



An  
Bord  
Pleanála

## Inspector's Addendum Report ABP-309753-21

<b>Development</b>	Hotel, two self-catering cottages, business and food innovation centre, and six houses.
<b>Location</b>	An Spidéal Thiar, An Spidéal, Contae na Gaillimhe
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	17/1618
<b>Applicant(s)</b>	Baile Éamonn Teoranta
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Baile Éamonn Teoranta
<b>Observer(s)</b>	Diarmuid Russell, Dympna Hume, Elisabetta Casto & Others, Mary McDonagh-Faherty and Bartley Fannin & Others
<b>Date of Site Inspection</b>	6 <sup>th</sup> December 2021
<b>Inspector</b>	Colm McLoughlin

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## **1.0 Introduction**

- 1.1. This is an addendum report relating to an appeal case that follows a High Court Order [2018 No. 1063 JR] dated the 2<sup>nd</sup> day of February, 2021. The Board's decision on An Bord Pleanála (ABP) file reference (ref.) 301454-18 has been quashed based on the reasons given within High Court Judgement (Baile Éamonn Teoranta v. An Bord Pleanála [2020] IEHC 642) and the file has been remitted back to the Board for a fresh determination. The High Court Judgement confirmed that the decision to reach a refusal to grant planning permission for the original appeal was undertaken on the basis of a material error of fact. A new file has been assigned with ABP ref. 309753-21.
- 1.2. This addendum report should be read in conjunction with the original Inspector's report on file (ABP ref. 301454-18) dated the 17<sup>th</sup> day of September, 2018.
- 1.3. Notices of the High Court Order were issued by An Bord Pleanála to Galway County Council, the appellant and observers to the appeal under section 131 of the Planning and Development Act 2000, as amended, (hereinafter referred to as 'the Act'). Responses received are summarised under section 4 below.

## **2.0 Proposed Development**

- 2.1. The appeal site is situated on the landward side of the R336 regional road, overlooking Spiddal beach (Trá na mBan) on the eastern side of the village of Spiddal. The proposed development would comprise the demolition of a house and associated structures, and the construction of an 81-bedroom three-storey hotel, as well as two self-catering two-storey cottages, a part two and three-storey business and food innovation centre and six two-storey four-bedroom houses. The overall development would be served by three vehicular accesses, parking and a private packaged wastewater treatment system. Further details of the proposed development, as well as the site location, are set out in the original Inspector's report (ABP ref. 301454-18).

## **3.0 Planning History**

### **3.1. Appeal Site**

3.1.1. In addition to the planning history for the site outlined within the original Inspector's report (ABP ref. 301454-18), I note the following:

- Planning Authority ref. 21/2211 – application lodged on the 25<sup>th</sup> day of November 2021 for development comprising the construction of a two-storey primary care centre, including 28 therapy/consultants rooms and associated signage, the construction of a section of the Spiddal indicative relief road, widening and improvement works to the L5397 local road (Baile Éamoinn), pedestrian and vehicular access ways, parking, services, landscaping and all associated site works. A decision is due on this application by the 28<sup>th</sup> day of January 2022.

### **3.2. Surrounding Sites**

3.2.1. I note the following planning application relating to a site 60m to the northwest of the appeal site:

- ABP ref. 302847-18 (Planning Authority ref. 18/766) – permission granted to Irish Water on the 19<sup>th</sup> day of March, 2019, for the construction of a wastewater treatment plant for Spiddal. The Planning Authority subsequently permitted a welfare building and a control room kiosk to serve this plant under ref. 21/1948 on the 5<sup>th</sup> day of April, 2021.

## **4.0 Submissions**

### **4.1. Appellant's Submission**

4.2. The appellant's submission following the High Court Order was accompanied by appendices, including a copy of the original grounds of appeal with respect to ABP-301454-18, a copy of a submission dated the 8<sup>th</sup> day of February, 2019, to the Draft Regional Spatial and Economic Strategy (RSES) for the Northern and Western Regional Authority, correspondence from Irish Water dated the 26<sup>th</sup> day of October,

2017, referring to a pre-connection enquiry, a copy of a 'Project Works Service Agreement' dated the 18<sup>th</sup> day of April, 2018, between Irish Water and the appellant and a copy of the Board's Direction and Order with respect to ABP ref. 302847-18. The appellant's submission can be summarised as follows:

### Overview

- reasoned justification, alternative options and mitigation measures were previously provided by the appellant to the Board to address each of the matters raised in the Planning Authority's three reasons for refusal to grant planning permission for the proposed development;
- the Board's previous reason for refusal of planning permission under ABP ref. 301454-18 solely related to the means of wastewater treatment proposed and did not refer to matters raised in reasons 1 and 2 of the Planning Authority decision (ref. 17/1618);
- arising from the High Court Judgement, the manner in which the Board arrived at its decision was fundamentally flawed, given that the municipal wastewater treatment plant (MWWTP) to serve the development had been approved by the Planning Authority (ref.18/766), and as the appellant had liaised with Irish Water to ensure that this plant would have adequate capacity to cater for the subject proposed development;

### Planning Context

- the planning policy context for the site has altered since the Board's previous decision (under ABP ref. 301454-18) on the 23<sup>rd</sup> day of October, 2018;
- the proposed development supports tourism objectives contained within the RSES 2020-2032 for the Northern and Western Regional Assembly (2020) and the 'Visitor Experience Development Plan for Connemara Coast and Aran Islands' prepared by Fáilte Ireland (2018);
- variation 2(b) of the Development Plan, incorporating the Gaeltacht Plan, superseding the Gaeltacht Local Area Plan 2008-2018, continues the previous zoning objectives for the subject site and the Spiddal area, albeit with some changes in the number and location of Residential (Phase 1) lands within the village;

- Residential (Phase 1) lands would not be developed for housing within the life of the Plan;
- all four plots of Residential (Phase 1) lands in Spiddal are constrained from being developed at present, as they are either not available for development or they are not presently the subject of a permission for development;
- the development would provide a sustainable mixed-use development on site, which would have numerous benefits for the local community, including the provision of a publically-accessible playground, a swimming pool and a gym, while the layout, design and scale of the development would be appropriate for the site;
- proposals would help to alleviate the potential risk of coastal flooding/road closure during extreme weather events;

#### Reason for Refusal

- the Irish Water MWWTP project has progressed since the Board's original decision in October 2018 and it is no longer appropriate to consider the proposed development as being premature;
- a detailed engineering assessment of the loadings for foul water were previously provided in compliance with the Environmental Protection Agency (EPA) 'Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels' (1999);
- a single pipe gravity-flow network would collect foul wastewater from the development, which would then be treated to tertiary standard in a private wastewater treatment plant (WWTP) adjacent to the south of the site;
- the parameters of the wastewater would be in line with the requirements of Irish Water and the treated wastewater would be discharged to the existing Irish Water combined foul sewer network to the south of the site;
- grease traps, solid waste disposal, ongoing maintenance and management of the private WWTP would be provided for;
- the hotel swimming pool would not directly discharge to the foul wastewater network. It would be filled very gradually from public water supplies and

would feature various levels of standard treatment for such facilities, including sand filters to collect materials, UV lights to kill bacteria and chemicals similar to those used in public water supplies. Consequently, the swimming pool would not pose a significant risk to the water environment. A low volume of backwash waters to clean the sand filter would connect into the foul waste network on site and this water would be dechlorinated to protect organisms in the WWTP;

- in the unlikely need to empty the pool, waters would dechlorinate after five days of being untreated and these waters would then drain into the proposed surface water drainage network;
- Irish Water had previously expressed satisfaction with the development discharging both treated and direct untreated discharge to their network;
- the proposed development has been designed in compliance with objective WW 5 and DM Standard 29 of the Galway County Development Plan 2015-2021 and in accordance with the EPA Wastewater Treatment Manual (1999);
- as referenced in the High Court Judgement, the tertiary standard of treatment proposed from the private WWTP would discharge a better standard of wastewater than the secondary standard of treatment proposed for the wastewater discharging from the Spiddal MWWTP. The private WWTP would only be required until the Spiddal MWWTP is commissioned;
- the appellant has provided the necessary information to verify that the development would not pose a risk to public health and they would be willing to accept a condition requiring decommissioning of the private WWTP and provision of a connection to the Spiddal MWWTP network upon commissioning of the municipal infrastructure.

