



An
Bord
Pleanála

Inspector's Report

ABP-311113-21

Development	Construction of a dwelling, garage, septic tank/treatment plant and percolation area.
Location	Drumacoo, Kilcolgan, Co. Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	21/890
Applicant(s)	Martin & Emer Keenan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellant(s)	Martin & Emer Keenan
Observer(s)	None
Date of Site Inspection	27th day of January 2021
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site is located within the rural townland of Drumacoo, approximately 2.2 kilometres south-west of the settlement of Kilcolgan and 1.6 kilometres west of the settlement of Ballindereen. The surrounding landscape is primarily one of undulating rural countryside with intermittent instances of one-off housing and agricultural outbuildings.
- 1.2. The site itself has a stated area of 0.37 hectares, is rectangular in shape, and comprises a greenfield site where the site levels rise from the adjoining public road, the L-8564, a local county road which is approximately 5 metres wide. There is a stone wall and hedging along the southern (roadside) boundary and the western, northern and eastern boundaries of the site are defined by trees, hedgerow and foliage. The public road is to the south of the appeal site, a farm dwelling and associated farm buildings are located north-east of the appeal site. The planning documentation indicates that the family dwelling and family farm lands (comprising approximately 6 hectares) are located west and south-west of the appeal site. There is a protected structure and a number of recorded monuments in the vicinity (south) of the appeal site, the most prominent being those of St George's Mausoleum, which is located approximately 230 metres south-east of the appeal site on the opposite side of the country road.

2.0 Proposed Development

- 2.1. The development would comprise the following:
- 2.2. Construction of a two-storey dwelling house with a stated floor area of two hundred and forty eight square metres with a stated ridge height of just under nine metres (8.98 metres). A domestic garage is also proposed with a floor area of 44 square metres and a maximum ridge height of 5 metres. The overall design of the dwelling is stated to be based on a contemporary interpretation of the traditional two-storey farmhouse dwelling, External finishes are stated to include blue/black roof slates/tiles, smooth render and local cut stone cladding with granite capping.
- 2.3. Access to the site would be from the adjoining public road. It is proposed to install a septic tank/wastewater treatment system and soil polishing filter whilst a water

supply would be obtained from a connection to the local Tyrone Killeenaran Group Water Scheme.

- 2.4. The planning application was accompanied by a number of supporting reports including an Appropriate Assessment (AA) Screening Report, a Bat Survey Report, a Site Characterisation Report (SCR) and details of the percolation area.
- 2.5. A letter of consent from the secretary of the local Group Water Scheme (GWS) was submitted consenting to the applicants making a connection to the local GWS.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused for five reasons which can be summarised as follows:

1. Having regard to the design, scale and siting of the proposed dwelling within a rural landscape of high sensitivity, in proximity to a protected structure and Recorded Monuments, the development would result in a dominant and overbearing built form that would not integrate appropriately or effectively into the landscape. The dwelling design would be contrary to the rural dwelling design principles as set out with the Galway Rural Dwelling Design Guide and specific objectives RH03, RH09, LCM1 and LCM2 within the Development Plan. The proposals would detract from the local landscape and adversely impact the adjacent protected structure and recorded monuments and materially contravene development plan objectives and establish an undesirable precedent.
2. The proposed development would have a serious detrimental impact upon the setting of the nearby Mausoleum, a protected structure and would be contrary to specific objectives AH1 and AH2 within the Development Plan, which seek to protect architectural heritage.
3. The proposed development would have a serious detrimental impact upon the setting of the nearby recorded monuments and their settings, recorded as protected monuments and places and would create an adverse impact on the setting of the

nearby recorded monuments and contravene objectives ARC 1 and ARC 2 within the Development Plan regarding protecting archaeological heritage.

4. Sight distances in accordance with DM Standard 20 of the Galway County Development Plan 2015-21 have not been satisfactorily demonstrated and the development would endanger public safe by reason of a traffic hazard and/or obstruction of road users.

5. The Planning Authority is not satisfied that the site can adequately treat and dispose of domestic effluent having regard to the evidence of bedrock on or near the surface of the site. Therefore, the proposals would be prejudicial to public health and would potentially adversely impact upon the conservation objectives of nearby protected European sites.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer noted the previous refusal of planning permission pertaining to the appeal site in 2019 for a similar type of development, pertaining to the development of a rural one-off dwelling. In this instance, the Planning Officer again recommended a refusal of planning permission as set out in Section 3.1 above. The Planning Authority conducted an Appropriate Assessment Screening exercise and concluded that the development would not adversely impact upon any European site. The Planning Authority also conducted an Environmental Impact Assessment Screening exercise and concluded that the development would not adversely impact upon the local receiving environment.

