



An
Bord
Pleanála

Inspector's Report ABP-311664-21

Development	Permission for construction of dwelling house, domestic garage, wastewater treatment system to create a roadway to dwelling. .
Location	Rosshill, Old Dublin Road, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	20345
Applicant(s)	Emma Murphy
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party v Grant
Appellant(s)	1) Martin J. Fahy 2) Nancy Roe
Observer(s)	James McCarthy
Date of Site Inspection	27 th January 2022.
Inspector	Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The appeal site comprises part of a field that fronts onto Galway Bay where site levels fall from east to west over Galway Bay. The dwelling is to be developed on the eastern part of the lands, where site levels are elevated overlooking the coastline, within the townland of Roscam, to the east of Galway City. The site is accessed by a narrow local road (cul-de-sac) and the surrounding area is characterised by one-off rural dwellings on generous plot sizes. There is an agricultural structure located within the land holding, to the west of the appeal site which is used for the storage of agricultural feed and bedding.
- 1.2. There is an agricultural access into the site, comprising a double field gate which is located at the end of a local cul-de-sac. The boundary treatment around the site consists of mature trees, stone walls along the eastern boundary and hedging along the eastern, northern and southern boundaries. There are a number of existing dwellings located further south and east of the appeal site, and open rolling land to the north and west towards the coastline.

2.0 Proposed Development

- 2.1. The proposal is for the construction of a single storey dwelling, 252 square metres (sq. m.), detached domestic garage (60 sq. m), wastewater treatment system and access road to the dwelling. The appeal site comprises an area of approximately 0.488 Ha.
- 2.2. Further information was submitted by the applicant in relation to the following matters: An Appropriate Assessment (AA) screening report. A revised dwelling design and layout showing retention of existing hedgerow and stone wall boundaries. Demonstrate sufficient legal interest in the access road. Further detail in relation to the information set out within the Site Characterisation Report, the soil and ground conditions, the wastewater treatment system and polishing filter area.
- 2.3. Clarification of further information was submitted by the applicant in relation to the following matters: A revised Appropriate Assessment (AA) screening report. Further detail in relation to the information set out within the Site Characterisation Report, the

soil and ground conditions, the wastewater treatment system and polishing filter area.

- 2.4. The appeal was referred by the Board to the Development Applications Unit (DAU), the Heritage Council, An Taisce, the arts Council and Fáilte Ireland. A response was received from the DAU, and this will be referenced later within Section 7.8 of this assessment

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant permission subject to 13 conditions of a standard nature. The pertinent conditions can be summarised as follows:

Condition number 4: Irish water connection agreement.

Condition number 5: Front boundary wall shall be constructed of an unplastered natural stone.

Condition number 7: External wall and roof finishes.

Condition number 8: Landscaping plan to be implemented within three months of completion of dwelling.

Condition number 13: Financial contribution.

3.2. Planning Authority Reports

- 3.2.1. Initial Planning Report

The report of the planning officer reflects the decision of the Planning Authority.

Points of note are as follows:

- The planning history on the site is noted including a refusal of planning permission by both the Planning Authority and the Board.
- Galway City Council Development Plan includes a specific objective of this site – development shall be restricted to two houses only/reserved for the use of the immediate family members of the landowner.

- Principle of providing a dwelling is acceptable, given the applicant is an immediate family member (daughter) of the landowner.
- Water supply connection proposals acceptable.
- Not considered the proposal would result in risk to groundwater.
- Raised issues in relation to impact upon the adjacent European sites.
- Raised issue in relation to dwelling design and impact upon the protected View 9, towards the sea at Roscarn.

Report on further information submitted by applicant.

- An AA screening report submitted including details in relation to impact upon adjacent European sites.
- Details in relation to right of way and access to the appeal site were clarified.
- Revised dwelling design submitted.
- Trial holes were re-opened, and new soil tests conducted.

Report on clarification of further information submitted by applicant.

- Revised AA screening report submitted in relation to impact upon adjacent European sites.
- Additional detail in relation of site assessment and details in relation to wastewater treatment system and polishing filter.
- Recommendation that permission be granted.

3.2.2. Other Technical Reports

Environment Section (wastewater and waste management)– No objections, following the submission of further information and clarification of further information, subject to conditions.

Climate Change and Environment Section: No objections following the submission of further information and clarification of further information.