#### **4.3. Observers' Submissions**

- 4.3.1. Following the High Court Order, An Bord Pleanála received observations from three parties with addresses in Spiddal, and the matters raised in these observations can be summarised as follows:

- the High Court Judgement would appear balanced and reasonable, and despite the development being the most substantive for the village, the Board has not paid enough attention or been competent in dealing with it;
- the error in fact referenced in the High Court Judgement does not justify permission for the proposed development, and the proposals subject of this appeal should be reviewed in their entirety, including Development Plan policy, flood risk, the viability and need for the proposed hotel, the potential to use alternative buildings and sites within the village, the additional wastewater loading and its impact on the environment and the biodiversity of the site;
- a single developer should not be permitted to have a monopoly share on the capacity of the MWWTP, thereby limiting the development potential of the village. An alternative solution to this may be to allow the private WWTP to remain following commissioning of the MWWTP;
- given the absence of support via planning policy, we do not agree at the manner in which the Board's Inspector previously concluded that the visual impact of the development would be wholly acceptable;
- the previous Inspector's assessment did not appear to take on board the concerns of neighbouring residents regarding the scale of the development;
- the Inspector failed to consider concerns raised with respect to the impact on beaches;
- development, including the car park and a playground, should not take place to the front of the site, as these are marshy lands that are prone to flooding and it would set precedent for similar development.

#### **4.4. Planning Authority's Submission**

- 4.4.1. The Planning Authority did not respond following consultation by An Bord Pleanála.

#### **4.5. Further Submissions**

- 4.5.1. The Minister for Housing, Local Government and Heritage and Irish Water did not respond following consultation by An Bord Pleanála. The response from the Health Service Executive (HSE) raised the following:



- the additional loading from the proposed development, even treated effluent, may have adverse impacts on the environment, including the neighbouring bathing waters;
- very high levels of contamination have been recorded in the drains/streams that the subject development would discharge storm waters to. Further consideration is required of the additional loading into these drains/streams;
- Carbapenemase-Producing Enterobacterales, a microbial resistant bacteria, and has been discovered at Trá na mBán in recent years. Discussions are ongoing with Irish Water in progressing the installation of a new wastewater treatment plant for Spiddal;
- until the Irish Water MWWTP is fully operational and capable of receiving existing and future wastewaters, including storm water volumes, there is potentially a significant risk to public health associated with the proposed development.

4.5.2. Following recirculation of the appellant's submission and the three observations received, further submissions were received from the appellant and the three observers. The submissions from the three observers largely reaffirm matters raised within their previous observations and can be collectively summarised as follows:

- the proposals should be reviewed afresh, particularly with respect to climate change, global tourism change and flood risk, including the positioning of car park within a known area of coastal and pluvial flood risk;
- according to the Intergovernmental Panel on Climate Change (IPCC), the appeal site and adjoining coastal lands are forecasted to be below annual flood levels in 2050;
- absence of engagement with local communities shows the appellant's indifference towards the local community;
- there are parking and road congestion problems along the local road to the east side of the site;
- proposals would result in water quality problems for bathers;
- the appellant's submission is largely irrelevant;

- it would have been beneficial to have oversight of alternative design options at the application stage;
- what rationale is there for a hotel to be permitted on a flood plain and housing to be refused.

4.5.3. The submission from the appellant largely reaffirms matters raised within their previous submission, while also raising the following:

- proposals comply with zoning and roads objectives, it would provide employment and it would provide improved tourist amenities and a high-quality hotel in a location that does not need to be justified and is identified to require same according to Fáilte Ireland's 'Visitor Experience Development Plan for Connemara Coast and Aran Islands' (2018);
- arising from the Board's decision, it is clear that various third-party concerns, including those relating to the Planning Authority's reasons for refusal, visual impacts, zoning compliance, development viability, traffic impacts, Spiddal beach, ecology, linguistics and wastewater, have already been fully considered, with only one reason for refusal remaining to be addressed relating to wastewater treatment;
- numerous facilities that are considered to be required in the village would be provided as part of the development and it may prove to be the catalyst for developing other businesses within the village;
- correspondence between the appellant and Irish Water, which is appended to the submission, confirms that works are due to commence on the Spiddal MWWTP in late 2021 and they are due for completion in 15 months. Subject to receipt of a grant of permission, it is likely that the proposed development would be likely to tie in with these timelines;
- to state that the development would monopolise the capacity of the MWWTP, would produce additional effluent that has not been taken into consideration and would pump untreated effluent, shampoo, detergent and food waste onto the public beach, is inaccurate and has no technical basis;
- the last flood events to occur on the southern end of the site only took place in 2014 prior to the Local Authority undertaking flood defence works, and the

appellant has incorporated flood relief measures as part of their proposals based on site specific flood risk assessment to reduce flood risk and relieve flood risks along the regional road, as recognised in the Hydrology report submitted with the application;

- proposals would encourage cross-visitation with other tourist amenities in the village and area.

## **5.0 Assessment**

### **5.1. Introduction**

- 5.1.1. Below I assess how the High Court Order and the subsequent submissions impact on the Board's previous decision. I was not the Inspector who undertook the original assessment of this appeal under ABP ref. 301454-18. It is also essential for any alterations in the planning context for the proposed development to be considered and this is undertaken directly below.

### **5.2. Planning Context**

- 5.2.1. Since determining the original appeal (ABP ref. 301454-18), Galway County Council has adopted variation 2(b) to the Galway County Development Plan 2015-2021, which comprises the Gaeltacht Plan, including land-use zoning objectives for Spiddal. The proposals had previously been assessed to be acceptable with respect to zoning objectives in the Gaeltacht Local Area Plan 2008-2018. Consequently, I consider it necessary to review the revised planning context for the site, as set out within the Gaeltacht Plan appended to the Development Plan. The RSES 2020-2032 for the Northern and Western Regional Authority (2020) and strategies relating to tourism development have also been published since the previous decision on the appeal, and the appellant asserts that the proposed development would support several objectives of these strategic plans.
- 5.2.2. The land-use zoning objectives for the appeal site have not changed materially as part of the Gaeltacht Plan. The principle of the hotel and self-catering cottages on 'village centre' zoned lands, as well as the food and business innovation centre on village centre and community facility lands remains acceptable based on the

objectives set out in the Gaeltacht Plan. In considering the previous proposals the Board's Inspector referred to the exceptions set out in the Gaeltacht Local Area Plan allowing for development of housing on Residential (Phase 2) lands.

