



An  
Bord  
Pleanála

## Inspector's Report ABP-310613-21.

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<b>Development</b>	House.
<b>Location</b>	Carrowgarriff South, Kinvara, Co. Galway.
<b>Planning Authority</b>	Galway County Council.
<b>Planning Authority Reg. Ref.</b>	21/556.
<b>Applicant(s)</b>	Keelan Murphy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Keelan Murphy.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	20/10/2021.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The appeal site is located approximately 3.5km to the east of the town of Kinvara and approximately 2.1km to the west of the M18 motorway in south Co. Galway. The site is accessed over the Regional Road, the R347, which runs in an east to west direction connecting Kinvara in the west to Ardrahan in the east. The final access to the site is over the local road, the L-85542 and over a cul-de-sac private road which provides access to the applicants' family home and farmyard. The rural area is sparsely populated with agriculture the predominant use.
- 1.2. The site has a stated area of 0.3012 hectares and lies immediately to the south-west of the applicants' parents' home, where he is currently residing with his partner and daughter. The site comprises a small part of a larger field, which wraps around the existing family home. There is a small road which extends beyond the entrance into the existing residential site which provides access to the farmyard and buildings to the east. The site is currently under grass and is relatively flat.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices, for construction of dwelling house, wastewater treatment system/percolation and all associated services. Gross floor space of proposed works: 189.8 sqm, all at Carrowgarriff South, Kinvara, Co. Galway.
- 2.2. The application included a number of supporting documents including as follows;
  - Plans, particulars and completed planning application form
  - Cover Letter – addressing previous reasons for refusal.
  - Letter of consent from Landowner.
  - Pre-planning report
  - Housing Need Schedule of Attachments.
  - Wastewater Treatment Proposal & Site Characterisation Report
  - Water Analysis / Well capacity

2.3. The development proposes the construction of an L-shaped, single storey 4-bedroom house. The building will rise to 6.2m and will occupy a floor area of 189.8m<sup>2</sup>. The development also proposes a detailed landscaping plan for the site with the proposed driveway running along the north-western boundary of the house. Existing boundaries, trees and hedges are to be retained, save for a number of Ilex at the entrance, with a new boundary fence proposed on the western and southern boundaries.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

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

1. Having regard to the access arrangement and site configuration which overlaps the permitted planning unit and services of the adjoining dwelling house, in conjunction with the proposed landscape context and siting of the proposed dwelling within a Class 2 designated landscape, it is considered that the development as proposed would constitute disorderly development, would result in a built form that would not integrate effectively into this rural location, and would contravene materially Objective RHO 9, Objective LCM1 and Objective LCM2 and DM Standard 6 of the Galway County Development Plan. Accordingly, to grant the proposed development 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, would contravene materially development objectives and a development management standard contained in Galway County Development Plan and would accordingly be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report and Flood Risk Assessment.

The Planning Report concludes that proposed development is not acceptable and would be contrary to the proposer planning and sustainable development of the area, the EU Birds and Habitats Directive and would be contrary to the objectives and policies as set out in the CDP. The report also notes concerns regarding the design and visual impacts. The Planning Officer recommends that permission be refused for the proposed development, for reasons relating to visual impact.

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

### 3.2.2. Other Technical Reports

None.

### 3.2.3. Prescribed Bodies

None.

### 3.2.4. Third Party Submissions

None.

## 4.0 Planning History

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

**PA ref: 20/1777:** Permission refused to the current applicant for the construction of a dwelling house, wastewater treatment system and all associated services. The reasons for refusal related to visual impact / disorderly development and public health / WWTP matters.

**PA ref: 27390:** Permission granted to Mr. Bernard Murphy in 1978 (applicants' father) for permission to construct a dwelling house.

## **5.0 Policy and Context**

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

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

### **5.2. Sustainable Rural Housing Development Guidelines 2005**

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

### 5.3. Development Plan

5.3.1. The Galway County Development Plan 2015 – 2021, is the relevant policy document relating to the subject site. The site lies outside the development boundaries of any town or settlement. The site lies within Rural Area under Strong Urban Pressure (GTPS) and Objective RHO 1 Rural Housing Zone (Rural Area Under Strong Urban Pressure – GTPS) is considered relevant.