3.3. Prescribed Bodies

3.3.1. None received.

3.4. Third Party Observations

3.4.1. Eight observations were received from five different parties (a number of observers made multiple observations). The observations on file are from (1) Dr. Martin Fahey (2) Dr. James McCarthy and (3) Nancy Roe, Michael Pender and Neill Hughes. The issues raised in the observations are largely covered within the third party appeals/observation received by the Board, as set out in Section 6 of this report. However, a number of other issues arose in relation to the following:

- That the area is subject to significant development pressure to develop dwellings.
- That a second dwelling would be proposed on the land holding in the future.
- The development would result in the loss of an urban wildlife corridor and green coastal belt between Oranmore and Galway City.
- No photographs or contextual elevation plans have been submitted by the applicant.
- The development would result in increased traffic levels locally in an area with no footpaths and result in increased danger for pedestrians and cyclists.
- Given the site is located within a limestone karst area, the wastewater treatment system could adversely impact upon the groundwater system and the Galway Bay area.
- Development would adversely impact upon neighbouring dwellings by virtue of overlooking.
- That the Planning Authority undertake a thorough investigation as to the potential impacts upon the adjacent European sites and their qualifying interests.
- That the existing walls and hedgerows be maintained.
- The lands were rezoned from G-Agriculture/high amenity to residential contrary to the recommendation of the Chief Executive of Galway City Council.

- The applicant has failed to demonstrate how the development will not adversely impact upon the adjacent European sites in accordance with the provisions of the Habitats Directive.
- Consent from the owner of the private road has not been submitted.
- Details of construction traffic have not been submitted.
- Protected panoramic View, V9-towards the sea at Roscarn would be adversely impacted upon by the proposed development.
- Public notices do not accord with the provisions of the Planning Regulations.
- A cumulative development assessment as required under Article 6(3) of the Habitats directive has not been submitted.
- Address of development as per the public notices fails to include the townland of Roscarn.
- A regionally important aquifer which is extremely vulnerable to development underlies the appeal site.
- The development would be contrary to the principle behind the compact city and would represent unsustainable development.
- The scale and massing of the development fails to integrate within the local landscape which is of special amenity value.
- The AA assessment has wrongly referenced the Galway County Development Plan instead of the Galway City Development Plan. 2017-23.
- The applicant is not named as having rights to utilise the access road.

4.0 Planning History

On Site:

Planning Authority reference number 03/544, in 2003 planning permission was refused by Galway County Council for the construction of a dwelling, septic tank and associated site services. This decision was upheld by An Bord Pleanála.

5.0 Policy Context

5.1. Galway City Development Plan 2017-2023

The site is located on lands zoned as Low Density Residential (LDR) where it is an objective “To provide for low-density residential development which will ensure the protection of existing residential amenity.”

- Residential is a permissible use.

Fig 11.32: A specific zoning objective for the site:

Development on each site outlined in red shall be restricted to two houses only, reserved for the use of immediate family members of the land owner.

Policy 2.9 Low Density Residential Areas (LDR)

Protect the character of these areas by ensuring new development has regard to the prevailing pattern, form and density of these areas.

Protect the characteristics of these areas through development standards and guidelines.

Protected Views

Section 4.5.3 Views of Special Amenity Value and Interest include the view below as a “panoramic protected view”

V 9- Views towards the sea at Roscarn.

Policy 4.5.3. Requires the protection of views and prospects of special amenity value and interest from inappropriate development and requires planting schemes to be limited so as they do not have a detrimental impact on any views.

Archaeology

The site lies in the proximity to recorded Monuments GA094-072002- Ecclesiastical enclosure, GA094-072004- Round Tower and GA094-072001- Church and GA094-072012/13, GA094-072013.

Policy 8.5- Archaeological Heritage requires the protection of archaeological sites/ remains, requires surveying, recording or excavation during development and where

a proposal has the potential to impact on an archaeological heritage shall include an archaeological assessment.

5.2. **Draft Galway City Development Plan 2023-29**

The site is located on lands zoned as Low Density Residential (LDR) where it is an objective “To provide for low-density residential development which will ensure the protection of existing residential amenity.”

- Residential is a permissible use.

Fig 11.30: A specific zoning objective for the site:

Development on each site outlined in red shall be restricted to two houses only, reserved for the use of immediate family members of the land owner.