Notwithstanding this, they set out that the proposed housing aspect of the development on the Residential (Phase 2) lands would be premature, although this was not a specific reason for refusal of the permission, as it was the entire development that was ultimately considered premature in light of the deficiencies in treatment of wastewater. The more recent Gaeltacht Plan also provides exceptions whereby development on Residential (Phase 2) lands would be acceptable, including 'where it is apparent that Residential (Phase 1) lands cannot or will not be developed within the Plan period'. The appellant asserts that the remaining undeveloped Residential (Phase 1) lands within Spiddal will not be developed within the life of the Plan and this provides justification for the six houses proposed on the appeal site.

- 5.2.3. Having visited the area, including the three plots of Residential (Phase 1) lands on the L1320 local road, and reviewed the planning register, including the information referenced by the appellant, it is clear that these zoned Residential (Phase 1) lands will not be developed for housing in the short term. The lifetime of the current Development Plan was due to expire in 2021 and its present status is unclear, with a draft Galway County Development Plan being prepared for the 2022 to 2028 period.
- 5.2.4. The Core Strategy within the Galway County Development Plan 2015-2021 allocates a population increase of 25 persons for Spiddal over the 2015-2021 period. This period has not passed and I consider the potential increases associated with six houses would not be substantive or by itself result in the envisaged increase being exceeded, particularly given the evidence of a declining population of 16 persons (7%) in the village over the 2011-2016 period (Central Statistics Office Small Area ref. 067203001) and the limited granting of permission for housing in the village in the interim. The Planning Authority has not advised if the allocated population increase has been met and having reviewed the planning register for zoned lands in Spiddal, I am not aware of any permissions that would result in this allocation being exceeded. Based on the available data, it is most likely that the population targets have not been exceeded. Consequently, I am satisfied that the principle of providing housing on these lands would be acceptable, albeit subject to an appropriate means of wastewater treatment to serve these houses, a matter that I address further

below. I also note that planning policies UHO12 and UHO13 of the Development Plan requires these houses to be occupied by persons who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht. The appellant has asserted that 80% of the units should be used to meet these Plan objectives, reflecting the extent of use of Irish in the immediate area, and such a requirement can be attached as a condition in the event of a permission for the proposed development.

- 5.2.5. In determining the original appeal, the suitability of the site for the subject development was considered to be acceptable with respect to the scale, form and character of the proposed scheme, the traffic impact, the ecological impact and the impact on the Irish language. The viability of providing a hotel on this site, or elsewhere, does not have to be addressed as part of this application. Observers have since queried whether or not the scale and visual impact of the development complies with planning policy, while also flagging concerns regarding traffic and parking along the local road bounding the site to the east. Within the previous Inspector's report, detailed rationale has been set out to conclude that the proposed development would be appropriate in terms of scale, form, character, function and traffic impacts. According to the Gaeltacht Plan, specific policies and objectives relating to the built environment in Spiddal are listed in chapter 9 of the County Development Plan and I am satisfied that the development would not be in conflict with any of those objectives pertaining to the protection and conservation of the built environment. The site does not have conservation status and the proposals feature ample provision of on-site parking relative to the development quantum, as well as road widening works along the local road to the east. Consequently, I am satisfied that traffic and parking congestion along the local road associated with peak tourist season would not be exacerbated by virtue of the proposed development. Review of the more recent coastal flood hazard mapping held by the Office of Public Works (OPW) for present and potential future scenarios (floodinfo.ie) does not alter the flood risk background mapping that the appellant relied upon in initially preparing their site specific flood risk assessment and the subsequent review of same. Consequently, having reviewed the documentation I accept the previous conclusions stating that the proposed development would not be at risk of flooding and would not present a risk of flooding elsewhere. As part of my assessment of wastewater

treatment, I consider the potential environmental and public health impacts of the development.

- 5.2.6. As noted above, in November 2021 the appellant lodged a planning application to the Planning Authority (ref. 21/2211) for development comprising the construction of a two-storey primary care centre and the provision of roads. This other planning application relating to this site does not have a material bearing on my consideration of this appeal.
- 5.2.7. In conclusion, I am satisfied that the proposed development would not be contrary to the current land use zoning objectives for the site and it would be an appropriate development for this site, subject to it being provided with an appropriate means of wastewater treatment and consideration of the environmental integrity of the project, as considered further below.

### **5.3. Wastewater Treatment**

#### Context and Proposals

- 5.3.1. Within the application and appeal, as well as the submission from the appellant summarised in section 4 above, it is acknowledged by various parties that the village of Spiddal and certain surrounding areas are currently only served by piped connections that collect wastewaters from connected properties and facilitate this wastewater discharging untreated by a storage tank and sea outfall into Galway Bay south of Spiddal beach / Trá na mBan.
- 5.3.2. As part of their planning application, the appellant provided a copy of a response from Irish Water dated the 26<sup>th</sup> day of October, 2017, in relation to a pre-connection query for a development at Baile Éamoinn, Spiddal, comprising a hotel, eight houses and seven retail units. Within this the two preliminary options for wastewater treatment presented for the scheme are referred to by Irish Water and they state that direct untreated discharge to the Irish Water network would not be acceptable, but that until such time as Spiddal MWWTP is operating, fully treat wastewater discharge to the Irish Water network would be acceptable. Within the subject planning application it was proposed to provide a private packaged WWTP to serve the entire mixed-use development, as illustrated in the proposed stormwater and foul drainage layout drawing (no.0510S8 Revision P03). The wastewater entering this WWTP

would be treated to a tertiary standard and would subsequently discharge into Irish Water's foul sewer network. The location of the nearest Irish Water foul sewer pipe 60m to the west of the site at the entrance to the Ceardlann Craft Village and Café was also identified on the drainage layout drawing. The private WWTP would be used until such time as the Spiddal MWWTP is commissioned, which is stated by the appellant would have capacity to treat the wastewater from this development.

#### Previous Assessment

- 5.3.3. In their initial report (ref. 17/1618) dating from January 2018, the Planning Officer and Environment Section for Galway County Council initially noted concerns regarding the proposed part of the development comprising use of an on-site private WWTP until such time as the Spiddal MWWTP was commissioned. The Planning Officer asserted that this was contrary to planning policy and that the Planning Authority did not approve such arrangements, although the specific policy they were referring to was not stated, nor was it stated how this could be considered contrary to policy. While it was stated by the Planning Officer that this should form grounds for refusal to grant planning permission for the proposed development, a further information request was subsequently issued by the Planning Authority noting that the proposal for 'a temporary communal wastewater treatment plant in a flood zone to serve multiple users serving independent units for an indefinite interim period, until such time as public sewer infrastructure is provided, is considered to be premature, prejudicial to public health and would result in an undesirable precedent being established for similar types of development'. Following this the appellant responded by providing additional details with respect to engineering services, as well as correspondence between the appellant and Irish Water referring to the status of the Spiddal MWWTP. This correspondence, which was included as part of a 'Further Information' report, stated that it was intended that the application for the MWWTP project would be lodged in April 2018 and that construction would commence in 2019. The appellant also provided a Flood Risk Assessment Review report prepared by Hydro Environmental Ltd reviewing the application, including the Site Specific Flood Risk Assessment previously submitted with the application and prepared by O'Connor Sutton Cronin Multidisciplinary Consulting Engineers. A drawing (no.2306-PA013) was also submitted with the further information response

to clarify the siting and location of the existing and proposed wastewater infrastructure relative to anticipated flood levels.