5.3.2. In addition to the above, the following sections of the Plan are considered relevant:

- Objective RHO 9 – Design Guidelines.
- Policy LCM 1 – Preservation of Landscape Character -
- Objective LCM 1 – Landscape Sensitivity Classification
- Objective LCM 2 – Landscape Sensitivity Rating
- DM Standard 5 – Rural Housing
- DM Standard 6 – Assimilation of Development into Landscape.

### 5.4. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 sites are the Galway Bay Complex SAC (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031) which are located approximately 2.5km to the west of the site. The wider area includes a number of turloughs which are identified as Natura 2000 sites, many within 3 to 5km from the site.

### 5.5. EIA Screening

5.5.1. The subject appeal does not relate to a class of development which requires mandatory EIA.

5.5.2. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.

5.5.3. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.5.4. Having regard to:

- (a) the nature and scale of the development, and
- (b) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a first party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The grounds of appeal are summarised as follows:

- The applicant is a full-time farmer whose sole income is from farming with a dairy herd of over 100 cows.
- The applicant currently lives with his partner and child, with his mother in his mother's home and has an urgent housing need.
- While referred to in the Councils report, the proposal does not overlap any services of the existing house other than the fact that the sites overlap.

- In terms of the reason for refusal, the following arguments are made:
  - The bungalow design is located on the building line of the existing home house and is fully compliant with the Design Guidelines.
  - The design and layout take account of orientation and solar gain and will be a A2 or better rated house.
  - Screen planting with indigenous species is marked on the site layout plan.
  - The site is located within a Class 2 landscape with no focal points or views.
  - The existing hedgerows are being maintained with the exception of the *lelandii* which are to be removed to facilitate the entrance.
  - The proposal does not conflict with LCM 1, LCM 2 or DM Standard 6.
- It is submitted that the only area of the landholding which has road frontage is along the R347 at the north end. This is a distance of 1.2km along the road route to the farm buildings which is impractical and unfeasible as a dairy farmer needs to reside within reasonable proximity to the farm buildings for animal husbandry reasons.
- The private road between the home house and the farm buildings is considered unsuitable due to:
  - the space available and the location of the existing septic tank.
  - The proximity of the farm buildings.
  - Impact of such location on the amenities of the existing family home.
  - Such a proposal would be haphazard and irregular.
  - The CDP policy does not require a site to have road frontage.
  - The applicants' mother is still a reasonably young woman who recently lost her husband at a relatively young age. She will spend many years living in her home.

The proposal will not impact on the existing house and represents a perfect scenario for the family.



## 6.2. **Planning Authority Response**

None.

## 6.3. **Observations**

None.

## 7.0 **Assessment**

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

1. Principle of the development & Compliance with National Guidelines & Standards, the Development Plan & General Development Standards
2. Site Suitability Issues
3. Other Issues
4. Appropriate Assessment

### 7.1. **Principle of the development & Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:**

- 7.1.1. The subject site is located within the rural area on unzoned land in a sparsely populated area. The site is within an area identified as being under Strong Urban Pressure in the Galway County Development Plan 2015-2021, due to its proximate location to Galway City. There is a presumption against development in such areas save for in instances where it can be demonstrated that an applicant complies with the Planning Authority's policies relating to the rural area. Should the Board be minded to grant planning permission in this instance it should be satisfied that the appellant adequately complies with the requirements of these stated policies, as well as National Policy Objective 19 of the National Planning Framework.