3.2.2. Other Technical Reports

None received.

3.3. Prescribed Bodies

None received.

3.4. **Third Party Observations**

One observation was received. The issues raised within the observation related to the following issues:

- Water ingress from the appeal site onto her land.
- The potential for overlooking into her property from the upper floor windows

4.0 **Planning History**

On site:

Planning Authority reference number. 19/338, in 2019, Martin Keenan was refused planning permission for the development of a dwelling house, domestic garage, septic tank and percolation area and all associated site works. There were seven reasons for refusal, similar in nature to the five reasons used by the Planning Authority under planning reference number 21/890. There were also two other reasons used including failure to demonstrate a local housing need in accordance with the Rural Housing Policy and that the development would have the potential to adversely impact upon adjacent Natura 2000 sites.

5.0 **Policy Context**

5.1. **National Policy**

5.1.1. **National Planning Framework 2040**

National Policy Objective 19 is to: 'Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural

housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.1.2. **Sustainable Rural Housing Guidelines**

The Guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural area typologies are identified including rural areas under strong urban influence which are defined as those in proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas.'

5.2. **Galway County Development Plan 2015-2021**

At the time the Planning Authority made its planning decision on the 19th day of July 2021, the Galway County Development Plan (GDP) 2015-2021 was the operational plan. The GDP has since been superseded by the Galway County Development Plan (GDP) 2022-2028, operational since the 20th day of June 2022.

5.3. **Galway County Development Plan 2022-2028**

Chapter 2-Core Strategy.

Table 2.12 Settlement Strategy.

Kilcolgan and Ballindereen are identified as level 7 Rural settlements.

Section 2.4.12 sets out that the areas identified within the Galway City Transport and Planning Study (GCTPS) essentially equate to the Rural areas under Strong Urban Influence and this would include the appeal site.

Chapter 4: Rural living and Development:

Section 4.6 Rural Housing Strategy in the Open Countryside

Section 4.6.1 sets out the following in relation to Rural Areas under Strong Urban Influence within the Metropolitan Area and those within the area of the Galway City Transport and Planning Study (GCTPS).

Map 4.2 outlines the various Zones that exist throughout the County. The appeal site is located within Zone 4, designated an area of high landscape sensitivity.

The policy objectives for Rural Housing Zone 4 include the following:

Applicants seeking to construct individual houses in the open countryside in areas located in Landscape Classification 2,3 and 4 are required to demonstrate their demonstrable economic or social Rural Links or Need* as per RH 2. The relevant parts of the RH4 policy are as follows:

1(a) Those applicants with long standing demonstrable economic and/or social Rural Links or Need* to the area through existing and immediate family ties seeking to develop their first home on the existing family farm holding. Consideration shall be given to special circumstances where a landowner has no immediate family and wishes to accommodate a niece or nephew on family lands. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis.

OR

1(e) Where applicants can supply land registry or folio details that demonstrate that the lands on which they are seeking to build their first home, as their permanent residence, in the area have been in family ownership for a period of 20 years or more, their eligibility will be considered. Where this has been established to the

satisfaction of the Planning Authority, additional intrinsic links/need will not have to be demonstrated.

OR

1(f) In cases where all sites on the family lands are in a designated area, family members will be considered subject to the requirements of the Habitat's Directive and normal planning considerations.

In addition, an applicant may be required to submit a visual impact assessment of their development, where the proposals is in an area identified as "Focal Points/Views" in the landscape Character assessment of the County or in Class 3 or Class 4 designated landscape areas. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. An enurement condition shall apply for a period of 7 years after

the date that the house is first occupied by the person or persons to whom the enurement clause applies.

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Policy Objective RH9-To have regard to the Galway County Council's Design Guidelines for single rural houses.

Policy Objective RH11-Provide for sustainable rural housing in accordance with the EPA Code of Practice: Wastewater Treatment Systems for Single Houses (2009).

Chapter 8: Tourism and Landscape:

Section 8.13.1: Landscape Character of County Galway

The appeal site is located within an area identified as having a Class 3-special landscape where the sensitivity to change is designated as being "High".

The Design Guidelines for the single rural houses has been adopted as Appendix 5 to the Development Plan 2022-2028. are also considered relevant.

