listed on Annex I of the E.U. Birds Directive, Inner Galway Bay is a Ramsar Convention site and part of the Inner Galway Bay SPA is a Wildfowl Sanctuary.

8.6.10. Detailed Conservation Objectives for the Inner Galway Bay SPA (Site Code 004031) are included in the NPWS Conservation Objectives Series for the site, dated May 2013, with the overall objective being to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SPA has been designated.

- To maintain the favourable conservation condition of species in the Inner Galway Bay SPA which is defined by lists of attributes and targets including long term population trend stable or increasing, no significant decline in populations, no significant decrease in the range, timing and intensity of use of areas used by a number species, other than that occurring from natural patterns of variation and human activities should occur at levels that do not adversely affect breeding population of species.
- To maintain the favourable conservation condition of wetland habitat in the SPA as a resource for the regularly occurring migratory waterbirds that utilise it. The permanent area occupied by the wetland habitat should be stable and not significantly less than the area of 13,267ha, other than that occurring from natural patterns of variation.

## **Potential Significant Effects**

8.7.1. Potential impacts of the proposed development on the qualifying interests of European Sites are considered in section 3 of the NIS. The NIS submits that there

would be no direct impact on either the Galway Bay Complex SAC (&pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031). As the proposed development site lies entirely outside of the European sites, there would be no habitat loss or fragmentation as a result of the proposed development.

- 8.7.2. Indirect impacts are also considered in terms of source pathway vectors and it is submitted a flood during extreme tidal events, particularly during the construction phase of the access road to the development site, could cause unconsolidated materials to be carried into the Galway Bay Complex SAC (&pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031) causing water quality deterioration, thus impacting on the conservation objectives of the sites. Flooding during the operational phase of the development could cause hydrocarbons from the access road to be carried into the water, again causing water quality deterioration.

## **Mitigation Measures**

- 8.8.1. Best practice in construction management will be adhered with to prevent the contamination of surface or groundwater. Section 2.3 of the NIS sets out the mitigation measures and best practice measures proposed for the construction and operations phases, under the following headings:

- Site Set Up
- Construction of New Access Road
- Earth Works
- Noise Control Measures
- Dust Control
- Groundwater Contamination
- Drainage and Water Quality
- Operational Phase Surface Water Control.

- 8.8.2. Of particular note, it is indicated that no works to take place during spring tides to prevent unconsolidated construction materials entering the adjacent Natura 2000 sites. In addition, measures are submitted in terms of stock-piling of materials to

take place outside of flood risk zones and during periods of heavy precipitation with the potential for run-off, works will be halted.

### **In Combination Effects**

- 8.9.1. The NIS identifies all planning applications which have been permitted within 300m of the proposed development site since 2015. The most relevant project relates to the permitted works to the existing house on the site and permission for the construction of a slatted house on the site. Cumulative impacts from plans and projects in the area which may result in potential in-combination effects are considered in section 3.2 of the NIS.
- 8.9.2. There are no predicted in-combination effects with the identified developments and the NIS concludes that subject to adhering to mitigation measures, there is no potential to result in adverse effects on any European Site. Potential pathways for small scale effects on the surrounding environment have also been considered.

### **Conclusion**

- 8.10.1. I have read the submitted Natura Impact Statement in its entirety, together with all other reports submitted with the planning application in support of the proposed development, and I am satisfied that it generally assesses the likely significant impacts arising from the proposed development on the integrity of the Galway Bay Complex SAC (&pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031).
- 8.10.2. Having regard to the information submitted, the nature of the development proposed, the planning history associated with the site, together with the details presented in the Natura Impact Statement, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, I consider reasonable to conclude on the basis of the information on the file, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European sites, the Galway Bay Complex SAC (&pNHA) (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031), or any other European site, in view of the site's Conservation Objectives.



## 9.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reasons.

## 10.0 Reasons and Considerations

1. Notwithstanding the information submitted with the planning application and appeal, the Board is not satisfied that the proposed development, which seeks to replace and relocate the house and the slatted shed a distance of approximately 40m and 85m respectively, uphill from the existing house location and permitted slatted shed location is appropriate or acceptable. The relocation of these structures to an elevated and exposed area of the landholding, together with the proposed introduction of a new access road of approximately 240m in length with a width of 6m at the roadside and 5m at the rear of the site, will constitute significant visually intrusive and dominant features in this Class 3 landscape, at a prominent location. As such, it is considered that the proposed development, if permitted would contravene Objectives RHO9 and LCM2 of the Galway County Development Plan 2015-2021, which requires the Planning Authority to consider the sensitivity of the landscape in considering the design and choice of location of developments within the landscape.

The Board is not satisfied that the development would not assimilate satisfactorily or integrate effectively into the sensitive receiving rural landscape. The development would seriously injure the amenities, or depreciate the value, of property in the vicinity, and would set an undesirable precedent for similar developments in the area and would be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector  
26<sup>th</sup> February 2021