- 7.1.2. Objective 19 of the National Planning Framework seeks to ensure that in rural areas under urban influence, the provision of single housing in the countryside will be based on the core consideration of demonstratable economic or social need to live in a rural area..... having regard to the viability of smaller towns and rural settlements. The Galway County Development Plan also seeks to facilitate the rural generated housing needs of the local rural community with urban generated housing directed to the zoned and serviced areas of settlements, villages and towns. Objective RH01- Rural Housing Zone 1 (Rural Area Under Strong Urban Pressure – GTPS) of the CDP provides for the limited circumstances within which rural housing within an area under strong urban pressure may be facilitated.
- 7.1.3. The applicant has submitted adequate evidence to suggest that he has strong local links to the area, and I note that his sole income is from the running of the farm from which the subject site has been taken. The applicant indicates that he ran the farm with his father who is recently deceased. The applicant, his partner and their small child are currently living with his mother in the original farmhouse on the landholding and the proposed development site lies immediately adjacent to this house. I note that the appellants (and applicant) family have resided in this house since it was built, following a grant of planning permission in 1978 to his father for its construction. The existing family home, and proposed development site, are located in close proximity to the existing farmyard, located to the south, and accessed via a private road. It appears that the applicant has never owned a house in his own right.
- 7.1.4. I would acknowledge and accept the bone fides of the applicant in this instance, and note the extensive information submitted in support of the proposed development. In light of the above and having regard to the nature of the applicants' occupation and business, it is clear that the applicant has a need to live in this rural area. I am satisfied that the applicant has demonstrated adequate compliance with the policy objectives of the County Development Plan as they relate to rural housing, Objective 19 of the National Planning Framework and the guidance provided within the Sustainable Rural Housing Guidelines.

## **7.2. Visual Impact & Design**

- 7.2.1. The primary reason for refusal relates to the potential visual impacts arising from the proposed development which is considered to constitute disorderly development.

The Planning Authority's reason for refusal indicates that the proposed development would not integrate effectively into the rural location, and would contravene materially Objectives RHO 9, LCM 1 and LCM 2, as well as DM Standard 6 of the Galway County Development Plan. The reason for refusal goes further to state that the development 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 be contrary to the proper planning and sustainable development of the area.

- 7.2.2. In considering the overall design of the proposed house, I note that the building will rise to a single storey, and a maximum height of 6.2m in height. The building itself, will be set to the side of the applicants' mothers' home, which sits with its gable to the adjacent private road. The existing house is somewhat visible – if one was to stop and seek it – from the Regional Road, the R347, which runs in an east to west direction approximately 500m to the north of the subject site. This area of Galway enjoys a variety of landscape features including the mountains to the south (in the Burren area of Co. Clare) and a mix of dry-stone walls, hedgerows and trees. Having regard to the set back from the public road network, with the existing house and farm being accessed via a private road for approximately 200m, together with the adequate screening and landscape backdrop, I am satisfied that the proposed development, if permitted, will not result in any significant visual impact, warranting a refusal of planning permission.
- 7.2.3. In terms of compliance with the Galway County Development Plan, I am satisfied that the proposed development avoids locally obtrusive or elevated locations and seeks to preserve the traditional field patterns and established hedgerows. The site is located within a Class 2 landscape and there are no focal points / views identified. Overall, I consider it reasonable that the Planning Authority's reason for refusal be set aside and based on the information submitted in support of the proposed development, that permission be granted for the development as proposed, and subject to the inclusion of an appropriate enurment condition restricting the use of the house to be occupied in the first instance by the applicant.