Chapter 12 Architectural, Archaeological and Cultural Heritage

AH 1: To Ensure the protection of the architectural heritage of County Galway, which is a unique and special resource, having regard to the policy guidance contained in the Architectural Heritage Protection Guidelines 2011 (and any updated/superseding document).

ARC 1 To support and promote the preservation, conservation and appropriate management and enhancement of the County's archaeological sites and monuments, together with the settings of these monuments, having regard to the

legislative, statutory and policy provisions relevant to the conservation of the archaeological

5.4. Natural Heritage Designations

The Galway Bay Complex SAC (site code 000268) is located approximately 0.87 kilometres west of the appeal site and the Inner Galway Bay SPA (site code 004031) is located approximately 0.91 kilometres west of the appeal site.

The appeal site is also located approximately 1.3 kilometres south-east of the Galway Bay Complex pNHA (site code 000268).

5.5. Environmental Impact Assessment (EIA) Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for Environmental Impact Assessment (EIA) can, therefore, be excluded.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal against the Planning Authority's decision to refuse planning permission has been received. The main issues raised within the appellants' submission relate to the following:

Rural Housing Need:

- The applicants state that they currently reside with Martin Keenans parents at Tyrone, Kilcolgan. The dwelling is shared with Martins parents and his sister and the applicants twin babies.

- It is stated that Martins parents suffer ill-health and rely on him to provide assistance on the family farm.

Dwelling Design:

- The dwelling design is based on the design of his parents' original family home (north-east of the appeal site) and the stone external finish would be consistent with the nearby Mausoleum.

Built and Archaeological Heritage:

- Adverse impact upon the adjacent St George's Mausoleum would be mitigated by means of retaining the mature trees within the appeal site boundaries and limit the intervisibility between the appeal site and the protected structure.
- There is no inter-visibility between the holy well, recorded monuments and the appeal site and therefore, the impact of the development would be minimal.

Wastewater Treatment:

- The site assessor demonstrated that the proposed on site wastewater treatment system and percolation area would accord with the EPA's best practice guidance for the disposal of wastewater

6.2. Planning Authority Response

No comments in relation to the appeal were received from the Planning Authority.

7.0 Assessment

- 7.1. The main issues in this appeal relate to the reasons for refusal, in this regard compliance with the Galway Rural Housing Policy, dwelling design, built and archaeological heritage, wastewater treatment and site access. Appropriate Assessment requirements are also considered. I am satisfied that no other

substantial planning issues arise. The main issues can be dealt with under the following headings:

- Rural Housing Policy.
- Dwelling Design
- Built and Archaeological Heritage
- Site servicing
- Site access and sightlines
- Appropriate Assessment.

7.2. Rural Housing Policy

- 7.2.1. National Planning Objective 19 within the NPF requires that in rural areas under urban influence, planning authorities facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.2.2. The subject site is located in an area designated as being under Strong Urban Influence in the Sustainable Rural Housing Guidelines for Planning Authorities. This national guidance on rural housing states that in areas under a strong urban influence the key objective should be to facilitate the housing requirements of the rural community whilst directing urban generated development to cities towns and villages. Rural generated housing is defined as being housing needed in rural areas within the established rural community by persons working in rural areas or in nearby urban areas. Urban generated housing is defined as housing sought by persons living and working in urban areas.
- 7.2.3. The Galway County Development Plan (GDP) 2015-2021 has recently been superseded by the Galway County Development Plan (GDP) 2022-2028, which was adopted on the 9th day of May 2022 and became operational on the 20th day of June 2022. Therefore, this assessment will make reference to the policies and objectives of the GDP 2022-2028.