- 5.3.4. The Environment Section of the Planning Authority were not satisfied with the proposal to use an on-site wastewater treatment plan, as this would compound ongoing issues with water quality at Trá na Ban and Ceibh an Spidéil. Following the advice of a Senior Engineer, the Planning Officer subsequently considered that flood risk was not an issue, but that one of the reasons for refusal to grant planning permission for the proposed development, should relate to the use of a temporary communal wastewater treatment plant until the public sewer infrastructure became available.
- 5.3.5. In addition to details previously provided, as part of the grounds of appeal, the appellant provided a copy of a 'Project Works Service Agreement' dated the 18th day of April, 2018, between Irish Water and the appellant with respect to a connection to the Irish Water network. It was the appellant's understanding at the time (April 2018) that a planning application for the Spiddal MWWTP was imminent and that withholding planning permission for reasons of prematurity should not form a reason for refusal of the development. The Inspector assessing the appeal referred to online information available from Irish Water referring to the status of the Spiddal MWWTP project, noting that Irish Water intended to submit a planning application in 2018 and commence construction in 2019. The Inspector raised concerns regarding the implications of using a private wastewater treatment plant to serve the development given the status of the MWWTP project. It appeared that the on-site private MWWTP would not only be required for the short term, and as a consequence the proposed development was considered premature, with consequential implications for water quality and public health.
- 5.3.6. Following the recommendation of the Inspector, the Board ultimately decided to refuse permission for the following reason only:
- 'It is considered that the proposed development would be premature by reference to the existing deficiency in the provision of public piped sewerage facilities serving the area and the period within which the constraint involved may reasonably be expected to cease. It is further considered that discharge from a private sewerage plant into an inadequate public sewerage network



would be prejudicial to public health, having regard to the additional hydraulic loadings involved.'

- 5.3.7. The Board's decision under ABP ref. 301454-18 refused to grant permission for the proposed development for one reason relating to wastewater treatment and the High Court Order states that this decision to refuse to grant planning permission was arrived at based on a material error of fact relating to the status of Spiddal MWWTP and also with respect to the lack of evidence that the development may adversely impact on public health due to the quality of the wastewater discharge from the private WWTP. Below I review whether or not an appropriate means of wastewater treatment has been proposed to serve the development in a temporary capacity relative to guidance and relatable standards, and if the development can be served by the Spiddal Sewage Scheme in the short term, based on the present status of the Spiddal MWWTP project.

#### Planning Policy

- 5.3.8. Based on guidance contained in the 'Draft Water Services Guidelines for Planning Authorities' prepared by the Department of Housing, Planning and Local Government in 2018, alternative wastewater treatment solutions, such as private wastewater treatment plants, should not generally be considered by Planning Authorities for developments, with the exception of individual housing. These Guidelines also state that where Irish Water confirms the feasibility of a connection and they have no objection in principle to the development, the Planning Authority should be satisfied that the development is acceptable from a water services perspective, however, this is subject to addressing risks to public health and environmental pollution. Within their pre-connection correspondence dated the 26<sup>th</sup> day of October, 2017, Irish Water confirmed that following treatment in the private WWTP they would be willing to accept the stated wastewater discharge from the proposed development into their piped network. The Galway County Development Plan 2015-2021 contains development management standard, DM Standard 29, and wastewater objective WW 5 permitting development in unserved areas, where it is demonstrated that the proposed wastewater treatment system is in accordance with the EPA's 'Wastewater Treatment Manual – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels' (1999), as well as the provisions and objectives of the EU Water Framework Directive (WFD). Objective

WW 1 of the Plan requires wastewaters to adhere to environmental standards contained within the Urban Waste Water Directive, as well as other EU Directives.

Spiddal Municipal Wastewater Treatment Plant

- 5.3.9. From the outset, it is clear that the Draft Water Services Guidelines set a preference for developments of this nature to connect into a wastewater treatment network for subsequent treatment. The Planning Authority's consultation list for the planning application refers to consultation requests dated 29<sup>th</sup> day of November, 2017, and 19<sup>th</sup> day of February, 2018, with numerous named parties, including 'Water HQ Offices'. It is not entirely clear if this consultation was directed to Irish Water, as I note that correspondence between the Planning Authority and Irish Water is not on the file. There is correspondence on the file between the appellant and Irish Water referring to the status of the Spiddal MWWTP and this correspondence was included as part of the appellant's application, their further information request response, their grounds of appeal and their response following the High Court Order.
- 5.3.10. Since the previous Board decision for the subject development in October 2018 (AB ref. 301454-18), the Spiddal MWWTP with capacity for a population equivalent of 1,000 persons, received planning permission from An Bord Pleanála in March 2019 (ABP ref. 302847-18). My visit to the location of this permitted MWWTP confirmed that site clearance works had taken place and that construction works were to commence. Following the High Court Order, Irish Water and other parties were consulted by An Bord Pleanála, however, Irish Water has not responded. Consequently, I am unaware as to the present official position with respect to the commissioning date for the MWWTP, which would form part of the Spiddal Sewerage Scheme. Within the original application it was stated that the construction period would take 12 months, while correspondence between the appellant and Irish Water refers to a 15-month construction period for the MWWTP project. I am satisfied that the information available provides reasonable evidence that the delivery of the MWWTP can occur in the short-term and the information on file confirms that it would be feasible for the subject development to connect into the piped network that this MWWTP would serve.
- 5.3.11. In relation to the capacity of the MWWTP to serve the subject proposed development alongside the wider village agglomeration, I note that the appellant initially submitted

a copy of a Project Works Services Agreement. This agreement dating from April 2018 provides for Irish Water to consider whether design upgrades to the MWWTP project would be required based on the additional capacity of the subject development. The appellant has stated that they would contribute towards the construction of this infrastructure.

5.3.12. As stated in appellant's further information document to the Planning Authority, a 24-month construction period is estimated for the subject development. A pre-connection agreement for the development to discharge untreated wastewaters to Irish Water's network has not been provided. However, based on the evidence provided and available it would appear that the appellant has engaged actively with Irish Water to ensure adequate capacity for their development as part of the initial design stage of the MWWTP project. The latest information available would suggest potential for the MWWTP to be commissioned in the short term and this could potentially occur in advance of the completion of the subject development.

5.3.13. Given the potential for a temporary form of wastewater treatment to be required should the development be completed and operational in advance of a connection to the commissioned MWWTP, given the guidance contained in the Draft Water Services Guidelines and the advice from the HSE regarding the condition of neighbouring waters, it is imperative that any temporary treatment of wastewater would be capable of operating in line with the EPA Guidelines and to the relevant wastewater treatment standards in isolation of the MWWTP. Should the appropriate standards not be met on a temporary basis, based on my conclusions above it would appear reasonable and feasible for a condition to be applied solely restricting operation of the development until such time as a connection to the commissioned MWWTP is completed.

#### Potential Temporary Treatment Details

5.3.14. The temporary means of wastewater treatment to serve the development would comprise a gravity piped network connecting into a packaged WWTP to be located to the south of the facility, incorporating a pumped buffer settlement tank, a rotating aerobic biological contactor system and a final clarifier, providing primary, secondary and tertiary treatment of the wastewater generated. Treated wastewater would then

be discharged into Irish Water's wastewater network along the regional road 60m to the west of the site.

