



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308741-20

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<b>Development</b>	Construction of two storey dwelling with solar panels and septic tank.
<b>Location</b>	Tullyconor, Leenane, Co.Galway.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	192005
<b>Applicant(s)</b>	Shane Young & Joan Molloy
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Shane Young & Joan Molloy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12/03/21
<b>Inspector</b>	Adrian Ormsby

## 1.0 Site Location and Description

- 1.1. The appeal site is in the rural area of Tullyconor, in north west Co. Galway, c. 6 km west of the village of Leenane. The site is accessed via a local/private road off the N59 National Secondary Road that links Westport to Clifden. The site is 1 km west of the junction of the local/private road and the N59. The site is in an elevated location c.150m south of the Killary fjord to the north between County Galway and Mayo.
- 1.2. The local/private road that accesses the site provides access to two residential properties and two commercial accommodation services known as the Connemara Hostel and Killary Lodge. These lands adjoin the application site which all form part of the lands associated with the Killary Adventure Centre located on the N59 National Secondary Road.
- 1.3. The site is accessed by a poorly surfaced, track/road/walkway that does not appear suitable for cars. The walkway rises sharply from the local/private road and meanders through woodland to the site. The area of the site itself is located within woodland and on poorly drained bogland. The site was very wet with pools of water underfoot and surface drains clearly evident.
- 1.4. The site is largely enclosed to the northern boundary by existing woodland but was open to Killary Fjord to its North west boundary. The stated site area is 0.405 ha.

## 2.0 Proposed Development

- 2.1. The application comprises the following-
  - A 244 sq.m two storey narrow plan house (6.9m wide) with a ridge height ranging from 10.3m to 8.9m reflecting the lay of the land.
  - A septic tank, sump and pump station discharging to an existing treatment system permitted under 11/218 and outside of the application site.
- 2.2. The Planning Authority requested Further Information (FI) on the 21/02/20.
- 2.3. The applicants responded to the FI request on the 01/10/20 which included the following-

- A Road Safety Audit to address consultation responses received from Transport Infrastructure Ireland and the Council's Roads and Transportation Unit and in particular the junction of the local private road and the N59.
- Further details in relation to the applicants housing need
- Further details in relation to the applicants proposal to connect the existing Sewage Treatment System of the Killary Adventure Centre and service details in relation to same.
- A Design Statement and Photomontages
- A Tree Survey Report

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. Following the receipt of Further Information the Planning Authority decided to refuse permission on the 27/10/20 for three reasons which can be summarised as follows-

- The access to the site is off an unimproved section of the N59, where the speed limit of 100kph applies and where visibility at the junction is restricted. The proposal is at variance with local and national official policy in relation to control of development on/affecting national roads, as per Objective TI 6 and DM Standard 18 (a) of the County Development Plan & the DOECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012). The turning movements would interfere with the safety and free flow of traffic, would endanger public safety by reason of traffic hazard and would have a detrimental impact on the capacity, safety or operational efficiency of the national road network.
- On the basis on information included with the planning application and the location of the site within a Class 5 (Unique) designated landscape, it is considered that the proposed development necessitating the loss of existing tree cover would not integrate harmoniously into this sensitive receiving rural, elevated and coastal landscape. The development would contravene materially Objective LCM 1, Objective LCM 2 and DM Standard 6 contained in

the Galway County Development Plan, 2015-2021, would interfere with the character of the landscape, would detract from the visual amenity of the area, would militate against the preservation of the rural environment and would set an undesirable precedent for similar development in the area

- Having regard to the lack of a site specific wastewater treatment system to serve the proposed development directly and independently, the Planning Authority is not satisfied that the safe disposal of effluent generated on site can be guaranteed in accordance with the EPA code of practice standards for wastewater treatment and disposal systems serving single houses. The proposed development would be prejudicial to public health, would be contrary to the EPA code of practice standards for single houses 2009, and to Objective WW5 of the county development plan.

## **4.0 Planning Authority Reports**

### **4.1. Planning Reports**

4.1.1. The report of the Planning Officer (which appears to be signed and approved by email dated 24/10/20) reflects the decision of the Planning Authority. Following the request for further information the following is noted:

- The Road Safety Audit (RSA) submitted relates to a different proposal for five pods under file ref. no. 19/766.
- GCC recommended in the event of that development proceeding that substantial improvements works would be necessary at the junction with the N59 and was costed in the region of €150,000.
- Having regard to the above and the comments of the TII to the current file, the proposal is premature until the necessary remedial works to the N59 are implemented.
- In the absence of these works the applicant is not considered to comply with DM Standard 18 (a) of the county plan.
- The proposal to utilise the existing communal wastewater unit is not acceptable.

- The development is not considered satisfactory from a visual perspective having examined the cross section due to the juxtaposition of its scale at 10 metres in height within a Class 5 landscape area and an identified protected focal point view.
- The tree survey report and invasive species eradication plan submitted with the application meet with the satisfaction of the planning authority.