- 7.2.4. The County Development Plan (Section 2.4.1) outlines a settlement hierarchy with Galway City as the main focus, then it's the three key towns within the MASP, Bearna, Baile Chláir and Oranmore. Tier 7 includes the rural settlements of Kilcolgan and Ballindereen, located approximately 2,2 and 1.6 kilometres respectively to the north-east and south-east of the appeal site. The Development Plan states that it will “focus on protecting and consolidating existing settlements”. Section 2.4.4 sets out the following in terms of future settlement growth “Strengthening villages in level 7 as an alternative to rural housing in the open countryside”. I also consider that the proposed development would contravene the settlement strategy set out in the plan to strengthen and consolidation of rural settlements, specifically Kilcolgan and Ballindereen as an alternative to encouraging rural housing in the open countryside.
- 7.2.5. As per the Development Plan, Map 4.2, the appeal site is located within the Galway Transport and Planning Strategy area of Galway and also within Landscape Category 3, where the landscape designation is “Special” and the sensitivity to change is classified as being “High”. This leads to a scenario where the applicants would be subject to Objective RH4. I am satisfied that Objective RH4 is the most appropriate objective for this assessment.
- 7.2.6. Whilst the applicants are stated to be residents of the Tyrone, Kilcolgan area, as per details included within the supporting planning documentation, it is also clear that Martin Keenan works in the Eastern suburbs of Galway city, a distance of approximately 16 kilometres from the appeal site. Letters of support from his former schools, the local GAA club and from the credit union have been submitted in support of the applicants’ proposals.
- 7.2.7. Under the provisions of Section 4.6 of the Development Plan, an applicant is required to demonstrate compliance with Development Plan policy RH4, which require an applicant to demonstrate a genuine rural generated housing need based on their social/economic links to a rural area. Having regard to the high landscape sensitivity associated with this area, the applicants are required to justify the need for the development as well as submit a Visual Impact Assessment of the proposals, as per the requirements of RH category (f), as set out within the Rural Housing Policy of the Development Plan 2022-2028. No visual impact assessment has been submitted in this instance.

- 7.2.8. There is a sparse level of documentation submitted with the planning application/appeal outlining the applicants social or economic ties to this area. and notwithstanding the fact that Martin Keenan is originally from this area, it is not considered that he has demonstrated demonstrable economic or social need to live in a rural area set out in the NPF, or a rural generated housing need that meets the test sets by the Sustainable Rural Housing Guidelines, or a housing need to build in the local rural area as required by the Galway County Development Plan. I additionally conclude that the proposed development would contravene the settlement strategy set out in the plan to, inter alia, support protection and consolidation of rural villages.
- 7.2.9. In the absence of an identified locally based, site specific economic or social need to live in the area, it is considered that the proposed development would contribute to the development of random rural housing in an area identified as being under Strong Urban influence with limited capacity to assimilate further development, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of the adjacent urban settlements of Kilcolgan and Ballindereen.
- 7.2.10. National and local planning policy are clear, one-off housing in an area under strong urban influence must be where the applicant has an established housing need and a rurally generated housing need. The applicant (Martin Keenans) primary employment is in Galway city and has demonstrated neither a housing need nor a rurally generated housing need. I am satisfied that the applicants have not demonstrated compliance with national or local policy on residential development in un-zoned rural areas under strong urban influence.
- 7.2.11. The site is in an area under strong urban influence in the rural areas map referred to in the Sustainable Rural Housing Guidelines and the guidelines describe such areas as close to the immediate environs or close commuting catchment of larger cities and towns, having rising populations, exhibiting evidence of considerable pressure for housing development due to proximity to urban centres or major transport corridors. Having regard to the proximity of the application site to a National secondary route, the N67, I consider that this area is under pressure for one off rural housing unrelated to the agriculture land use in the area.

7.2.12. In conclusion, it is considered that the applicants have not demonstrated a site specific rural housing need based on their specific economic or social links to reside in this rural area, as required under Policy Objective RH 4 of the Development Plan, the Sustainable Rural Housing Guidelines and Policy Objective 19 of the National Planning Framework

7.3. Design

7.3.1. Refusal reason number one of the decision the Planning Authority set out that the design, scale and siting of the proposed dwelling within a rural landscape, highly sensitive to change, in proximity to a protected structure and Recorded Monuments, the development would result in a dominant and overbearing built form that would not integrate appropriately or effectively into the landscape and that the dwelling design would be contrary to the rural dwelling design principles as set out with the Galway Rural Dwelling Design Guide.

7.3.2. The applicants have submitted details of a narrow plan two storey design, with a single storey wing attached to the north-west side and another single storey rear projection. The dwelling would have an overall length of 23.5 metres approximately. The front elevation comprises a mixture of large picture type window mixed with other fenestration detailing providing a traditional vertical emphasis. A mix of rubble stone cladding and render are proposed for the external wall finishes and a blue/black natural slate is proposed for the roof areas. The chimney breast on the side elevation is externalised.

7.3.3. Having regard to the topography of the site, the elevated positioning of the proposed development, together with its height and scale, the resulting extensive driveway and the removal of part of the front boundary wall and hedging, I consider that the proposed dwelling would form a discordant and obtrusive feature on the landscape at this location and would fail to be adequately absorbed and integrated into the local landscape which is highly sensitive to development.