- 5.3.15. According to the details submitted with the grounds of appeal, the design of this system is based on flow rate loadings for a population equivalent amounting to 247 persons, as well as equivalents for patrons of the proposed function and bar/restaurant, while accounting for seasonal variations and the guidance contained in the EPA Wastewater Treatment Manual. Flow rate loadings do not appear to include for day staff associated with the hotel facility, including bar/restaurant, nor do they account for the gymnasium and the swimming pool, which would be publically accessible facilities that would not solely serve hotel guests. I am satisfied that the appellant has therefore underrepresented the flow rate loadings based on the EPA guidance and the development details. The estimated daily wastewater discharge would amount to 50m<sup>3</sup> per day, but with the installation of water management systems, including dual flushing, aerated taps and low-flow showers, the appellant asserts that the daily wastewater discharge would reduce to 33m<sup>3</sup> per day. Consequently, based on the specification of the wastewater treatment system proposed to serve the development and the EPA guidelines with respect to loading rates for day staff and amenity facilities such as swimming pools, I am satisfied that the influent design flow would have sufficient spare capacity (17m<sup>3</sup> per day) to cater for the flow rate loadings not initially accounted for by the appellant.
- 5.3.16. It is stated that wastewater from the packaged WWTP would be treated to an effluent standard with parameters of between 20-25mg/l Biochemical Oxygen Demand (BOD) and between 30-35mg/l suspended solids, dependent on serving a population equivalent of between 250 to 312 persons. Parameters for the expected chemical oxygen demand (COD) in the effluent are not outlined and the appellant states that fats, oils and greases (FOGs), ammonia and phosphates would be treated to Irish Water requirements prior to discharge. Solid waste would be emptied by a licensed waste disposal specialist and a maintenance agreement would be put in place. A grease trap separator with 3,000l capacity would also be installed to address hotel kitchen waste. The appellant asserts that the wastewater quality could be improved further by fitting a SARAN filter, if required. Neither the Planning Authority nor Irish Water responded as to whether this would be necessary.

## Impacts

- 5.3.17. The Urban Waste Water Treatment Directive sets standards to be met in Ireland in the collection and treatment of wastewater, as well as the monitoring requirements for wastewater discharges from urban areas. Under the terms of the Urban Waste Water Treatment Regulations, 2001, concentration standards are listed for the treatment of wastewater arising from urban wastewater treatment plants serving differing population equivalents and differing environmental scenarios. As a guide for the subject proposals, I note that the second schedule of the Regulations set treatment parameters of 25mg/l for BOD and 35mg/l for total suspended solids, or minimum percentage reductions of 70-90%. A COD concentration of 125mg/l is also required within the Regulations. The discharge would not ultimately enter a 'sensitive area' specifically identified in the second schedule of the Regulations.
- 5.3.18. Based on the information submitted and available, the treated standard of wastewater arising from the proposed development would not appear to exceed the current regulatory value parameters required for discharges from urban wastewater treatment plants with respect to BOD and suspended solids. The COD treatment parameters for the treated effluent have not been outlined by the appellant. While it is not stated in the documentation submitted, according to details available from the proposed system manufacturer, the proposed treatment system would normally have capacity to achieve 75 – 100mg/l before discharge. Consequently, subject to a condition ensuring that the final installed temporary wastewater treatment system also provides an effluent COD concentration below 125mg/l for reasons of clarity, I am satisfied that the standard of wastewater that would enter the collection system via the proposed development would be likely to be treated to an appropriate standard and would not be likely to impede the future achievement of the requisite urban wastewater treatment standards with the development in place and / or with the commissioned MWWTP as part of the Spiddal Sewage Scheme.
- 5.3.19. The third cycle of the WFD has identified the Spiddal groundwater body as being 'not at risk' of failing to achieve WFD objectives by 2027, while the 'Aran Islands, Galway Bay and Connemara' coastal water body is under 'Review', as either additional information is required or the outcome of measures undertaken has not been identified as yet. The most recent report available for bathing waters closest to the appeal site relate to Trá na mBan directly opposite the site and Céibh an Spidéil

beach at the opposite end of the village. This identified a 'sufficient' water quality in 2020 and an 'excellent' water quality during the 2021 bathing season for Trá na mBan. Reports relating to Céibh an Spidéil beach identify an 'excellent' water quality for the 2020 and 2021 bathing seasons. The high risk associated with Spiddal having an existing collection network discharging untreated sewage to the sea in the vicinity of Trá na mBan bathing area has been recognised by stakeholders monitoring these waters, including Galway County Council, the HSE and the EPA. Public health was noted as potentially being affected by the subject proposals, and given the regulatory provisions, consultation was undertaken by An Bord Pleanála with the HSE. The response from the HSE outlines their concerns that the additional loading from the proposed development, even via treated effluent, may have adverse impacts on receiving waters and they also state that consultation has taken place with Irish Water regarding the discharge of untreated effluent to the sea. The HSE has not clarified how the additional loading of treated wastewater from the subject development would impact on water quality. The existing Irish Water seaside holding tank for wastewaters features an outfall pipe extending for approximately 130 to 150m into the seawaters. Based on my conclusions above, I fail to see how an additional loading of wastewaters treated to the appropriate standards can be reasonably considered to exacerbate the present shortcomings in the treatment of wastewaters from the village and wider agglomeration or how these treated wastewaters could potentially further increase risk of pollution to the seawaters. Considering the standard of wastewater output relative to the regulatory standards anticipated from the proposed development using the temporary private WWTP, as well as the status of the MWWTP, including connectivity, capacity and likely timeframe for commissioning, the subject proposals would not be likely to impact on the WFD objectives being met, nor would they be likely to impact on the nearest monitored bathing waters.

- 5.3.20. To address the visual impacts of the proposed packaged WWTP, which would be predominantly situated below raised ground levels, the appellant proposed ground cover planting surrounding the plant and an escallonia hedge, which would partially screen it from views along the regional road and entrance road (landscape drawing no.17/1766/01). A condition can be applied to require the area covered by the private WWTP to be landscaped upon decommissioning of this plant. While

observers refer to the possibility of using the private WWTP after the commissioning of the MWWTP, this would be contrary to the advice contained within the Draft Water Services Guidelines.

- 5.3.21. To mitigate impacts potentially arising from odours and in compliance with separation distance standards required in the EPA guidelines, the proposed packaged WWTP would be situated over 160m from the nearest house, which would be situated on site.
- 5.3.22. Within their application, the appellant initially stated that the swimming pool would drain directly to the surface water outfall, but as part of the response following the High Court Order, the appellant has clarified the means of treating swimming pool water, including solids removal and dechlorination, as well as the very limited requirement to empty swimming pool waters. I am satisfied that the submitted details provide the necessary clarity, in order to understand how such waters would be treated to avoid risks of pollution to neighbouring waters.
- 5.3.23. The HSE also refer to concerns regarding the storm water discharging to a drain/stream running along the site, which they state features very high levels of contamination based on sampling. The drainage system serving the subject development, as illustrated on drawing no.0510 S8 Revision P03, would feature separate foul and surface water systems. The foul water collection and treatment system has been addressed above, and the surface water collection system would feature rainwater collection pipes draining hotel roof areas, as well as storm water collection pipes throughout the hard surfaced areas. These rainwater and storm water collection pipes drain all surface waters in the development by gravity to an attenuation tank with 1,127m<sup>3</sup> capacity situated below surface level to the south of the site. Prior to entering the attenuation tank, surface waters would flow through a fuel interceptor, while a hydrobrake would be installed on site to prevent surcharge of the system via its discharge to the watercourse to the east of the site along the public road. The HSE has not outlined how stormwaters arising from the proposed development could potentially further contaminate waters in the receiving watercourse, as well as neighbouring seawaters, and I am satisfied that the stormwater drainage system proposed would not be likely to lead to pollution of receiving waters based on the details submitted.