#### **4.2. Other Technical Reports**

- None

#### **4.3. Prescribed Bodies**

- Transport Infrastructure Ireland. The proposal is at variance with official policy in relation to the control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) as it would adversely affect the operation and safety of the national road network for the following reasons-
  - The proposal would create an adverse impact on the national road where the maximum permitted speed limit applies and would be at variance with the foregoing national policy in relation to control of frontage development on national roads.
  - The proposed development, located on an unimproved section of national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

#### **4.4. Third Party Observations**

- None

### **5.0 Planning History**

This Site

- None

#### Nearby Relevant Sites

- 21353- **Current application** lodged on the 12/03/21 for the provision of a 34.8 Ha adventure, recreation and leisure use area.
- 20225- Retention of alterations and ancillary site works to existing boat shed (Previous Planning Reference No. 08/363). **Grant** 06/07/20
- ABP-306144-19, 19667- 5 individual one bedroom self-contained "pods" for short term holiday usage, construction of necessary access paths, water supply, and effluent disposal system to service same. Granted by GCC and **Refused** by ABP on the 28/04/2020 for two reasons summarised below–
  - the Pods, would represent a determinantal impact on the character of the landscape, would set an undesirable precedent for further similar development along the Fjord which would further erode this natural resource.
  - the Board was not satisfied that effluent from the development can be satisfactorily treated or disposed of on site, the proposed development, would, therefore, be prejudicial to public health.
- 18482- Retention of 233m of walking trail and permission for approximately 1300m of walking trail and a car park. **Grant** 27/08/2018
- 18285- Retention of 2 storage units, 287 sq.m. **Grant** 11/06/2018
- 17/1142- two storey extension, 6 no. detached sleeping pods, upgrade existing wastewater treatment system at The Connemara Hostel, Tullyconor Leenane. **Grant**, 30/10/2017
- 13/769- alterations/extension to staff accommodation building previously approved under PI. Ref. 11/218 & 09/177, and change of use from Staff Accommodation to a training/learning centre with ancillary accommodation, enlargement of previously approved sewage treatment plant. **Grant** 21/10/2013

- 13/771- house and septic tank, connection into sewage treatment system previously approved under Pl. Ref. 11/218. **Grant** 21/10/2013
- 12/1255- Extension of Duration works to existing boat house, previous planning reference no. 08/363. **Grant** 27/11/2012
- 11/218- alterations/extension to staff accommodation building previously approved under pl. ref. 09/177, enlargement of previously approved soil polishing filter. **Grant** 01/08/2011
- 09/177- to demolish existing building and construct replacement staff accommodation building, septic tank, puraflo sewage treatment system. **Grant** 23/11/2009

## 6.0 Policy Context

### 6.1. National Planning Framework (NPF) – Project Ireland 2040 (2018)

Objective 19 of the National Planning Framework states-

*“Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:.....*

*In rural areas elsewhere, 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”*

### 6.2. Section 28/Other Guidelines

#### 6.2.1. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

The Guidelines provide criteria for managing rural housing requirements, whilst achieving sustainable development. Planning Authorities are recommended to identify and broadly locate rural area typologies that are characterised as being under strong urban influence, stronger rural areas, structurally weak, or made up of clustered settlement patterns.

The appeal site is located in an area identified Structurally Weak, as set out under Section 6.3 below. In these areas the guidelines advise that-

*'The key development plan objective in these areas should refer to the need to accommodate any demand for permanent residential development as it arises subject to good practice in matters such as design, location and the protection of important landscapes and any environmentally sensitive areas.'*  
(Appendix 3, Box 3).

6.2.2. EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) and the Code of Practice - Design Capacity Requirements August (2013)

The CoP provides guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

6.2.3. EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999)

6.2.4. Spatial Planning and National Roads Guidelines for Planning Authorities (2012)

Section 2.5 'Required Development Plan Policy on Access to National Roads' states-

*'Lands adjoining National Roads to which speed limits greater than 60 kmh apply: The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.'*

### 6.3. Local Policy

#### 6.3.1. Galway County Development Plan



Section 3.8.2 states the key objectives of the Council for *Structurally Weak Areas* are to-

- *‘accommodate residential development proposals as they arise subject to satisfactory site suitability and technical considerations;*
- *To accommodate residential development proposals in accordance with Chapter 13 (Development Management Standards and Guidelines);*
- *To maintain and strengthen existing towns and villages and to direct urban generated housing demand into these areas;*
- *To protect areas located in Landscape Category 3, 4 and 5.’*

Section 3.9 sets out Rural Housing Policies and Objectives

Policy RHO 1 - Management of New Single Houses in the Countryside, Map RHO1-*Structurally Weak Area.*