### 7.3. Site Suitability Issues

- 7.3.1. In terms of site suitability, the Board will note that the proposed development is to be served by a private wastewater treatment system, and it is intended to install a septic tank and percolation area. It is also noted that the house is to be serviced via the existing private well, located 47m from the proposed percolation area. A site characterisation report was submitted as part of the application, which had been prepared as part of the original application, PA ref: 20/1777 refers, with tests carried out in October 2020.
- 7.3.2. Having considered the information provided with regard to the proposed development, I am satisfied that the applicant submitted a robust and complete site assessment regarding its suitability in terms of the treatment and disposal of wastewater generated on the site. The site assessment appears to have been carried out by a suitably qualified professional. I also note that the report identifies the existing house, and its associated septic tank and well (which is to be used as the water source for the proposed house) which lie immediately adjacent to the subject site.
- 7.3.3. The Site Assessment Report notes that neither the bedrock nor the water table were encountered in the trial pit, which was dug to 3m bgl. The assessment identifies that the site is located in an area where there is no Groundwater Protection Scheme in place and offers a Groundwater Protection Response of R2<sup>2</sup>. The site is categorised as being a Regionally Important Aquifer (Rk) and has an extreme vulnerability. The assessment describes the topsoil as Limestone Till and the bedrock as Cherty Limestone (tubber formation). The site is described as relatively flat with firm ground conditions and grasses consistent with good drainage.
- 7.3.4. \*T tests were carried out on the site with the original result indicated an average \*T value of 31.67 and a \*T result of 8.61. No \*P tests were carried out at the site due to the high overburden and the low water table. The report concludes, recommending a septic tank system, with a capacity of 4m<sup>3</sup>, with percolation area, discharging to groundwater and a trench invert level of 0.85m. The report notes that no special works are required and that it is proposed to install the percolation area in accordance with section 7.2 of the EAP 2010 guidance, to ensure a minimum of 2m

to bedrock and water table. 108m of percolation trench is required and provided (6x18m).

- 7.3.5. I am satisfied that the applicant has submitted a robust and complete site suitability assessment regarding the suitability of the proposed site in terms of the treatment and disposal of wastewater generated on the site. I am further satisfied that the site appears capable of accommodating the development in the context of wastewater treatment and disposal, having regard to the area of the subject site and the results of the assessment carried out.

#### 7.4. **Other Issues**

##### 7.4.1. **Roads & Traffic**

The proposed site lies off a private road which serves the applicants farm and the original farmhouse on the landholding. The route to the site is over the Regional Road, the R347 and the local road, the L-85542. This is a lightly travelled local road which serves a couple of houses and farms. There is no objection to the proposed development in terms of roads and traffic.

##### 7.4.1. **Water Supply**

The applicant intends to connect to the existing private well which is located on the adjacent site, and currently serves the existing house. Tests carried out on this well indicate that the quality is acceptable as a potable water source and that it has adequate capacity to support the proposed development. I have no objection in this regard.

##### 7.4.2. **Development Contribution**

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

## 8.0 **Appropriate Assessment**

### 8.1. **Introduction**

- 8.1.1. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.
- 8.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. The applicant did not submit a Natura Impact Statement.
- 8.1.3. In accordance with these requirements the Board, as the competent authority, prior to granting a consent must be satisfied that the proposal individually or in combination with other plans or projects, is either not likely to have a significant effect on any European Site or adversely affect the integrity of such a site, in view of the site(s) conservation objectives.
- 8.1.4. Guidance on Appropriate Assessment is provided by the EU and the NPWS in the following documents:
- Assessment of plans and projects significantly affecting Natura 2000 sites – methodological guidance on the provisions of Article 6(3) and (4) of the Habitats Directive 92/43/EEC (EC, 2001).
  - Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (DoEHLG), 2009.

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

### 8.2. **Consultations**

- 8.2.1. With regard to consultations, the Board will note that no concerns were raised with or by the Planning Authority with regard to AA. The Board will also note that the PA

concluded that the proposed development, by itself or in combination with other plans or projects, would not have a likely significant effect on European Sites, their qualifying interests of conservation objectives.

### 8.3. Screening for Appropriate Assessment

- 8.3.1. The applicant did not prepare an Appropriate Assessment Screening Report as part of the subject application. The site is not located within any designated site. The closest Natura 2000 sites are the Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 004031) which are located approximately 2.5km to the west of the site.
- 8.3.2. In terms of AA, the Board will note that the development is not directly connected or necessary to the management of a European Site. There are 23 Natura 2000 Sites occurring within a 15km radius of the site. I am satisfied that following sites can be screened out in the first instance, as they are located outside the zone of significant impact influence because the ecology of the species and / or the habitat in question is neither structurally nor functionally linked to the proposal site. There is no potential impact pathway connecting the designated sites to the development site and therefore, I conclude that no significant impacts on the following sites is reasonably foreseeable. I am satisfied that the potential for impacts on the following 21 Natura 2000 sites can be excluded at the preliminary stage:

Site Name	Site Code	Assessment
Moneen Mountain SAC	000054	Site is located entirely outside the EU site and therefore there is no potential for direct effects.
East Burren Complex SAC	001926	
Turloughnagullaun SAC	000071	
Termon Lough SAC	001321	No habitat loss arising from the proposed development.
Lough Cutra SAC	000299	
Slieve Aughty Mountains SPA	004168	No disturbance to species.
Drummin Wood SAC	002181	

Sonnagh Bog SAC	001913	No pathways for direct or indirect effects.  <b>Screened Out</b>
Peterswell Turlough SAC	000318	
Carrowbaun, Newhall and Ballylee Turloughs SAC	002293	
Lough Coy SAC	002117	
Coole-Garryland Complex SAC	000252	
Ballinduff Turlough SAC	002295	
Caherglassaun Turlough SAC	000238	
Ardrahan Grassland SAC	002244	
Castletaylor Complex SAC	000242	
Kiltiernan Turlough SAC	001285	
Lough Fingall Complex SAC	000606	
Rahasane Turlough SPA	004089	
Rahasane Turlough SAC	000322	
Cregganna Marsh SPA	004142	

8.3.3. I consider that the following Natura 2000 sites, located within 15km of the subject site, can be identified as being within the zone of influence of the project, for the purposes of AA Screening, as follows:

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

#### 8.4. **Qualifying Interests for Natura 2000 Sites within Zone of Influence**

8.4.1. The subject development site is located within a rural area, between the town of Kinvara to the west and the M18 motorway to the east. The area is primarily in



agricultural use with a small number of one-off housing and farmsteads in the vicinity. The site is not located within any designated site and is currently under grass. The site does not appear to contain any of the habitats or species associated with any Natura 2000 site.

8.4.2. The following table sets out the qualifying interests for each of the identified Natura sites:

European Site	Qualifying Interests
<b>Galway Bay Complex SAC</b> <b>(Site code 000268)</b>	1140 Tidal Mudflats and Sandflats 1150 Coastal Lagoons* 1160 Large Shallow Inlets and Bays 1170 Reefs 1220 Perennial Vegetation of Stony Banks 1230 Vegetated sea cliffs of the Atlantic and Baltic coasts 1310 Salicornia Mud 1330 Atlantic Salt Meadows 1410 Mediterranean Salt Meadows 3180 Turloughs* 5130 Juniper Scrub 6210 Orchid-rich Calcareous Grassland* 7210 Cladium Fens* 7230 Alkaline Fens 8240 Limestone Pavement* 1355 Otter ( <i>Lutra lutra</i> ) 1365 Common (Harbour) Seal ( <i>Phoca vitulina</i> )
<b>Inner Galway Bay Complex SPA</b> <b>(Site Code: 004031)</b>	A003 Great Northern Diver <i>Gavia immer</i> A017 Cormorant <i>Phalacrocorax carbo</i> A028 Grey Heron <i>Ardea cinerea</i> A046 Brent Goose <i>Branta bernicla hrota</i>

	A050 Wigeon <i>Anas penelope</i>
	A052 Teal <i>Anas crecca</i>
	A056 Shoveler <i>Anas clypeata</i>
	A069 Red-breasted Merganser <i>Mergus serrator</i>
	A137 Ringed Plover <i>Charadrius hiaticula</i>
	A140 Golden Plover <i>Pluvialis apricaria</i>
	A142 Lapwing <i>Vanellus vanellus</i>
	A149 Dunlin <i>Calidris alpina alpina</i>
	A157 Bar-tailed Godwit <i>Limosa lapponica</i>
	A160 Curlew <i>Numenius arquata</i>
	A162 Redshank <i>Tringa totanus</i>
	A169 Turnstone <i>Arenaria interpres</i>
	A179 Black-headed Gull <i>Chroicocephalus ridibundus</i>
	A182 Common Gull <i>Larus canus</i>
	A191 Sandwich Tern <i>Sterna sandvicensis</i>
	A193 Common Tern <i>Sterna hirundo</i>
	A999 Wetlands