### Conclusion

5.3.24. The delivery of the MWWTP as part of the Spiddal Sewage Scheme is likely in the short term and potentially prior to the completion of the subject development, and in these circumstances it is reasonable to facilitate an alternative temporary means of treating wastewater from the proposed development. The identified means of treating wastewaters and the standard of wastewaters that would arise following primary, secondary and tertiary treatment, as accepted by Irish Water, would not result in further deterioration in water quality entering the wastewater collection network or exacerbate the current situation of untreated wastewater or contaminated waters entering Galway Bay at Spiddal beach / Trá na mBan. Subject to connection, maintenance and decommissioning conditions that I address below, I am satisfied that an appropriate temporary means of wastewater treatment has been set out in the application and appeal documentation based on the standards required under the Urban Waste Water Treatment Regulations, 2001, the guidance contained in the EPA's 'Wastewater Treatment Manual – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels', the WFD objectives and the objectives of the Development Plan, including objectives WW1, WW 5 and WW 6 addressing standards for wastewater treatment. Accordingly, I am satisfied that based on the relevant standards and the information presented and available, the proposed temporary means of treating wastewater arising from the development would not have an adverse impact on water quality, the environment or public health.

### Conditions

5.3.25. The treated wastewater discharge, as well as the proposed water supply, would be subject to connection agreements with Irish Water. The temporary operation of the proposed packaged WWTP would also need to be undertaken in accordance with the manufacturer's design and a maintenance contract should be put in place. Following the commissioning of a MWWTP for Spiddal, a new connection to the wastewater collection network should be completed and the proposed packaged WWTP should be decommissioned and removed. I am satisfied that the above matters could be addressed via conditions in the event of a grant of permission for the proposed development.



## **6.0 Environmental Impact Assessment**

### **6.1. Preliminary Examination Screening**

- 6.1.1. A preliminary screening for Environmental Impact Assessment (EIA) was not originally carried out with respect to the previous Board decision relating to this planning appeal (under ABP ref.301454-18). An EIA screening report was not submitted with the application or appeal either. Schedule 5 of the Planning and Development Regulations 2001-2021 provides that mandatory EIA is required for the following classes of development:
- Part 1 - Class 13: Waste water treatment plants with a capacity exceeding 150,000 population equivalent as defined in Article 2, point (6), of Directive 91/271/EEC;
  - Part 2 – Infrastructure Projects - Class 10(b)(iv) - urban development that would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.
- 6.1.2. The proposed wastewater treatment plant would serve a maximum population equivalent of 312 persons and, therefore, would be well below the threshold of 150,000 population equivalent stated above. The site has an overall stated area of 2.6ha and is not located within a built-up urban area, and is well below the applicable EIA threshold of 10ha for this area. The proposed development would not fall into a category of 'tourism and leisure' projects identified in Schedule 5 of the Regulations and the proposed uses within the business and food innovation hub do not include food or other industries listed in Schedule 5 of the Regulations.
- 6.1.3. The site accommodates a house with associated outbuildings and is bound by the regional road to the front, a craft village and café is situated to the west, a local road and open fields bound the site to the east and undeveloped lands and residential properties are located to the north of the site. The introduction of a tourism, quasi-retail and residential development on these zoned lands would not have an adverse impact in environmental terms on surrounding land uses. It is noted that the development would generally be of low-level construction, with similar building heights in the immediate area, and the site is not designated for the purposes of natural or cultural heritage. As per the conclusions above, the wastewater and

surface water discharge from the proposed development would not have a significant effect on receiving waters. The proposed development would not give rise to waste, pollution or nuisances that substantially differ from those arising from other developments in the area. It would not give rise to a risk of major accidents or particular risks to human health. The proposed development would connect into public water supplies, as well as being served by a private WWTP, which would operate until such time as a MWWTP is commissioned by Irish Water.

6.1.4. Having regard to: -

- the nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 13 to Part 1 and Class 10 (Infrastructure Projects) to Part 2 of Schedule 5 to the Planning and Development Regulations 2001-2021;
- the policies and objectives of Galway County Development Plan 2015-2021 supporting the development of tourism, culture and heritage projects and attractions, and the results of the strategic environmental assessment of the Galway County Development Plan 2015-2021, undertaken in accordance with the SEA Directive (2001/42/EC);
- the location of the site, the proposed connection to public water supply infrastructure, the proposed use of a temporary private wastewater treatment plant until such time as a connection is made to the commissioned municipal wastewater treatment plant, and the existing pattern of development in the vicinity;
- the location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001-2021;
- the guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage and Local Government (2003), and;
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001-2021.

- 6.1.5. The proposed development would not be likely to have significant effects on the environment and on preliminary examination an environmental impact assessment report for the proposed development would not be necessary in this case.

## **7.0 Appropriate Assessment**

### **7.1. Stage 1 – Screening**

- 7.1.1. Given the necessity to revisit the subject proposals with respect to wastewater treatment and the associated potential environmental implications arising, it is also necessary to undertake an appropriate assessment (AA) of the proposed development. An AA Screening Report was submitted with the planning application. The report provides a description of the proposed development and identifies European Sites within the possible zone of influence of the development and this is supported by associated reports, including an Ecological Impact Assessment and a Flood Risk Assessment.
- 7.1.2. The appellant's AA Screening Report concluded that potential significant impacts on European sites can be ruled out. In their AA screening, the Planning Authority stated that having regard to the distance between the site and European sites, significant impacts on habitats within European sites can be ruled out.

#### Site Location

- 7.1.3. A description of the site is provided briefly in section 1 above and also within the various application and appeal documents. The site contains a house and an associated outbuilding, but largely comprises undeveloped lands on the edge of Spiddal village. Public drainage networks are located along the regional road approximately 60m to the west of the site. Following a desk study and field surveys, according to the appellant's Ecological Impact Assessment, the site is dominated by scrub (WS1) and dense bracken (HD1) habitats with additional habitats characterised by the house and garage (BL3), treelines (WL2), improved grassland (GA1), wet grassland (GS4), reed and large sedge swamps (FS1), drainage ditch (FW4), stonewalls (BL1) and hedgerows (WL1). A roost for soprano pipistrelle bats was observed in the house to be demolished, and common pipistrelle were also detected during field surveys. Fox and common bird species were noted to be likely

to use the site, but protected mammals, such as badgers and otters, were not identified to be using the site and the site was not considered to be suitable for threatened bird species. As noted above, according to the EPA the water quality of the receiving coastal waterbody, 'Aran Islands, Galway Bay and Connemara', is under 'Review' based on categorisation under the WFD.

### Proposed Development

- 7.1.4. A brief description of the proposed development is provided in section 2 above and expanded upon in this assessment, as necessary. Following treatment, wastewater from the operational phase of the proposed development would discharge to the public network. Channelled surface water from the development would drain to an attenuation tank after flowing through a fuel interceptor with outflow to an existing culvert located to the east and final discharge to an existing stream. Final treated wastewater and surface waters from the proposed development would reach Galway Bay.