*Objective RHO 2 - Rural Housing Zone 2 (Structurally Weak Area)*

*It is an objective of the Council to facilitate the development of individual houses in the open countryside in "Structurally Weak Areas" subject to compliance with normal planning and environmental criteria and the Development Management Standards and Guidelines outlined in Chapter 13 and other applicable standards with the exception of those lands contained in Landscape Categories 3, 4 and 5*

Objective RHO 3 - Rural Housing Zone 3 (Landscape Category 3, 4 and 5)

*‘Those applicants seeking to construct individual houses in the open countryside in areas located in Landscape Categories 3, 4 and 5 are required to demonstrate their Rural Links\* to the area and are required to submit a Substantiated Rural Housing Need\*.....An Enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies.’*

*\*Rural Links:*

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

*\*Substantiated Rural Housing Need:*

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

Objective RHO 9 Design Guidelines

Objective RHO 12 Waste Water Treatment Associated with Development in Un-Serviced Areas (also see Objective WW5 below)

Section 5.4 sets out Roads and Transportation Policies and Objectives

Policy TI 6 – Protection of Strategic Transportation Infrastructure

*Seek to protect and safeguard the significant investment made in strategic transportation infrastructure, in particular the network of national roads, the existing rail lines and the Western Rail Corridor.*

Objective TI 6 – Protection of National Routes and Strategically Important Regional Road Networks

*It is an objective of the Council to protect the capacity and safety of the National Road Network and Strategically Important Regional Road network (listed in DM Standards and Guidelines in Chapter 13) in the County and ensure compliance with the Spatial Planning and National Roads Planning Guidelines (2012). Galway County Council will not normally permit development proposals for future development that include direct access or intensification of traffic from existing accesses onto any national primary or*

*secondary road outside of the 50-60 kph speed limit zone of towns and villages.*

Section 6.17 sets out Wastewater Policies and Objectives

Objective WW 5 – 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 waste water treatment system is in accordance with the Code of Practice Treatment and Disposal Systems Serving Single House 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.*

Section 9.11 sets out Landscape Conservation and Management Policies and Objectives

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 1 – Landscape Sensitivity Classification

*The Planning Authority shall have regard to the landscape sensitivity classification of sites in the consideration of any significant development proposals and, where necessary, require a Landscape/ Visual Impact Assessment to accompany such proposals. This shall be balanced against the need to develop key strategic infrastructure to meet the strategic aims of*

*the plan, and having regard to the zoning objectives of serviced development land within the Galway Metropolitan Areas.*

#### 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.*

The site has a Landscape Value Rating of Outstanding as per map LCM1 (P. 169 of DP) and Landscape Sensitivity Class 5- Unique, as per Landscape Sensitivity and Character Areas – Map LCM2 (P.170 of DP).

#### Section 9.13 sets out Focal Point and Views Objective

#### Objective FPV 1 – Development Management

*Preserve the focal points and views as listed in Map FPV1 from development that in the view of the Planning Authority would negatively impact on said focal points and views. This shall be balanced against the need to develop key infrastructure to meet the strategic aims of the plan, and have regard to the zoning objectives of serviced development land within the Galway Metropolitan Area.*

#### Chapter 13 sets out Development Management Standards & Guidelines

#### Section 13.4 sets out Rural Residential Considerations

DM Standard 5: Rural Housing

DM Standard 6: Assimilation of Development into Landscape

DM Standard 7: Site Size for Single Houses Using Individual On-Site Wastewater Treatment Systems.

DM Standard 8: Landscaping

Section 13.8 sets out Guidelines for Transportation, Roads, Parking, Loading and Storage

DM Standard 18: Access to National and Other Restricted Roads for Residential Developments- Housing Need Eligibility-

*a) Residential development along National Roads will be restricted outside the 50-60kmp speed zones in accordance with the DoECLG Spatial Planning and National Road Guidelines (2012). Consideration shall be given to the need of farm families to live on the family holding on a limited basis and a functional need to live at this location must be demonstrated. Where there is an existing access, the combined use of same must be considered and shown to be technically unsuitable before any new access can be considered. Access via local roads shall always be the preferred access.*

*c) An Enurement condition will be attached to grants of planning permission for the above*

Section 13.9 sets out Guidelines for Infrastructure and Services

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 single houses the EPA Wastewater Treatment Manuals-Treatment Systems for Single Houses 2009 (including any updated or superseding document) shall apply;*

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

*a) Single Houses Each dwelling house shall be serviced by its own septic tank or treatment plant and shall not share this facility with any other dwelling other than in exceptional circumstances.*

Section 13.11 sets out Guidelines for Heritage, Landscape and Environmental Management

DM Standard 39: Compliance with Landscape Sensitivity Designations

*‘Subject to the provisions of the plan but in particular the settlement policies of Chapters 2&3 and the consequent restriction on development in rural areas, the control of permissible development shall be in accordance with the policies as they relate to the five sensitivity classes of landscape in Section 9.10.2.3 of this plan. It will deem the following types of development generally to be acceptable in the various areas of sensitivity as follows:*