**Galway Bay Complex Special Area of Conservation (Site code 000268)**

8.4.3. Situated on the west coast of Ireland, this SAC site comprises the inner, shallow part of a large bay which is partially sheltered by the Aran Islands. The Burren karstic limestone fringes the southern sides and extends into the sublittoral. West of Galway city the bedrock geology is granite. There are numerous shallow and intertidal inlets on the eastern and southern sides, notably Muckinish, Aughinish and Kinvarra Bays. A number of small islands composed of glacial deposits are located along the eastern side. A diverse range of marine, coastal and terrestrial habitats, including several listed on Annex I of the E.U. Habitats Directive, occur within the site, making the area of high scientific importance.

8.4.4. Detailed Conservation Objectives for the Galway Bay Complex SAC (Site Code 000268) are included in the NPWS Conservation Objectives Series for the site,

dated April 2013, and are set out below in Section 8.5. The overall objective is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been designated.

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

- 8.4.5. The Inner Galway Bay SPA is a very large, marine-dominated site situated on the west coast of Ireland. The inner bay is protected from exposure to Atlantic swells by the Aran Islands and Black Head. The long shoreline is noted for its diversity, and comprises complex mixtures of bedrock shore, shingle beach, sandy beach and fringing salt marshes.
- 8.4.6. The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for a number of species, and the E.U. Birds Directive pays particular attention to wetlands and, as these form part of this SPA, the site and its associated waterbirds are of special conservation interest for Wetland & Waterbirds. The SPA supports an excellent diversity of wintering wetland birds, with divers, grebes, cormorants, dabbling duck, sea duck and waders all well represented. There are internationally important wintering populations of Great Northern Diver and Light-Bellied Brent Goose and nationally important wintering populations of an additional sixteen species. The site provides both feeding and roost sites for most of the species.
- 8.4.7. Detailed Conservation Objectives for the Inner Galway Bay SPA (Site Code 004031) are included in the NPWS Conservation Objectives Series for the site, dated May 2013, and are set out below in Section 8.5. The overall objective is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SPA has been designated.

**8.5. Conservation Objectives:**

8.5.1. The Conservation Objectives for the relevant designated sites are as follows:

European Site	Conservation Objectives
<b>Galway Bay Complex SAC (Site Code: 000268)</b>	<ul style="list-style-type: none"> <li>• The NPWS has identified a site-specific conservation objective to <b>maintain</b> the favourable conservation condition of the following Annex I habitat listed as a</li> </ul>

<p>Located approx. 2.5km to the West of the site</p>	<p>Qualifying Interest, as defined by a list of attributes and targets:</p> <ul style="list-style-type: none"> <li>○ Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>○ Large shallow inlets and bays [1160]</li> <li>○ Reefs [1170]</li> <li>○ Perennial vegetation of stony banks [1220]</li> <li>○ Salicornia and other annuals colonising mud and sand [1310]</li> <li>○ Turloughs [3180]</li> <li>○ Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>○ Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</li> <li>○ Alkaline fens [7230]</li> <li>○ Phoca vitulina (Harbour Seal) [1365]</li> </ul> <ul style="list-style-type: none"> <li>● The NPWS has identified a site-specific conservation objective to <b>restore</b> the favourable conservation condition of the following Annex I habitat listed as a Qualifying Interest, as defined by a list of attributes and targets: <ul style="list-style-type: none"> <li>○ Coastal lagoons [1150]</li> <li>○ Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</li> <li>○ Mediterranean salt meadows (Juncetalia maritimi) [1410]</li> <li>○ Juniperus communis formations on heaths or calcareous grasslands [5130]</li> <li>○ Lutra lutra (Otter) [1355]</li> </ul> </li> </ul>
<p><b>Inner Galway Bay SPA</b> <b>(Site Code 004031)</b> Located approx. 2.5km to the West of the site.</p>	<ul style="list-style-type: none"> <li>● The NPWS has identified site-specific conservation objectives to <b>maintain</b> the favourable conservation condition of the bird species listed as Qualifying Interests, as defined by a list of attributes and targets.</li> </ul>