Section 5.2 Green Spaces-Roscarn is specifically mentioned in terms of being part of an enclosed Marine/ Wetland and Coastal Area where there are “naturally occurring environments used for passive and active recreation, bathing and shore fishing wildlife conservation and education”.

Table 5.6 sets out a network of local biodiversity areas and includes Roscarn where the following is set out “Relatively undisturbed examples of salt marsh, shingle banks, brackish lagoon, sandy shore and muddy sand shore, with calcareous grassland and scrub”

5.3. **Natural Heritage Designations**

- 5.3.1. The site is located approximately 198 metres from the edge of the Galway Bay Complex SAC (site code 00268) and approximately 183 metres from the Inner Galway SPA (site code 04031).
- 5.3.2. The site is located approximately 165 metres from the edge of the Galway Bay Complex pNHA (site code 00268)

5.4. EIA Screening

- 5.4.1. Under Items 10(b)(i), Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2018, where more than 500 dwelling units would be constructed, the need for a mandatory EIA arises. The proposal is for the development of a single dwelling house. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. 2 no. Third Party Appeals have been submitted from (1. Dr. Martin J. Fahy, Rosshill Road, Roscam, Galway and (2. Nancy Roe, Rosshill Road, Roscam, Galway

- 6.1.2. The Grounds of Appeal are as follows:

General

- Public notices were misleading as they did not include the townland name of Roscam, and the site is not located on the old Dublin Road.
- The site notice is not located along a public road, but on a section of private road.

Zoning & Development Plan

- Rezoning of the lands in 2017 was granted despite Chief Executive opposing rezoning due to proliferation of septic tanks in the proximity to protected ecological sites where water quality is a key factor.
- RPS Planning Consultants conducted the AA exercise as part of the Development Plan review and advised that development of the lands would significantly affect or perpetuate significant effects on European sites in view of their conservation objectives.
- RPS set out that these lands are located in close proximity to the Galway Bay Complex SAC and the Inner Galway Bay SPA and “may result in increased pressure on services and resources including surface water and groundwater.

Increased development of the area may lead to disturbance and displacement of birds and mammal species associated with the European sites”.

- The site is located within an area designated as part of a network of local Biodiversity area as per Table 4.3 of the City Development Plan 2017 where “a precautionary approach will be adopted ... where developments are proposed”.
- The appeal site is located within an area designated as “Green network”, Fig 4.1, Pg 60-62 of the City Development Plan 2017

Appropriate Assessment

- The appeal site is proximate to two European Protected Sites.
- The appeal site and the adjacent fields are used as feeding grounds for migratory birds including Curlew, Brent Geese, Duck and lapwings.
- The stone and hedgerow boundaries are used as habitat for small mammals and birds.
- Site is located inside the precautionary areas of 11 no. EU protected sites.
- GCC failed to interrogate the NIS and accepted its content at face value.
- The appeal site is in close proximity and within the zone of influence of The Galway Bay Complex SAC and the Inner Galway Bay SPA.
- Application must fully comply with the Habitats Directive and relevant CJEU case law.
- European Court of Justice (ECJ) in the Waddenzee case reference number C127/02 set out that a significant effect is likely unless it can be established, on the basis of objective information, that the proposed project will not have a significant effect on the SAC or SPA.
- Board must adopt the precautionary approach and the need to carry out an AA in the case where there is doubt.
- In line with the precautionary principle, an AA is required in this instance, given the appeal site is located within the zone of influence of two European sites, the conservation objectives pertaining to the two sites, the location within a highly sensitive ground water environment, proximity to Roscarn Karst spring which

flows into the Galway Bay Complex SAC and given that a Stage 2 NIS was submitted in relation to previous development proposals within the Roscarn area.