*Class 5 – Unique Negligible alterations will be allowed only in exceptional circumstances.’*

#### 6.4. Natural Heritage Designations

6.4.1. The site is located circa-

- 1 km west of the Maumturk Mountains SAC (002008),
- 1 km south of Mweelrea /Sheeffry/Erriff Complex SAC (001932),
- 0.65 km east of The Twelve Ben/Garraun Complex SAC (002031),

6.4.2. The above sites are also identified as proposed Natural Heritage Areas (pNHA) with the same site codes.

#### 6.5. EIA Screening

6.5.1. Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

One first party appeals has been received. The grounds of appeal as laid out by the appellant can be summarised as follows-

- Refusal Reason 1- the access serves not only the application site, but also Killary Lodge, The Connemara Hostel, 2 no. existing houses, a walking trail and associated car park as well as the lands where the Killary Adventure Centre stage and undertake a number of their outdoor pursuits and activities.
- The applicants reside in one of the existing houses which is serviced by this access i.e. the applicant's parents' house.
- On this basis there will be no material increase in vehicular movements associated with the proposed development given that the applicants already utilise it on a daily basis.
- Pl.Ref.No: 19667 & ABP Ref: 306144 was a proposal was for 5 no. glamping pods for the Killary Adventure Centre. Permission was refused on landscape and visual amenity concerns. Section 7.4.4 of the Inspector's Report concluded that the 5 no. glamping pods would not generate significant additional traffic. On this basis, it is considered reasonable to conclude that, the provision of a dwelling house in an area already serviced by the subject vehicular access, and where the applicant's already reside in the family home, will result in no material increase in vehicular movements at the junction with the N59.
- The Road Safety Audit submitted at FI stage was prepared in respect of a separate development proposal (5 no. Glamping Pods). However, the recommendations set out in the Road Safety Audit are not project specific and would precipitate improvements to the junction in the context of a number of different future development proposal that the Killary Adventure Centre operators intend to progress in due course.
- The applicant is the Director of the Killary Adventure Centre Company who own the lands on which junction improvement works could be facilitated.

Should the Board consider it appropriate, the applicant can implement these improvement works as part of the subject development proposal and these could form a condition.

- Notwithstanding this the proposed development results in no net increase in vehicular movements and that the existing junction can operate safely in the absence of any improvements or upgrades.
- Refusal Reason No.1 makes specific reference to 2 no. provisions of the Galway County Development Plan which, it is alleged, the proposed development contravenes, namely Objective TI 6 and DM Standard 18(a). The development does not include for the provision of a direct access onto the national road network and will not result in any intensification of the use of the existing junction. It is considered that Objective TI 6 is not applicable. DM Standard 18 is primarily intended to manage new residential accesses onto National and Restricted Regional Routes. The proposed development will utilise an existing access point and will not result in any intensification of the use of this junction.
- Refusal Reason 2- The proposed design follows the recommendations in the Galway County Council Design Guidelines for the Single Rural House
- The siting, design, orientation and massing of the proposed dwelling house represent a carefully considered and appropriate design solution at this location.
- As per the submitted Tree Survey there will be no tree felling, except possibly in the case of two trees T6 and T8, and in that case alone, their removal is not all certain.
- The design concept is for a house in woods, not a house in a felled area. The design team are experienced in this area. Existing trees are of a height sufficient to screen the proposed building. The arborists tree survey documents the mature scots pines and their location is marked on the attached plans. The proposed house will mostly not be seen.
- The design of the building is deliberately slim and simple, in a vernacular tradition of farmhouses. It has dimensions and scale of many mid C19 Irish



rural farmhouses. Large areas of hardstanding are avoided in the design. The bulk is broken down by the massing of smaller volumes. Eaves, fenestration, gutters will follow simple Irish vernacular principles.

- Having considered the GCC Planners Report, revised proposals and drawings have been submitted reducing the ridge height by 1 metre.
- Refusal Reason No.3 The proposed development includes for an on-site treatment plant with pumped discharge an existing percolation area which serves the 'K3 development' (PI, Ref. No: 13/769). This treatment system was intentionally oversized in order to accommodate outflows from future development proposals including the subject application. Further information in respect of this provided in a letter prepared by MJ Designs Consulting Engineers dated 19th June 2020 and submitted with the appeal.
- Consent for the applicant to connect to this system as well as the service contract for the maintenance of this system has been submitted with the appeal.
- Galway County Council granted planning permission for an adjoining dwelling house for the applicant's sister (PI. Ref. No: 13/771) which proposed the exact same arrangement as is proposed as part of this development proposal.
- All existing infrastructure has been installed and is operated in accordance with the EPA Code of Practise.
- A letter and associated details and drawings prepared by Shane Joyce (B.E) has been submitted with the appeal and provides more detail on the arrangement proposed and identifies the route of the wastewater pipe between the application site and the existing system.
- This arrangement accords with the EPA Code of Practice, Objective WW5 and represents a more environmentally sustainable approach to the management of wastewater in this area.
- The appeal is also accompanied by a background document to Killary Adventure Company, documents submitted at FI Stage, Land Registry and folio details for lands in the area and other documentation showing the applicants connection to the area.