## **7.2. Relevant European Sites**

- 7.2.1. The nearest European sites, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), comprise the following:

**Table 1.** Natural Heritage Designations

Site Code	Site Name	Distance	Direction
002034	Connemara Bog Complex SAC	2.8km	north
004181	Connemara Bog Complex SPA	6km	north
000020	Black Head-Poulsallagh Complex SAC	9.8km	south
000268	Galway Bay Complex SAC	10.9km	east
004031	Inner Galway Bay SPA	11.2km	east
000297	Lough Corrib SAC	12.3km	northeast
004042	Lough Corrib SPA	14.1km	northeast
001312	Ross Lake and Woods SAC	14.3km	north

- 7.2.2. In determining the zone of influence I have had regard to the nature and scale of the project, the distance from the appeal site to European Sites, and any potential pathways that may exist from the appeal site to a European Site. The appeal site is not located within or immediately adjacent to any European Site and the project is not necessary to the management of a European Site.
- 7.2.3. I do not consider that any other European Sites outside of those listed in table 1 potentially fall within the zone of influence of the project, having regard to the nature and scale of the development and the distance from the site to same, including the intervening open marine waters, or the lack of an obvious pathway to same from the appeal site.

**Table 4.** Identification of relevant European Sites using Source-Pathway-Receptor model and compilation of information (Qualifying Interests and Conservation Objectives)

Site Name	Qualifying Interests (QIs) / Special Conservation Interest (SCIs)	Connections	Consider Further
Connemara Bog Complex SAC	QIs – 17 habitats and species. <a href="https://www.npws.ie/protected-sites/sac/002034">https://www.npws.ie/protected-sites/sac/002034</a>	No hydrological connection as up-gradient.  No potential for disturbance or loss of habitat for QI species, given the nature of the development and the separation distance.	No
Connemara Bog Complex SPA	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:  Cormorant, Merlin, Golden Plover, Common Gull.	No hydrological connection as up-gradient.  No potential for disturbance or loss of habitat for QI species, given the nature of the development and the separation distance.	No
Black Head-Poulsallagh Complex SAC	QIs – 11 coastal and maritime habitats and Petalwort species. <a href="http://www.npws.ie/sites/default/files/protected-">http://www.npws.ie/sites/default/files/protected-</a>	Weak hydrological connection only across open and exposed marine waters.  No potential for disturbance or loss of habitat for QI species,	No

	sites/conservation_objectives/CO000020.pdf	given the nature of the development and the separation distance.	
Galway Bay Complex SAC	QIs – limestone pavement habitat, turlough habitat and 13 coastal and maritime habitats, as well as harbour seal and otter species.  <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000268.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000268.pdf</a>	Weak hydrological connection only across open and exposed marine waters.  No potential for disturbance or loss of habitat for QI species, given the nature of the development and the separation distance.	No
Inner Galway Bay SPA	QIs – 20 bird species and wetland habitats.  <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004031.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004031.pdf</a>	Weak hydrological connection only across open and exposed marine waters.  No potential for disturbance or loss of habitat for QI species, given the nature of the development and the separation distance.	No
Lough Corrib SAC	QIs – 15 habitats, as well as nine species, including Lesser Horseshoe Bat and Otter.  <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000297.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000297.pdf</a>	No hydrological connection as up-gradient.  No potential for disturbance or loss of habitat for QI species, given the nature of the development and the separation distance.	No
Lough Corrib SPA	QIs – 13 bird species and wetland habitats.  <a href="http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004042.pdf">http://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004042.pdf</a>	No hydrological connection as up-gradient.  No potential for disturbance or loss of habitat for QI species, given the nature of the development and the separation distance.	No
Ross Lake and Woods SAC	To restore the favourable conservation condition of Hard oligo-mesotrophic	No hydrological connection as up-gradient.	No

	<p>waters with benthic vegetation of Chara spp.</p> <p>To restore the favourable conservation condition of Lesser Horseshoe Bat.</p>	<p>No potential for disturbance or loss of habitat for QI species, given the nature of the development and the separation distance.</p>	
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### 7.3. Direct, Indirect or Secondary Impacts

7.3.1. The potential direct, indirect and secondary impacts that could arise as a result of the proposed works and which could have a negative effect on the qualifying interests of European sites, include the following:

- Construction Phase – demolition, surface water runoff, disturbance and emissions, including dust, lighting, noise and vibration;
- Operation Phase – disturbance, surface water runoff and emissions to water.

### 7.4. Assessment of Likely Significant Effects

#### Construction Phase

7.4.1. Having regard to the information submitted with the application, including the Outline Construction Waste Management Plan, the potential sources of pollution would be controlled through the use of normal best practice site management. The proposed demolition and construction management measures outlined are typical and well-proven construction and demolition methods and would be expected by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. I am satisfied that the potential for likely significant effects on the qualifying interests of the other European Sites listed in table 1 can be excluded given the considerable intervening distances, and the volume of open exposed marine waters separating the application site from other European sites in the Galway Bay catchment.

7.4.2. Should pollution control measures outlined as part of the Outline Construction Waste Management Plan not be implemented or if they failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites in Galway Bay can be excluded given the distant hydrological connection from the site largely across open marine waters to European Sites, the nature and scale of the

construction and the distance and volume of water separating the application site from European Sites in Galway Bay (dilution factor).

- 7.4.3. Survey details provided with the appellant's application do not highlight qualifying interest species or other species associated with the conservation objectives of neighbouring European sites using the site or its immediately adjoining area.

#### Operational Phase

- 7.4.4. During the operational stage channelled surface water from the site would be discharged to a stream after passing through a fuel interceptor and attenuation tank.
- 7.4.5. Wastewater would potentially be treated by a private WWTP for a temporary period or via piped connection to the commissioned MWWTP, with both treatment options having wastewater outputs with parameters compliant with the Urban Waste Water Treatment Regulations, 2001.
- 7.4.6. In the event that the pollution control, as well as foul and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of European sites in Galway Bay can be excluded given the distant hydrological connection from the site largely across open marine waters to European Sites, the nature and scale of the development and the distance and volume of water separating the application site from European sites in Galway Bay (dilution factor).
- 7.4.7. On the basis of the foregoing, I conclude that the operation phase of the proposed development would not impact the overall water quality status of Galway Bay and that there is no possibility of the proposed development undermining the conservation objectives of any of the qualifying interests or special conservation interests of European sites in or associated with Galway Bay via surface water runoff and emissions to water.

#### In-combination Impacts

- 7.4.8. I am satisfied that there are no projects which can act in combination with the development that could give rise to significant effects to European sites within the zone of influence. It would not be possible for the alternative proposed development on site that is subject of an application to Galway County Council (ref. 21/2211) to proceed alongside the subject proposals. Furthermore, the Spiddal Sewage



Scheme would need to meet similar treatment standards with respect to water quality.

#### Stage 1 AA Screening - Conclusion

- 7.4.9. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. It is reasonable to conclude that 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 Connemara Bog Complex SAC (Site Code: 002034), Connemara Bog Complex SPA (Site Code: 004181), Black Head – Pulsallagh Complex SAC (Site Code: 000020), Galway Bay Complex SAC (Site Code: 000268), Lough Corrib SAC (Site Code: 000297), Ross Lake and Woods SAC (Site Code: 001312), Inner Galway Bay SPA (Site Code: 004031) and Lough Corrib SPA (Site Code: 004042), or any other European sites, given the absence of a direct downstream pathway from the appeal site to the upstream European sites, and the extensive separation distances across open exposed marine waters to European sites downstream of the appeal site.
- 7.4.10. In reaching this conclusion I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any of these European Sites.

## **8.0 Recommendation**

- 8.1. Based on the above, I recommend that planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below in the draft Board Order.