- The likely indirect effects in terms of impact upon the groundwater systems need to be carefully considered,
- The lands are also used for foraging by curlews, a qualifying interest of the Galway Bay SPA.
- No bird surveys have been carried out even though there is evidence of the Lesser Horseshow Bat in the area, as per the Galway Ring Road EIAR.
- The Board previously determined that it was precluded from granting planning permission for development in the Roscarn area due to the absence of a winter bird survey and the potential impact of excavation works on the groundwater under Board reference number 304592.
- Based on the information submitted within the AA screening report, one cannot be confident beyond all reasonable scientific doubt that the proposed development will not have a significant adverse impact on EU protected sites.
- The Board must adopt the precautionary principle
- Any assessment must consider data from the EPA National Inspection Plan 2017 which states that *inter alia* 50% of all septic tanks in Ireland are failing and that only 5% of tertiary systems are properly installed.
- The cumulative impact on groundwater from the existing houses/from approved development

Water Quality

- The appeal site overlies a Regionally Important Aquifer (RKc), with a groundwater vulnerability classified as Extreme and down gradient by approximately 280 metres from the Roscarn karst spring.
- The appeal site is also located down gradient of potential sources of contamination in the form of septic tanks.
- Significant excavation of approximately 500 cubic metres would take place within 120 metres of two protected European sites.

- Proposed wastewater treatment system over-relies on a technological solution that may prove to be unreliable in the long-term may fail.
- Cumulative assessment assumes that the hydrology of all neighbouring dwellings is the same – this is not the case.
- Failed to assess the performance of existing septic tanks/wastewater treatment plants – 3 no. septic tanks east of the site are known to have failed during the summer of 2018.
- Proposed development would result in excessive concentration of developments served by septic tanks/wastewater systems.
- Impact of established/permitted dwellings on aquifer has not been assessed.
- No groundwater analysis carried out.

Visual Impact/Landscape Impact/Impact on views

- Dwelling would be highly visible from the Inner Galway Bay SAC and inappropriate in an area designated as “An area of Visual importance”.
- The designated panoramic view towards the sea at Roscarn would be adversely impacted upon by the development.
- Strategic Goal 6 of the GDP seeks to protect the Green Network.

Conservation/Archaeology

- The site is approximately 330 metres removed from a Protected Structure and recorded monuments.
- Contrary to Policy 8.2 of the Galway City Development Plan 2017-2023, which relates to Built Heritage.

Transport

- The local roadway is used by pedestrians and cyclists and two vehicles cannot pass simultaneously due to its narrow width.
- Impact on road safety as a result of increased traffic.

6.2. Applicant Response

6.2.1. A response to the appeal from Nancy Roe has been submitted by Mark Fahy, Consultant Engineer on behalf of the applicant. This is summarised as follows:

Impact on Views/Landscape

- The dwelling is low lying and single storey and approximately 4.5 metres below the lowest road level of the Rosshill Road where the view is protected. The house will not interfere with the protected view.
- The house design is simple, close to, but removed from areas of special importance.
- A Landscape Plan prepared by Gum Dearg Teoranta will be implemented whereby existing trees, hedgerows and stone walls will be retained on site.

Environment and Ecology

- The dwelling would be located in excess of 200 metres from the protected European sites.
- The areas closest to the SAC will especially remain untouched.

Wastewater/Surface water Management

- A wastewater treatment plant (WWTP) and soil polishing filter is proposed and designed in accordance with EPA guidance for treatment systems serving single houses.
- The site, in fact meets the criteria for a conventional septic tank, however a precautionary approach was adopted and a WWTP is proposed.
- The installation of the WWTP has to be carried out by a competent contractor and the system has to be certified and maintained as per the conditions included by the Planning Authority.
- The system would properly treat the effluent and permit the safe discharging of effluent to ground.
- The type of ground, sandy/gravelly with some boulders is ideal for the treatment of effluent.

- Surface water will be managed on site through the use of soak pits.

Traffic and Access:

- The local access roads are typical of local Irish roads used mainly by locals, with no through traffic and low volumes of traffic.
- The development will not generate any substantial increase in traffic movement.

Other Issues:

- All precautions to protect the environment and public health have been employed in this instance.
- The development would be completed by a competent contractor, supervised by a chartered engineer and would be completed in accordance with good building practices

6.3. Planning Authority Response

6.3.1. None received.

6.4. Observation(s)

One observation was received in relation to this appeal from Dr. James McCarthy, 298 Vallee de Vautruchot, 37210 Noizay, France. He raised the following issues:

Development Plan designations:

- The V9 panoramic view pertains to the appeal site and lands towards the sea at Roscarn with the Round Tower and Abbey and Galway Bay in the background.
- The lands are located within an area of European, National and local ecological importance as per Policy 4.2 in the Development Plan where the objective is “To improve the ecological coherence of the Natura 2000 network in accordance with Article 10 of the Habitats Directive”.
- Section 4.2 of the Development Plan also seeks to “ensure that plans and projects with the potential to have a significant impact on European sites (SAC’s or SPA’s) whether directly, indirectly or in combination with other plans or

projects are subject to Appropriate Assessment under Article 6 of the Habitats Directive”.