## 7.2. Planning Authority Response

- None received

## 7.3. Observations

- None

## 8.0 Assessment

### 8.1. Introduction

8.1.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues to be assessed in this appeal are as follows:

- Principle of Development /Rural Housing Policy
- Road Network, Safety and Traffic Hazard
- Siting and Design
- Wastewater
- Other Matters
- Appropriate Assessment

### 8.2. Principle of Development /Rural Housing Policy

8.2.1. National Policy Objective 19 of the National Planning Framework (NPF) seeks to facilitate the provision of single housing in rural areas not under urban influence 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.

8.2.2. The Sustainable Rural Housing Guidelines for Planning Authorities (2005) defines 'Structurally weaker rural areas' as-

*‘These areas will exhibit characteristics such as persistent and significant population decline as well as a weaker economic structure based on indices of income, employment and economic growth.’*

- 8.2.3. The application site is located in a rural area which has been identified in Section 3.8.2 and Map RH02 of the County Development Plan as Structurally Weak in accordance with the 2005 Guidelines. However Objective RHO2 details this objective does not apply to lands that are contained in Landscape Categories 3, 4 and 5. Instead objective RHO3 applies.
- 8.2.4. Accordingly. I am satisfied this application, although being within a Structurally Weak area is subject to Objective RHO3 as the site is located within Landscape Category 5. The applicant is required to demonstrate his “Rural Links” and his “Substantiated Rural Housing Need” to the area.
- 8.2.5. It is noted the applicant is seeking to build on lands that are owned by Brackencroft Ltd. A letter of consent from the directors of this company has being submitted. It is also indicated that the directors are the applicants parents.
- 8.2.6. The following supporting documentation are on file-
- A Rural Housing Need Application Form stating the applicants are living with his parents in the family home at Killary Lodge, Leenane, Galway. This form indicates the applicant is not work in farming and is not a member of a farm family. The form indicates the applicant is employed as the Owner and Director of Killary Adventure Co. which is the family business since 1981. The applicant indicates this it is through this business where he derives his primary income. The applicant also indicates other related business that he derives other incomes from. The applicant details the connection between the businesses with this rural area which are clearly tourism related operations. The form also details that he has grown up in the area, went to a local school and played sports for local teams. He also indicates the importance of the business for local employment. The form identifies one other family member (his sister) has acquired permission from the landholding and this house has been built.
  - Section 8 of the form details he was born and lived the first 10 years of his life in Little Killary, 5km from his parents current home where he now resides for

the past 24 years. The applicant indicates he returned from college and travelling in 2011 to work fulltime in the family business. He details his need to live close to the business as he is on 24 hour call due to the nature of the accommodation services of the business. The applicant details he is recently married and living in his family/parents home.

- A letter from the Founders, Managing Director and CEO of the Killary Adventure Co. (applicant's parents) detailing the applicant grew up working in the business and has been employed fulltime since 2010 where he is now the general manager in charge of the day to day running of the business. As such he is on call 24 hours a day to deal with any issues with people staying on the grounds.
- A letter from the Managing Director (applicant's sister) detailing he is a director and shareholder in Gaelforce Events and event management company based in the grounds of Killary Adventure Co.
- A letter of support from a local GAA club in Renvyle.
- A map identifying the location of current residence and family home c.75m north east of the application site.

Following a request for Further Information the following was also submitted-

- The applicant's birth certificate detailing address at time of birth which does not appear to be the current residence.
- A solicitor's letter with land registry and folio details for the family home and subject site which appear to be in the company's ownership since 1989.
- Letter of support from the applicant's primary school. This primary school appears to be c. 9km west of the application site.
- An overview document of Killary Adventure Centre detailing the history of the business in the area for 38 years.

8.2.7. Based on the information submitted in support of the application I am, satisfied the applicant has demonstrated his 'Rural Links' to the area. However, there is limited information to support his 'Substantiated Rural Housing Need' as per the requirement of Objective RHO 3 of the Development Plan. There is no documentary evidence proving the applicant currently lives at the family home. Typically, such

documentary evidence would prove where the applicant has resided for a number of recent years and ownership of that property. In the absence of such evidence I cannot say irrefutably that the applicant has not ever owned a house in the area concerned. Accordingly I cannot recommend a grant of permission in this instance and the application should be refused.

8.2.8. I note the Planning Authority requested further information in relation to the applicant's longstanding intrinsic links to the area and justification of housing need. Upon receipt of same it appears the Planning Authority had no further concerns in this regard. Accordingly the Board may consider this a new issue and seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

### **8.3. Road Network, Safety and Traffic Hazard**

8.3.1. The Planning Authority's first refusal reason relates to access to the site off an unimproved section of the N59, where the speed limit of 100kph applies and where visibility at the junction is restricted. They contend proposal is at variance with local and national official policy in relation to control of development on/affecting national roads, as per Objective TI 6 and DM Standard 18 (a) of the County Development Plan & the DOECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012).