## 8.6. Potential Significant Effects

8.6.1. In terms of an assessment of Significance of Effects of the proposed development on qualifying features of Natura 2000 sites, having regard to the relevant conservation objectives, I would note that in order for an effect to occur, there must be a pathway between the source (the development site) and the receptor (designated sites). As the proposed development site lies outside the boundaries of the European Sites, no direct effects are anticipated. With regard to the consideration of a number of key indications to assess potential effects, the following is relevant:

- **Habitat loss / alteration / fragmentation:** The subject site lies at a remove of some 2.5km from the boundary of any designated site. As such, there shall be no direct loss / alteration or fragmentation of protected habitats within any Natura 2000 site.
- **Disturbance and / or displacement of species:** The site lies within a developed environment. No qualifying species or habitats of interest, for which the designated sites are so designated, occur at the site. As the subject site is not located within or immediately adjacent to any Natura 2000 site and having regard to the nature of the construction works proposed, there is little or no potential for disturbance or displacement impacts to species or habitats for which the identified Natura 2000 sites have been designated.
- **Water Quality:** The proposed development relates to the construction of a single storey house on a rural site which will connect to an existing private well and a proposed new WWTP. Having regard to the nominal scale of the proposed development together with the details site suitability assessment carried out, I am satisfied that the proposed development is acceptable and that if permitted, is unlikely to impact on the overall water quality of any Natura 2000 site in proximity to the site.

I am generally satisfied that the potential for likely significant effects on the qualifying interests of the Galway Bay Complex SAC (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031), or any other Natura 2000 sites in the wider

vicinity, can be excluded given the distance to the sites, the nature and scale of the development and the lack of a hydrological connection.

## **8.7. In Combination / Cumulative Effects**

- 8.7.1. Given the nature of the proposed development, being the construction of a house, I consider that any potential for in-combination effects on water quality in Galway Bay can be excluded. In addition, I would note that all other projects within the wider area which may influence conditions in Galway Bay via rivers and other surface water features are also subject to AA.

## **8.8. Conclusion on Stage 1 Screening:**

- 8.8.1. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites. It is reasonable to conclude that on the basis of the information available, that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the European Sites identified within the zone of influence of the subject site. As such, and in view of these sites' Conservation Objectives a Stage 2 Appropriate Assessment is not required for these sites.

## **9.0 Recommendation**

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

## **10.0 Reasons and Considerations**

Having regard to the relevant provisions of the Galway County Development Plan, 2015-2021, to the established pattern and character of development in the vicinity of the subject site, to the information submitted with the planning application and appeal, it is considered that, subject to compliance with the conditions set out below,

the proposed development would not seriously injure the amenities of properties in the area, would be acceptable in terms of pedestrian and traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 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 dwelling shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect. Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with this agreement and the date of such occupation.

**Reason:** In the interests of the proper planning and sustainable development of the area.

3. Prior to the commencement of the development, the developer shall submit to, and agree in writing with, the planning authority details of all the materials, textures and colours for the external facades including fenestration.

**Reason:** In the interest of visual and residential amenity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, to include use of indigenous species and hedgerow planting along the site boundaries details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any plants which die, are removed or become seriously damaged or diseased, following the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity.

5. The effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of "Wastewater Treatment Manual: Treatment Systems for Single Houses, (p.e. less than or equal to 10)", published by the EPA in 2010. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

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



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. No surface water shall be allowed to discharge onto the public road or adjoining properties.

**Reason:** In the interest of orderly development and public health.

7. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

8. 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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A. Considine

Planning Inspector

26<sup>th</sup> October 2021