- Area is designated network of local biodiversity (Table 4.3. Page 65 of City Development Plan).
- The lands are within an area designated Green Network as per Fig 1, page 60-62 of City Development Plan.

Appropriate Assessment

- The development directly impacts upon the Galway Bay Complex SAC which borders the appeal site.
- The decision makers need to satisfy themselves that the proposals are in compliance with the Habitats Directive.
- An important salt marsh associated with the Galway Bay Complex SAC is located within meters of the appeal site.
- A karstic rock lagoon exists less than 20 metres south of the appeals site and has the potential to be contaminated by run of from sewage treatment systems.
- The intertidal areas and shoreline are an important feeding and roosting habitat for wintering waterfowl, including Brent Geese. Four of the regular wintering species are listed within Annex 1 of the EU Birds Directive.

Wastewater

- The lands are located on a fractured, karst bedrock, which is characterised by its permeability and the new wastewater treatment system would result in leakage into the underground water system and result in contamination within Galway Bay.

Visual Impact/Landscape Impact/Impact on views

- The dwelling would have an adverse impact upon the local landscape and would be highly visible from all angles.
- The appeal site is located within the green coastal belt, an important urban wildlife corridor within the Galway Bay Complex SAC.

- Development would diminish the natural capital value of the protected coastal area.
- Any electricity wires required to serve the development should be undergrounded.
- No photographic or contextual details of the development have been submitted.
- The development would result in direct overlooking of neighbouring houses and their private amenity spaces.
- The existing hedgerows and stone walls within the boundaries of the appeal site must be retained.

Traffic and Access:

- The applicant does not have the necessary consent to access the appeal site from a private roadway.
- The development would result in an increase in traffic volumes on the local road network and result in increased danger for pedestrians and cyclists.

Other Issues:

- The site notice is not visible from a public road as required under the Planning Regulations.
- The correct townland in which the development is to be located has not been included within the public notices.
- The decision makers need to satisfy themselves that it is in compliance with the Environmental Impact Assessment (EIA) Directive given the location within the Roscarn peninsula in proximity to a designated European site
- The lands were rezoned in 2017 despite a negative AA and NIS prepared by RPS Consultants and contrary to the recommendation of the CEO of Galway City Council.

6.5. Further Responses

6.5.1. None.

7.0 **Assessment**

7.1. The main issues of the appeal can be dealt with under the following headings:

- Principle of development
- Wastewater/Surface Water/Water Supply
- Visual Impact/Landscape Impact
- Archaeology
- Residential Amenity
- Transport
- Appropriate Assessment

7.2. **Principle of Development**

7.2.1. The site is zoned as Low Density Residential (LDR) where the objective is “To provide for low-density residential development which will ensure the protection of existing residential amenity”. A specific zoning objective of the Galway City Council Development Plan states that development shall be restricted to two houses only and reserved for the use of immediate family members of the land owner.

7.2.2. I note the appeal submissions on file state that the land is only relatively recently owned by the applicants’ family. The applicant’s father is stated as being ‘owner’ of the site and he has submitted land registry details to this effect.

7.2.3. Should the Board be minded to granting planning permission, I recommend the inclusion of a condition restricting occupancy to the applicant, which is necessary to ensure compliance with the site specific zoning and prevent speculative development.

7.3. **Wastewater/Surface Water/Water Supply**

Waste Water

7.3.1. The proposed development includes a connection to the public water mains system and the installation of a waste water treatment system with soil polishing filter to accommodate 8 persons.