7.4. Built and Archaeological Heritage

7.4.1. The second reason for refusal relates to the impact of the proposed development on the archaeological remains (St Sorney's Church and well, GA103-118001 and GA103-118110, an ecclesiastical enclosure (118003), graveyard (118006) and cross

slab (118012) as well as St George's Mausoleum, which is a protected structure (RPS 289). These remains and structures are located approximately 230 metres south of the appeal site, on the opposite side of the local county road. There are no archaeological features located within the appeal site as per the Record of Monuments and Places (RMP).

- 7.4.2. In conclusion, given the separation distances between the appeal site and the protected monuments and the significant extent of landscaping within the appeal site boundaries and along the public roadway, I am satisfied that the proposed development would not adversely impact upon the adjacent protected structure or recorded national monuments by virtue of a significant adverse visual/archaeological impact.

7.5. **Site Servicing**

- 7.5.1. The applicant's Site Characterisation Report identifies that the appeal site overlies a Regionally Important Aquifer where the bedrock vulnerability is classified as "Extreme". A Ground Protection Response of R2² is noted by the applicant. Accordingly, I note the suitability of the site for a treatment system (subject to normal good practice) and subject to condition (1) 'that there is a minimum depth of 2 metres of unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank or (2) 'a secondary treatment system is installed within a minimum depth of 0.3 metres of unsaturated soil/subsoil with a P/T value from 3-75 (in addition to the polishing filter which should have a minimum depth of 0.9 metres beneath the invert of the polishing filter (i.e. 1.2 metres in total for a soil polishing filter)'. The applicant's Site Characterisation Report identifies that there is a Groundwater Protection Scheme in the area.
- 7.5.2. The trial hole depth referenced in the Site Characterisation Report (SCR) was 2.6 metres. It is stated within the SCR that bedrock was not encountered within the trial hole. No water was observed in the trial hole. The soil conditions found in the trial hole were stated as comprising large stones. Percolation test holes were dug and pre-soaked. A T value of 11 was recorded. A P test was carried out and a P value of 21.67 was recorded. The EPA CoP 2009 (Table 6.3) confirms that the site is suitable for a secondary treatment system discharging to groundwater.

- 7.5.3. The Site Characterisation Report submitted with the application concludes that the site is suitable for treatment of waste water, it is proposed to install a packaged waste water treatment system (EuroTank BAF 8 PE Secondary Waste Water Treatment unit) and polishing filter (90 square metres).
- 7.5.4. The Planning Officer noted the existence of bedrock on/near the surface within the appeal site and photographic evidence supporting this claim is included as part of the Case Planners report. Section 2.3 of the AA screening Report references the GSI website and the existence of bedrock at surface within the bounds of the appeal site. Given the SCR does not reference the existence of bedrock within the appeal site, either as an outcrop or within the subsoils, it is apparent that there are anomalies within the site in terms of the site characteristics. Given the existence of bedrock within the appeal site and that the appeal site overlies a regional aquifer where groundwater vulnerability is designated as “Extreme”, I consider that that there is potential for the wastewater treatment system and polishing filter to malfunction due to the absence of an adequate depth of free draining soils to treat foul effluent and potentially adversely impact water quality within the aquifer. Therefore, I am of the opinion that the fifth reason for refusal as set out by the Planning Authority should be upheld.

7.6. Access and traffic

- 7.6.1. The fourth reason for refusal of the Planning Authority set out that the applicants had not demonstrated that adequate sight lines were achievable in accordance with the DM 20 standard within the Development Plan by virtue of the restricted visibility due to the horizontal alignment of the adjoining public road.
- 7.6.2. Access to the appeal site is from a local county road, the L-8564, where the 80 kilometre per hour speed control zone applies. The applicant has submitted details of sightlines, whereby sightlines of 81 metres in a westerly direction and 120 metres in an easterly direction are illustrated.
- 7.6.3. The Local Authority planner stated that sightlines are not demonstrated in accordance with the DM 20 standard of the 2015 Development Plan. DM standard 28 of the current Development Plan (2022-28) sets out the following in relation to sightlines “Where substantial works are required in order to facilitate the provision of adequate sight distances, lands within the sight distance triangles shall be within the

control of the applicant and shall be subject of a formal agreement with the adjacent landowner which ensures certainty that the applicant is in a position to comply with the relevant condition and/or standard". To achieve the requisite sightlines would necessitate the removal/setting back of the roadside boundaries to the east and west of the entrance, some which are outside of the red line application site boundary, and some would appear to be outside the control of the applicants. Given that adequate sightlines have not been demonstrated in accordance with the Development Plan requirements, the case planner recommended that planning permission be refused on traffic safety grounds. I would concur with the opinion of the case planner.