8.3.2. The appellants argue the existing access already serves Killary Lodge, the Connemara Hostel, two existing houses, a walking trail and associated car park. The applicants already resides in one of the houses. The applicants also point to planning application 19667 & ABP Ref: 306144 a proposal for 5 no. glamping pods for the Killary Adventure Centre where the Planning Inspector and the Bord did not considered the provision of 5 no. glamping pods would not generate significant additional traffic.

8.3.3. I have reviewed and considered the Spatial Planning and National Roads Planning Guidelines (2012), Objective TI 6 and DM Standard 18 (a) of the County Development Plan.

8.3.4. I note the concerns raised in the Transport Infrastructure Ireland report dated 14/02/20 in relation to adverse impact of the development at the junction of the

local/private road with the national road, where the maximum permitted speed limit applies and would be at variance with national policy in relation to control of frontage development on national roads. Galway County Council have also considered these concerns and sought the submission of a Road Safety Audit at FI stage. The applicants submitted the same RSA that was submitted as part of planning application 19667 & ABP Ref: 306144 and have in this appeal indicated they are happy for the RSA identified works to be implemented as a condition should this permission be granted.

- 8.3.5. The applicants argue there will be no material increase in vehicular movements associated with the proposed development given that the applicants already utilise the junction with the National Road on a daily basis.
- 8.3.6. I have considered the proposed development and reviewed the planning assessment and Board decision on 19/667 & ABP Ref: 306144. Subject to implementing the recommendations of the Road Safety Audit, I am satisfied the addition of one house would not create a new entrance to the N59 and would not generate significant additional traffic nor significant intensification of the use of the junction with the N59. In my opinion the proposed development is not at variance with the Spatial Planning and National Roads Planning Guidelines (2012), Objective TI 6 and DM Standard 18 (a) of the County Development Plan.
- 8.3.7. The local/private road accessing the site is minor in nature c. 3m in width and serves local traffic and seasonal and tourist traffic would be expected. The nature of the road and its width contribute to low road speeds in this area. The site itself is accessed off the local/private road by an existing access road/track up to the site. While the quality of this road/track is not considered of a standard typical for residential use, it is noted that the construction, maintenance or improvement a such roads serving a forest or woodland are exempted development under section 4 (1) (ia) (I) of the Planning and Development Acts 2000-21 (as amended) and accordingly I have no concerns in this regard.
- 8.3.8. The junction of the access road/track and the local/private road is at a point almost opposite the Killary Lodge. There is a hard surface area at this location providing an area to park cars. The submitted drawings do not provide any indication of available sightlines at this junction. However traffic speeds at this location are low due to the

horizontal and vertical alignment of the road and I did not observe any significant impediment in terms of sightlines. I have no concerns in this regard.

#### 8.4. **Siting and Design**

- 8.4.1. Policy Objective 19 of the National Planning Framework requires that, in rural areas such as this (i.e. not a rural area under urban influence), the provision of single housing in the countryside shall be 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.
- 8.4.2. The Planning Authority's second refusal reason identified the site within a Class 5 (Unique) designated landscape and considered that the proposed development necessitated the loss of existing tree cover and would not integrate harmoniously into this sensitive receiving rural, elevated and coastal landscape. The Council determined the development would *contravene materially* Objective LCM 1, Objective LCM 2 and DM Standard 6 of the Galway County Development Plan, 2015-2021.
- 8.4.3. The applicants have revised the proposed design in their appeal by reducing the ridge height by 1m. They have stated that no more than two trees T6 and T8 as identified in the submitted tree survey may need to be removed. They argue the house siting, design, orientation and massing represent careful consideration and an appropriate design solution. The house has dimensions and scale of many mid C19 Irish rural farmhouses.
- 8.4.4. Policy LCM 1 seeks the preservation and enhancement, where possible of views and prospects. Objective LCM 1 details the Planning Authority will have regard to the landscape sensitivity classification of sites in the consideration of any significant development proposals and, where necessary, require a Landscape/ Visual Impact Assessment. Objective LCM 2 of the County Plan states '*In areas of high landscape sensitivity, the design and the choice of location of proposed development in the landscape will also be critical considerations*'.
- 8.4.5. I have reviewed the proposal in the context of Focal Points/Views, Objective FPV 1 and Map FPV1 of the County Development Plan. I note GCC's Planning Report identifies the site within an '*identified protected focal point view*'. Unfortunately the

report does not detail which protected focal point view has been identified. I have reviewed Map FPV1 and it is difficult to determine which view the Council refer to. In the context of the proposed house and the distance of the site from such views I do not consider the proposed development would significantly impact in a negative way upon said focal points and views.