- 7.3.2. GSI Groundwater maps show that the site lies over a groundwater Aquifer Category of 'Regional Importance' (Rk). The appeal site lies within an area with a groundwater vulnerability classification of 'High' representing a GWPR response of R2¹ as set out under the EPA Code of Practice. According to the response matrix, on-site treatment systems are acceptable in such areas subject to normal good practice.
- 7.3.3. The trial hole assessment submitted by the applicant as part of the Site Characterisation Report (SCR), submitted to the Planning Authority as part of her further information response to the Planning Authority on the 31st day of May 2021, indicates a trial hole depth of 2.1 metres, and it sets out that bedrock was not encountered within the trial holes. The soils are stated to consist of brown clay to a depth of 0.6 metres under which are sandy till/clay to a depth of at least 1.2 metres, and some sandy/silt with some boulders were encountered at a soil depth of 1.3 metres.
- 7.3.4. Section 3.4.2 of the EPA, Code of Practice (COP) for Domestic wastewater treatment systems sets out that in areas that overlie a regional aquifer or where the groundwater response is either R2 or R3, that a trial hole depth of three metres is recommended, if possible. This is reiterated within Appendix A of the COP, Section 3.2 of the Site Characterisation Form, where it is set out that a minimum trial hole depth of 3 metres is recommended in areas with underlying regionally important aquifers. These guidelines were published in March 2021, prior to the submission of the revised SCR by the applicant at the end of May 2021.
- 7.3.5. The site characterisation form records a T-test value of 16.14. A T value of greater than or equal to 3 and less than or equal to 50, means that the site is suitable for use of a septic tank system or secondary treatment system discharging to groundwater.
- 7.3.6. It is proposed to utilise a secondary treatment system in conjunction with a sand polishing filter loaded at 20 litres per sq. m. per day. This will provide tertiary treatment to the effluent prior to discharge. I note that the SCR sets out that the polishing filter is to have a surface area of 80 square metres, yet only 5 trenches of ten metre lengths are proposed.
- 7.3.7. No site specific details of the treatment system or cross-section drawings of the proposed treatment system or polishing filter have been submitted by the applicant.

A generic brochure of the Euro tank wastewater treatment system was submitted. The location of the treatment system and polishing filter are included within the site layout plan indicating setbacks from the proposed dwelling house and site boundaries. I note the minimum separation distances in Table 6.1 of the COP. The percolation area should be located at least 10m from the dwelling and 4m from the road. These separation distances are achieved in this instance.

- 7.3.8. I note that the applicant has not submitted details of a Groundwater Protection Analysis Report, which would consider the cumulative impact of surrounding domestic dwellings on Nitrate and phosphate levels within the local groundwater. I consider that the applicant has not demonstrated that the proposed wastewater treatment system would not adversely impact upon the local groundwater system which is a pathway to the two adjoining designated European sites. There is an onus on the applicant to demonstrate, beyond reasonable scientific doubt, that no significant adverse impact would arise as a result of the proposed development on the local groundwater system.
- 7.3.9. There have been a number of previous the previous proposals relating to the development of one off dwellings in the Roscarn area under An Bord Pleanála reference numbers (ABP Refs 301019-18, 301417-18 and 304592-19), which identified the area as overlying a Regionally Important Aquifer-Karstified, this specific appeal site being approximately 280 metres down gradient of a Karst Spring and within 150 metres from the edge of the Galway Bay Complex Special Area of Conservation (site code 00268) and the Inner Galway Bay Special Protection Area (site code 04031). In those instances, the Board was not satisfied that, the effluent from the development could be satisfactorily treated or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system.
- 7.3.10. However, while I note the reasons for refusal used by the Board in the Roscarn area, it is my view, the key issue to overcome is to demonstrate that the site could satisfactorily accommodate the wastewater treatment proposed, having regard to the provisions of the EPA Code of Practice (COP), and to demonstrate the impact of the cumulative concentration of wastewater treatment systems in the area.
- 7.3.11. In conclusion, I consider that the applicant has not submitted sufficient technical and environmental analysis and accompanying drawings demonstrating that the

proposed tertiary wastewater treatment system and polishing filter would not adversely impact upon the local groundwater system, given the location within a karstified area where the groundwater vulnerability is classified as being high.

- 7.3.12. Surface Water: Four soak pits are located along the northern boundary of the dwelling, adjacent to the proposed driveway beside the appellants dwelling and two within the site. This was proposed under previous applications and was considered acceptable.
- 7.3.13. Water: Access to the public water supply would be via an existing 50mm water main along the front of the site. which I consider to be acceptable.