- 7.6.4. I consider that the development "has the potential to compromise the safety and efficiency of the local road network at a location where the 80km/h speed limit applies, I am of the opinion that the development would generate additional vehicular movements which would intensify the level of traffic that would be generated on the local road network. The increase in trips would be generated by the day-to-day activities of the applicants, trips generated by other services, utility providers attending the site or visitors driving to/from the site. In conclusion, given that the requisite sightlines are not achievable within the red line application site boundary and/or on lands within the applicants control, in accordance with best practice road safety standards, I am of the opinion that the development, if permitted, would result in the creation of a traffic hazard.

7.7. **Other Issues**

- 7.7.1. A bat survey report was submitted as part of the planning documentation, and it concluded that following on site surveys that the site is used regularly by feeding Common Soprano Pipistrelle Bats and occasional usage by Myotis and Brown long-eared bats. No evidence of bat roosts were found on site. No evidence of the Lesser Horseshow bat was found on site either. Mitigation measures proposed include the retention of the treelines and to limit external lighting within the site which I consider to be acceptable.

7.8. **Appropriate Assessment Screening**

- 7.8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, Section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 7.8.2. This section of the report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. I have had regard to the Appropriate Assessment Screening Report, prepared by Eire Ecology (dated 31/07/2020) and make reference to same below.
- 7.8.3. Section 2.2 of the AA screening Report sets out Characteristics of the Existing Environment and describes the habitats and species within the European sites in the vicinity of the proposed development. In relation to habitats, it is noted that the appeal site comprises a field of Improved Agricultural Grassland (GA1). The field is surrounded by a stone wall categorised as Stone Walls and Other Stone Work (BL1), Treeline (WL2) and Hedgerow (WL1). I noted that there are no watercourses within or adjacent to the proposed development site, and that none of the habitats within or adjacent to the works area correspond to those listed in Annex 1 of the EU Habitats Directive.
- 7.8.4. In relation to fauna, it is stated within the screening report that no evidence of Annex II protected species associated with Galway Bay Complex SAC and the Lough Fingall SAC were recorded within or adjacent to the site boundary. No dedicated bird survey was undertaken. No species listed as a Special Conservation Interest were recorded during the site visit or breeding or significant foraging habitat for these species were recorded.
- 7.8.5. The Geological Survey of Ireland website provides details of soils and geology throughout Ireland. From the GSI website it is apparent that the site is underlain by till from limestones with shallow well drained topsoil and bedrock at/near the appeal site surface.

The Project and Its Characteristics

- 7.8.6. See the detailed description of the proposed development in section 2.0 above.

The European Sites Likely to be Affected Stage I Screening

- 7.8.7. Table 3.1 of the screening report lists all European Sites within 15km of the proposed development and assesses which are within the 'Likely Zone of Impact'. There are 22 no. sites in total listed as being within 15km of the proposed site.
- 7.8.8. In determining a zone of influence, I had had regard to the scale and nature of the project, and I have had regard to the EPA Appropriate Assessment Mapping Tool¹. I consider that the SAC, s that would be within the zone of influence would be the Galway Bay Complex SAC, which is approximately 0.87 kilometres to the south-west of the appeal site and the Lough Fingall Complex SAC which is located approximately 1.25 kilometres south-east of the appeal site. The next nearest SAC is the Kiltiernan Turlough SAC, a distance of approximately 4 km from the site. The only SPA within the zone of influence are the Inner Galway Bay SPA (004031) which is a distance of approximately 0.91 kilometres west of the appeal site. The next nearest SPA is the Cregganna Marsh Lough SPA, a distance of approximately 5 kilometres from the site.
- 7.8.9. I consider then that the zone of influence of the project comprises those three Natura 2000 sites noted above. Other sites are such a distance from the proposed development site that there would not be any significant effects on them as a result of habitat loss and/or fragmentation, impacts to habitat structure, disturbance to species of conservation concern, mortality to species, noise pollution, emissions to air and emissions to water.
- 7.8.10. Given the location, nature and scale of the proposed project, it is apparent that a number of qualifying interests have the potential to be impacted upon within the following European sites:
- Lough Fingall Complex SAC (Site Code: 000606)
 - Galway Bay Complex SAC (Site Code: 000268)
 - Inner Galway Bay SPA (Site Code: 004031).
- 7.8.11. I am therefore, of the opinion that the designated sites, namely the Lough Fingall Complex SAC, the Galway Bay Complex SAC and the Inner Galway Bay SPA require further consideration.