- 8.4.6. It is noted that DM Standard 6 details a Visual Impact Assessment maybe required for proposals in areas identified as 'Focal Point/Views' or in Class 5 designated Landscape sensitivity area. Following a request for FI the applicants have submitted a 'Design Statement' and some photomontages. The statement details that the site and consequently the proposed building cannot be seen from the N59 nor from Killary Fjord. It also details the N59 cannot be seen from the site.
- 8.4.7. The submitted photomontages are from six locations in the area including two from Killary Fjord. The photomontages do not provide before and after representations of the development and accordingly I am critical of this submission. The photomontages generally suggest the house will not be visible. Having visited the site I consider the site is unlikely to be visible to any great extent from public roads. However I consider the house (notwithstanding the ridge level reduction submitted at appeal stage) will be visible from many places on Killary Harbour and in particular the North West side of the house. It is also noted this gable elevation is heavily glazed at first floor level presumably to maximise views over the fjord.
- 8.4.8. I consider the house design as submitted at appeal stage to be a two storey, narrow plan house of simple proportions that is reflective of traditional two storey dwellings with contemporary finishes and would be in keeping with the general design criteria of Galway County Council's Design Guidelines for the Single Rural House. In terms of design I am satisfied the proposal is in accordance with LCM 2.
- 8.4.9. However the 'choice of location' of the house is a critical consideration as per LCM 2. DM Standard 6: 'Assimilation of Development into the Landscape' specifically states 'permissible buildings should avoid locally obtrusive elevated locations'. The proposed development is clearly located in one of the most elevated parts of the landholding within an area of high landscape sensitivity. This is re-enforced in the Development Plan with a Landscape Value Rating of Outstanding and a Landscape Sensitivity of Class 5 unique as per Objectives and Maps LCM1 and 2. DM Standard



39 'Compliance with Landscape Sensitivity Designations' details acceptable developments in 'Class 5- Unique' landscapes will be '*Negligible alterations*' '*allowed only in exceptional circumstances*'.

- 8.4.10. The design statement has a section titled 'Siting and Immediate Context' but there does not appear to be any discussion or rationale in relation to site selection, and in particular alternative less elevated sites. It is also considered the grounds of appeal do not address concerns raised in the refusal reason in relation to LCM 1, LCM 2 and DM Standard 6 i.e. the choice of an elevated location for the development in a Class 5 landscape.
- 8.4.11. Having visited the site and inspected the landholding map (also submitted with the FI and appeal) I consider the application site as one of the most elevated sites within the landholding and alternative, less elevated, less sensitive and more appropriate sites within the landholding should have being considered. In accordance with DM standard 39 I so not consider the proposal to be a 'negligible alteration' or this to be an 'exceptional circumstance'.
- 8.4.12. I note the Planning Authority considered the proposal would *contravene materially* Objective LCM 1, Objective LCM 2 and DM Standard 6 of the Galway County Development Plan. I do not share the Planning Authority's opinion that the proposal contravenes *materially* the stated objectives and I note that DM standard 6 is not an objective. I do not consider that the proposal contravenes LCM 1. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Acts.

## 8.5. **Wastewater**

- 8.5.1. The Planning Authority's third refusal reason relates to the to the lack of a site specific wastewater treatment system to serve the proposed development directly and independently and as such would be contrary to the EPA code of practice standards for single houses 2009 and to Objective WW5 of the County Development Plan.
- 8.5.2. The applicants detail the proposed development includes for primary treatment in a septic tank adjacent to the proposed house before pumped discharge to the sewage treatment system serving 'K3' the family owned Training/Accommodation Centre

permitted under PI. Ref. No: 13/769. This arrangement was also permitted by Galway County Council for the construction of a house by the applicant's sister under PI. Ref. No: 13/771.

- 8.5.3. The applicants have submitted a report from MJ Design Engineers detailing how this sewage treatment system was oversized to provide for future development. The plant has a capacity of 75 PE and the existing PE providing for the proposed application would be 32. The existing treatment system is maintained by Dynorod under a service agreement and is serviced annually.
- 8.5.4. Having considered the above it is clear to me that the issue at hand is not the ability of the existing system to safely cater for and dispose of effluent from the proposed house, but instead the principle of allowing a remotely located house to connect and discharge of its (primary treated in septic tank) wastewater to a sewage treatment system clearly providing for a permitted business in an un-serviced area. The matter is further complicated by the Council's decision to allow the applicants sister to connect to this treatment plant under PI. Ref. No: 13/771. This application was assessed under the provisions of the previous Galway County Development Plan and did not come before the Bord.
- 8.5.5. Section 3.9 of the current Galway County Development Plan 2015-21 details Rural Housing policies and objectives. Section 6.17 of the current Galway County Development Plan 2015-21 sets out Wastewater Policies and Objectives. Both Objective RHO 12 and WW 5 deal with wastewater treatment associated with development in un-serviced areas such as the application site. These objectives are the same and detail the development will be permitted in un-serviced areas only where it is demonstrated that the proposed waste water 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).
- 8.5.6. DM Standard 29 of the development plan refers to standards for Effluent Treatment Plants and details 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). In relation to 'Single Houses' it states 'each

*dwelling house shall be serviced by its own septic tank or treatment plant and shall not share this facility with any other dwelling other than in exceptional circumstances.*

In this regard I note wastewater from the proposed house will be treated by a septic tank before discharge and further 'shared' treatment from the treatment system permitted under PI. Ref. No: 13/769. I also note there has been no indication put forward in the application of any alternative site or proposals for this site so I cannot consider this an exceptional circumstance.