7.4. **Visual Impact/Landscape Impact**

- 7.4.1. The site is located along the coastline to the east of Galway City. There are no specific views protected on the site although, although a panoramic view (V9) exists along the Rosshill Road (west) of the appeal site V9: Views towards the sea at Roscam and over the appeal site. The proposed dwelling would be located on an elevated part of the site overlooking Galway Bay. The design of the dwelling (as revised within the further information response) is of a contemporary single storey dwelling. Given the location of the dwelling, approximately 4.5 metres beneath the road levels of the Rosshill Road, I am satisfied that the revised dwelling design would not significantly adversely impact upon the protected panoramic viewpoint, as set out within the Development Plan.
- 7.4.2. However, the development when viewed from the private roadway to the south and from Galway Bay, by virtue of its location on an elevated part of the appeal site would result in a dominant and overbearing built form that would not integrate appropriately or effectively into the local landscape overlooking Galway Bay.
- 7.4.3. The applicants have submitted details of a single storey dwelling and an attached two storey gable fronted wing attached to the north-west side and another single storey rear projection. The dwelling would have an overall length of approximately 24 metres. The front elevation comprises a variety of window shapes and proportions including large picture type window features, triangular window features and other fenestration detailing providing a traditional vertical emphasis. External finishes are not specified but would appear to comprise a mix of rubble stone cladding and brick work on the external wall finishes and a natural slate is proposed for the roof areas,

although not clearly specified. The chimney breast on the side elevation is externalised and represents a dominant feature in its present form.

- 7.4.4. In terms of the building line, I note that the applicant is not proposing to respect the established building line created by the established dwellings to the south west of the proposed dwellings. These dwellings are parallel with the public road and are not located on elevated lands, unlike the current proposal. Therefore, I consider that the applicant is failing to have regard to the building line and the established pattern of development in the Roscarn area and is instead attempting to respect the established building line of dwellings facing in an easterly direction that front onto the Rosshill Road east of the appeal site.
- 7.4.5. Neither a Visual Impact Assessment (VIA) nor contextual elevations have not been submitted with the application. Having regard to the topography of the site, the elevated positioning of the proposed development, together with its significant footprint, proportions and scale and the extensive driveway, 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.

7.5. Residential Amenity

- 7.5.1. Having regard to the location and design of the proposed dwelling and distance from the closest dwellings to the south and west, I do not consider the proposed dwelling would have a significant adverse impact on the residential amenity of the dwellings in the vicinity.

7.6. Access

- 7.6.1. The applicant is proposing to access the site at the end of a cul-de-sac which is a local county road used to access the neighbouring dwellings and the lands associated with the applicants' family holding. It is apparent that the last section of roadway, that nearest the appeal site is in private ownership. The applicant has submitted legal documentation and folios in relation to this particular matter. In terms of the legal interest, I am satisfied that the applicant has provided sufficient evidence of their legal interest for the purposes of the planning application and decision. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

7.6.2. I do not consider that the proposal would give rise to a material increase in the level of traffic utilising this local road and would not give rise to a traffic hazard. I am satisfied that adequate sightlines are available at the proposed entrance point

7.6.3. However, I note the extent of driveway (approximately 115 metres) that would be required to be developed to access the development. I consider this to be excessive and I note that the dwellings which are located on the same stretch of cul-de-sac to the south-west of the appeal site are located in greater proximity to the cul-de-sac with much shorter driveways. I consider this extent of driveway to be excessive and would be out of character with other dwellings in the Roscarn area and would result in an unnecessary waste of zoned land, would establish an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.

7.7. Archaeology

7.7.1. There is no record of archaeological remains within the appeal site boundaries. There is an ecclesiastical enclosure associated with a round tower, church and graveyard (monuments GA094-072001, GA094-072002, GA094-072003 and GAO09-72004) located approximately 330 meters south-east of the appeal site

7.7.2. 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 protected structure or recorded national monuments by virtue of a significant adverse visual/archaeological impact.

7.8. Appropriate Assessment (AA)

7.8.1. 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 revised Appropriate Assessment Screening Report, prepared by Corrib Agri Environmental Services, submitted to the Planning Authority on the 16th day of August 2021 and refer to same below.

7.8.2. Sections 3.2 and 3.3 of the screening report set out characteristics of the local and surrounding environment and describes the habitats and fauna on the site. In relation

to habitats, it is stated that the site of the proposed works 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) and hedgerow (WL1). Buildings and artificial surfaces (BL3) would cover the agricultural storage structure which is located further west within the overall family holding. Upper salt marsh (CM2), muddy sand shores (LS3) were also noted west of the appeal site within the adjacent European sites. The screening report notes that there are no watercourses within or adjacent to the appeal site and no direct hydrological pathways linking the appeal site to the Natura 2000 sites. The AA screening states that none of the habitats within or adjacent to the works area correspond to those listed in Annex 1 of the EU Habitats Directive.