¹ www.epa.ie accessed 15/01/2019

7.8.12. The subject site is not located within any designated European site; however, the following Natura 2000 sites are located within the potential zone of influence and have a potential connection to the appeal site.

Table 1:

European Site	Qualifying Interests	Distance from Appeal Site	Potential Connections (source-pathway-receptor)	Further Consideration in Screening
Lough Fingall Complex SAC (Site Code 000606)	<u>Habitats</u> 3180 Turloughs 4060 Alpine and Boreal Heaths 5130 Calcareous grasslands 6210 Calcareous substrates 7210 Calcareous fens 8240 Limestone pavements <u>Species</u> 1303 Lesser Horseshoe Bat.	1.25 kilometres hydrological separation distance to the south-east of the appeal site.	Yes. Requires further assessment due to there being potential hydrological connectivity between the appeal site and the SAC via groundwater and via the storm water collection network. Potential for release of hydrocarbons to ground waters during construction activities. Potential for foul effluent discharges from operational phase of development. Proposed works have potential to cause deterioration in water quality during construction and operation and to potentially adversely impact on habitats/species, either alone or in combination, and on the conservation status of aquatic habitats and species dependent on the water quality within such habitats due to pollution or sedimentation	Yes.

			arising from the construction and/or operational phases of the development.	
Galway Bay Complex SAC 000606	<p>Mudflats and sandflats not covered by seawater at low tide.</p> <p>Coastal lagoons.</p> <p>Large shallow inlets and bays.</p> <p>Reefs.</p> <p>Perennial vegetation of stony banks.</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts.</p> <p>Salicornia and other annuals colonising mud and sand.</p> <p>Atlantic salt meadows.</p> <p>Mediterranean salt meadows.</p> <p>Turloughs.</p> <p>Formations on heaths or calcareous grasslands.</p>	0.87 kilometres south-west of the appeal site.	Yes. Requires further assessment due to there being potential hydrological connectivity between the appeal site and the SAC via groundwater and via the storm water collection network. Potential for release of hydrocarbons to ground waters during construction activities. Potential for foul effluent discharges from operational phase of development. Proposed works have potential to cause deterioration in water quality during construction and operation and to potentially adversely impact on habitats/species, either alone or in combination, due to pollution or sedimentation arising from the construction/operational phases of the development.	Yes.

	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates.</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davalliana</i>.</p> <p>Alkaline fens.</p> <p>Limestone pavements.</p> <p>Otter</p> <p>Harbour Seal</p>			
<p>Inner Galway Bay SPA 004031</p>	<p>Black-throated Diver (<i>Gavia arctica</i>) [A002]</p> <p>Great Northern Diver</p> <p>Cormorant.</p> <p>Grey Heron.</p> <p>Light-bellied Brent Goose.</p> <p>Wigeon.</p> <p>Teal.</p> <p>Red-breasted Merganser.</p> <p>Ringed Plover.</p>	<p>0.91 kilometres west of the appeal site.</p>	<p>Yes. Requires further assessment due to there being potential hydrological connectivity between the appeal site and the SAC via groundwater and via the storm water collection network. Potential for release of hydrocarbons to ground waters during construction activities. Potential for foul effluent discharges from operational phase of development. Proposed works have potential to cause deterioration in water quality during construction and operation</p>	<p>Yes.</p>

Golden Plover.		and to potentially adversely impact on habitats/species, either alone or in combination, due to pollution or sedimentation arising from the construction/operational phases of the development.
Lapwing.		
Dunlin.		
Bar-tailed Godwit.		
Curlew.		
Redshank.		
Turnstone.		
Black-headed Gull.		
Common Gull.		
Sandwich Tern.		
Common Tern.		
Wetland and Waterbirds.		

7.8.20. I do not consider that any other European Sites fall within the zone of influence of the project, based on a combination of factors including the intervening distances, the lack of suitable habitat for qualifying interests, and the lack of hydrological or other connections. No reliance on avoidance measures or any form of mitigation is required in reaching this conclusion. .