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### **Draft Order:**

### **Recommendation**

On the basis of the Inspector's report for ABP ref. 301454-18 dated the 17<sup>th</sup> day of September, 2018, and the Inspector's addendum report under ABP ref. 309753-21

dated the 27<sup>th</sup> day of January, 2022, I recommend that the Board grant permission for the proposed development for the reasons and considerations, and subject to conditions, set out below.

## **Reasons and Considerations**

### **Proper Planning and Sustainable Development**

Having regard to the nature and scale of the development, the land-use zoning objectives for the site contained in the Gaeltacht Plan accompanying the Galway County Development Plan 2015-2021 and the provisions of the 'Draft Water Services Guidelines for Planning Authorities' prepared by the Department of Housing, Planning and Local Government in 2018, the Board concluded that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would be acceptable in terms of urban design, would be acceptable in terms of traffic safety and convenience, would not have unacceptable impacts on the environment, human health or the Irish language, would not be at risk of flooding and would not present a risk of flooding to other sites and would be in compliance with the provisions of the Galway County Development Plan 2015-2021. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Appropriate Assessment**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information submitted as part of the appellant's Appropriate Assessment Screening Report and the Planning Inspector's report (ref. ABP-309753-21). In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required. In

particular, the Board agreed with and adopted the Planning Inspector's assessment and conclusion that a Stage 2 Appropriate Assessment was not required.

## 9.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Planning Authority on the 15<sup>th</sup> day of February 2018, the 7<sup>th</sup> day of March 2018 and the 9<sup>th</sup> day of March 2018 under reference 17/1618, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The streets and junctions that are constructed and/or completed on foot of this permission shall comply with the standards and specifications set out in of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Housing, Planning and Local Government in May 2019.

**Reason:** In the interests of road safety and to ensure that the streets in the authorised development facilitate movement by sustainable transport modes in accordance with the applicable standards set out in DMURS.

3. Details of any alterations to the roads surrounding the site, including road layout with the omission of the entrance to the local road (L5397) from the business and food innovation centre (as per drawing no.2306-PA010-A Revision A submitted to the Planning Authority on the 15<sup>th</sup> day of February, 2018), the extent and exact layout of such a reservation within the site, traffic markings, pedestrian crossings, cycle path provision and the

provision of a footpath along the west side of the local road (L5397), shall be agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of orderly development and traffic safety.

4. Details of the materials, colours and textures of all external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

5. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to the commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed screening to the private packaged wastewater treatment plant;
- (c) details of proposed boundary treatments, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of the visual amenities of the area.

6. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health and surface water management.

7. Prior to commencement of development, the developer shall enter into water connection agreement with Irish Water. Prior to commencing the development and decommissioning of the private wastewater treatment plant to serve the development, should this be initially commissioned, the developer shall enter into waste water connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

8. In the absence of a connection to a commissioned Spiddal Municipal Wastewater Treatment Plant, as part of the Spiddal Sewage Scheme:
  - (a) The proposed development shall be served by the proposed temporary packaged wastewater treatment system, which shall be located, constructed and maintained in accordance with the details submitted to the Planning Authority, and in accordance with the requirements of the document entitled 'Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels' – Environmental Protection Agency, 1999. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
  - (b) Within three months of the first occupation of the development, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent

treatment system has been installed and commissioned in accordance with the approved details, is working in a satisfactory manner in accordance with the standards set out in the EPA document and the final discharge does not exceed a chemical oxygen demand (COD) concentration of greater than 125mg/l.

(c) The development shall include for a separate connection to the wastewater network fronting the site to enable a future connection to be made upon commissioning of the municipal wastewater treatment plant for the area and within 3 months of connecting to the commissioned municipal wastewater treatment plant the proposed packaged wastewater treatment plant shall be decommissioned and removed, with the resultant area to be suitably landscaped as part of the development.

**Reason:** In the interest of public health, the protection of the environment and the visual amenities of the area.

9. Prior to the operation of the hotel, a grease trap, sized correctly, which complies with relevant standards/guidelines, shall be installed and maintained.

**Reason:** In the interest of public health and the environment.

10. The developer shall provide a drainage culvert sized so as to discharge 5,500 cubic metres per hour at minimal gradient (design flood tide), in order to mitigate the loss of on-site tidal flood storage during extreme storm surge events.

**Reason:** To mitigate any negative effect of the displacement of flood storage capacity during extreme storm surge events.

11. Trees to be removed on site shall be felled in late summer or autumn outside bird nesting season and winter (bat hibernation). Any disturbance to bats on site shall be in a manner to be agreed in writing with the planning

authority on the advice of a qualified ecologist. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of nature conservation.

12. Bat roosts shall be incorporated into the site and the recommendations of the Ecological Impact Assessment mitigation measures for bats shall be implemented in full, in accordance with the timelines set out. In this regard, prior to the commencement of the development such mitigation and monitoring measures shall be set out as a written schedule, including committed timelines, and the schedule shall be submitted to and agreed in writing with the planning authority.

**Reason:** To ensure the protection of the natural heritage on the site.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided along the pedestrian path on the western side of the local road (L5397) and shall be provided prior to the making available for occupation of the development.

**Reason:** In the interests of amenity and public safety.

14. (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to the planning authority for agreement.  
  
(b) The tourist accommodation, business and food innovation hub and residential development hereby permitted shall not be made available for occupation by the developer until such time as all enabling infrastructure to

serve each element of the development, are completed to the written satisfaction of the planning authority.

**Reason:** To ensure the timely provision of services and facilities, for the benefit of the occupants and the satisfactory completion of the overall development.

15. A minimum of 80% of the houses (i.e. five of the six houses) hereby permitted shall be restricted to use as a house by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, unless otherwise agreed in writing with the planning authority, for a period of 15 years. The developer shall submit a completed Linguistic Impact Statement to the planning authority providing details of compliance with this requirement prior to the commencement of development.

Prior to commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to restrict or regulate a portion of the residential elements of the development hereby permitted for the use of occupants who have an appropriate competence/fluency in Irish. Details of the standard of Irish to be achieved and method of evaluating this shall be agreed in writing with the planning authority prior to the finalization of the agreement hereby conditioned. (Qualification for the Scéim Deontais Tithe will automatically qualify).

Within three months of commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to give effect to the above restrictions. No house shall be occupied until an agreement has been entered into with the planning authority pursuant to section 47 of the Planning and Development Act, 2000, as amended.



**Reason:** To ensure that development in the area in which the site is located is appropriately restricted.

16. The management and maintenance of the proposed development south of the inner-relief road reservation, following completion, shall be the responsibility of a legally-constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the commercial units are made available for occupation.

**Reason:** To provide for the future maintenance of the private aspect of the development in the interest of visual amenity.

17. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This Plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Features to obviate queuing of construction traffic on the adjoining pier and road network;
- (f) Features to prevent the spillage or deposit of clay, rubble or other debris on the pier and public road network;

(g) Features addressing noise, dust and vibration, and observing/reviewing of such levels;

(h) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(i) Means to ensure that surface water run-off is controlled;

(j) Details of the site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interests of clarity, amenities, public health, safety and water quality.

18. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

19. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

20. Proposals for street names, numbering schemes and associated signage shall be submitted to, and agreed in writing with, Coiste Logainmneacha Chontae na Gaillimhe (Galway County Council Placename Committee) of the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new the development, including residential areas.

21. A plan containing details for the management of waste/recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste/recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste/recyclable materials in the interest of protecting the environment.

22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable

indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Colm McLoughlin  
Senior Planning Inspector

27<sup>th</sup> January 2022