- 8.5.7. The application documentation does not include a Site Characterisation Report for the site. Having inspected the site it would appear the site would not be able to provide for the safe treatment and disposal of wastewater to groundwater at this location. The site was extremely wet underfoot consistent with bogland with large pools of stagnant water clearly evident.
- 8.5.8. As part of the appeal the applicants have submitted drawings showing the route of the wastewater pipe from the proposed septic tank to the existing percolation area. This route follows the existing access road/track and will require pumping before beginning a gravity flow to the existing treatment system.
- 8.5.9. I acknowledge a similar arrangement has been permitted for the applicants sister under PI. Ref. No: 13/771. I understand the applicants contention that a similar arrangement should be permitted in this context and in many ways that it is a reasonable position. However, such an arrangement would in my view contribute to an inappropriate arrangement from a planning perspective and has already created an undesirable precedent for such developments
- 8.5.10. I have a number of concerns in this regards including-
- The remote and distant nature of the house from the treatment system permitted under PI. Ref. No: 13/769
  - The absence of the complete wastewater treatment system within the red line boundary
  - The absence of the complete wastewater treatment system within a blue line boundary identifying the landholding (I note the letters of consent to connect that are on file)

- The proposed development and application site does not form a complete planning unit and cannot operate independently and in accordance with DM Standard 29 of the County Development Plan.
- No case has been made for alternative sites within the landholding that may be more suitable for the proposed development.
- Notwithstanding the family connection to these lands, the proposed house will be entirely dependent on the connection to the treatment system permitted under PI. Ref. No: 13/769 whereby the sale of either property in the future (for whatever reason) or the withdrawal of consent to use same, could create a situation where the house has no satisfactory arrangement for the treatment and disposal of wastewater and would therefore be prejudicial to public health.
- In the absence of a Site Characterisation Report and having visited the site I can only form an opinion that the site itself is not capable of the safe treatment and disposal of wastewater.

8.5.11. Having regard to all of the above it is my opinion that the wastewater treatment proposals are an unsatisfactory arrangement for the proposed development and as a result and based on the information on file I consider the proposed development would be prejudicial to public health. The proposed development should, therefore, be refused.

## 8.6. **Appropriate Assessment (AA)**

8.6.1. Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

## 9.0 **Recommendation**

9.1. I recommend that permission is refused for the following reasons-

## 10.0 Reasons and Considerations

1. Based on the information submitted with the application and the appeal, it is considered that the applicant has not adequately demonstrated a 'Substantiated Rural Housing Need' for a rural house at this location. In the absence of a Substantiated Rural Housing Need in this rural area, it is considered that the proposed development would be contrary to Objective RHO 3 - Rural Housing Zone 3 (Landscape Category 5) of the Galway County Development Plan 2015-2021, would contribute to the encroachment of random rural development in the area, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.
2. Objective 19 of the National Planning Framework facilitates the provision of single housing in the countryside in Structurally Weak areas based on siting and design criteria for rural housing in statutory guidelines and plans. In this regard the location of the proposed development is sited in an area identified in the Galway County Development 2015-2021 within a Landscape Sensitivity rating of Class 5 – 'Unique' and a Landscape Value rating of 'Outstanding'. It is considered that the proposed development, by reason of its siting in a Class 5- Unique Landscape, an elevated location, and in the absence of consideration of alternative sites within the landholding, would not be capable of satisfactory assimilation into this 'Unique' and 'Outstanding' landscape. The proposed development would be contrary to National Policy Objective 19 of the National Planning Framework, Objective LCM 2 and DM Standards 6 & 39 of the Galway County Development Plan 2015-2021 and would interfere with the character of the landscape, would detract from the visual amenity of the area, would militate against the preservation of the rural environment and would set an undesirable precedent for similar development in the area.
3. In the absence of a site suitability assessment of the site and proposals to treat and dispose of wastewater within the application site, the Board is not

satisfied that effluent from the development can be satisfactorily treated and or disposed of on site. Proposals to treat and dispose of wastewater off site and significantly remote from the proposed house and outside the guaranteed and independent control of the applicant would not be in accordance with orderly development, proper planning and sustainable development. The proposed development would, therefore, be prejudicial to public health.

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Adrian Ormsby  
Planning Inspector  
25<sup>th</sup> March 2020