Identification of Likely Significant Effects

7.8.21. In relation to the Lough Fingall Complex SAC (000606), I note that the species of Qualifying Interest associated with this site is the Lesser Horseshoe Bat. The conservation objective for this Natural 2002 site is “To maintain or restore the favourable conservation condition of the Annex 1 Habitats and/or Annex 2 species for which the SAC has been selected. Information on the NPWS website, including the site synopsis, note that the predominant habitats on the site are Turloughs, Alpine and Boreal Heaths, Calcareous grasslands, substrates and fens and Limestone Pavements. As per the NPWS datasets and the Data stored by the National Biodiversity Data Centre (NBDC), no sightings of the Lesser Horseshoe Bat

have been recorded in this particular area which would indicate that the appeal site is not within the foraging/commuting range of the Lough Fingall Complex. No evidence of bat roosts was noted on the site either. The appeal site does not support such species and is located a distance of approximately 1.25 kilometres removed from the nearest part of that European site and the lack of an identified pathway connecting the appeal site to the SAC, significant effects on this site can be ruled out, having regard to its conservation objective.

7.8.22. In relation to Galway Bay Complex SAC (000268), I note that this is approximately 0.87 kilometres from the site at the closest point. The Conservation Objectives relating to the site are to maintain the favourable conservation condition of the Habitats and Species associated with the site. There is a potential pathway by way of groundwater which could have a likely significant effect on the 'Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae*' and 'Alkaline fens' habitats. Information the NPWS website states that maintenance of groundwater, surface water flows and water table levels within natural ranges is essential for this wetland habitat. A target for both habitats is to ensure appropriate water quality to support the natural structure and functioning of the habitat. The appeal site is not sufficiently proximate to the SAC, in my view, to result in potential likely significant effects on the SAC, in view of the site's conservation objectives. While surface water provides another potential pathway to the site, given the distance to the nearest boundary of the site (approximately 0.87 kilometres) and the lack of an identified pathway connecting the appeal site to the SAC, it is unlikely that surface water from the site, either at construction stage or at the operational stage, would have likely significant effects on the site, having regard to its conservation objectives.

7.8.23. In relation to Inner Galway Bay SPA (004031), I note that this is approximately 0.91 kilometres west of the site, at the closest point. The conservation objectives for this site are to maintain the favourable conservation condition of the bird species and habitat associated with the site. The appeal site is not sufficiently proximate to the SPA, in my view, to result in potential likely significant effects on the SPA, in view of the site's conservation objectives as relates to bird species, in terms of potential habitat loss and/or fragmentation, impacts to habitat structure, disturbance to species of conservation concern, mortality to species and noise pollution. While

surface water provides another potential pathway to the site, given the distance to the nearest boundary of the site (approximately 0.91 kilometres) and the lack of an identified pathway connecting the appeal site to the SPA, it is unlikely that surface water from the site, either at construction stage or at the operational stage, would have likely significant effects on the site, having regard to its conservation objectives.

- 7.8.24. Having regard to the above, I therefore consider that significant likely effects on the Galway Bay Complex SAC (000268) and the Inner Galway Bay SPA (004031) and the Lough Fingall Complex SAC (000606) can be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is not required.
- 7.8.25. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

8.0 Recommendation

I recommend that planning permission be refused.

9.0 Reasons and Considerations

- 1 The subject site is located within an area under strong urban influence and under significant development pressure for rural housing as well as being an area of high sensitivity, as identified in the Galway County Development Plan 2022-2028. Furthermore, the site is located in an area that is designated as under urban influence in the Sustainable Rural Housing Guidelines and in the National Planning Framework, where National Policy Objective 19 aims to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has demonstrated a genuine housing need to live in this rural area as required under policy objective RH4 of the Development Plan. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Galway

County Development Plan, 2022 or in national policy for a house at this location. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2 The site of the proposed development is located within an area under "Significant Urban Influence" as set out in the current Development Plan for the area, where emphasis is placed on the importance of designing with the landscape and of siting of development to minimise visual intrusion as set out in the current Galway Rural House Design Guidelines, which Guidelines are considered to be reasonable. Having regard to the topography of the site, the elevated positioning of the proposed development, together with its height and scale, the resulting extensive driveway and the removal of part of the front boundary wall and hedging, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 3 Having regard to the existence of rock outcrops at/close to the surface within the appeal site, the Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and/or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

- 4 It is considered that the proposed development would endanger public safety by reason of a traffic hazard because of the additional traffic turning movements

the development would generate on a local road at a point where sightlines are restricted in an easterly direction.

Fergal O'Bric

Planning Inspectorate

25th July 2022