- 7.8.3. In relation to fauna, it is not clearly stated within the screening report that there was no evidence of Annex II protected species associated with Galway Bay Complex SAC recorded within or adjacent to the site boundary. No dedicated bird survey was undertaken. Neither does the screening report clearly set out if species listed as a Special Conservation Interest were recorded during the site visit, or if breeding or significant foraging habitat for these species were recorded on site. The screening report does state that the ecological evaluation of the site area would be of “low value and locally important”.

The Project and Its Characteristics

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

Submissions and Observations

- 7.8.5. The Development Applications Unit (DAU) made a response to the Board and outlined the following in relation to the development:
- The Galway Bay Complex SAC 15 qualifying interest habitats, 5 of which are priority habitats along with qualifying interest species including the Eurasian Otter and harbour Seal.
 - The Inner Galway Bay SPA has been designated for its wetland habitats and water birds with 20 bird species qualifying interests.
 - Murrough Bay (part of Galway Bay) lies north of the appeal site.

- The qualifying interest birds for the Inner Galway Bay SPA are not confined to the designated areas of the SAC and SPA and some are known to rest and browse on adjacent lands in the Roscarn peninsula.
- Prior to granting planning permission An Bord Pleanála must be satisfied from their own determination that: The proposed development will not have a significant impact on the nearby European sites qualifying interest's habitat species and on water quality and that wastewater can be adequately treated on site.

7.8.6. The appellants and observers reference the AA screening conducted as part of the preparation of the Galway City Development Plan 2017-2023, where the environmental consultants set out the following “Zoning of the lands for residential purposes may result in increased pressure on services and resources including surface water and groundwater. Increased development of the area may lead to disturbance and displacement of birds and mammal species associated with the European sites”. The Consultants recommended that the appeal site and adjoining lands not be rezoned for residential purposes given their proximity to European sites and the potential for significant adverse impacts to arise. The Chief Executive subsequently recommended that the lands not be rezoned for residential purposes, however the elected members decided not to accept the recommendation and zoned the lands for low density residential purposes.

The European Sites Likely to be Affected Stage I Screening

7.8.7. Table 2 of the screening report includes a screening matrix summarising the outcome of the screening exercise in relation to two European sites which may be adversely impacted upon. However, all other European sites have been disregarded, however the basis on which they are disregarded, in terms of separation distance or absence of a pathway linking the appeal site to European sites is not clearly set out within the AA screening. The AA screening focuses on the two nearest European sites, namely the Inner Galway Bay SPA and the Galway Bay Complex SAC as being the only two European Sites within the ‘Likely Zone of Impact’. Best practice guidance advises that all European sites being within 15km of the appeal site should be considered as part of the screening process, and then discounted or considered

further depending on the potential for direct or indirect adverse impacts upon the conservation objectives and /or qualifying interests of the various European sites.

- 7.8.8. In determining a zone of influence, I had regard to the scale and nature of the project, and to the EPA Appropriate Assessment Mapping Tool¹. I consider that the only SAC that would be within the zone of influence would be the Galway Bay Complex SAC, which is located approximately 198 metres to the south-west of the site. The next nearest SAC is the Lough Corrib SAC, a distance of approximately 7.4km from the site. The only SPA within the zone of influence is the Inner Galway Bay SPA (004031) which is a distance of approximately 183 metres south of the appeal site. The next nearest SPA is Lough Corrib SPA, a distance of approximately 7.1km from the site.
- 7.8.9. I consider that the zone of influence of the project comprises the two nearest Natura 2000 sites set out within the paragraph above. Other sites were ruled out given they are not hydrologically connected to the appeal site or are located 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 or emissions to water.
- 7.8.10. The two European sites and their Qualifying Interests/Species of Conservation Interest are listed below:

Table 1:

European Site	Qualifying Interests	Distance from Appeal Site	Potential Connections (source-pathway-receptor)	Further Consideration in Screening
Galway Bay Complex SAC 000268	Qualifying Interests: Mudflats and sandflats not covered by seawater at low tide.	Approximately 198 metres 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. Potential for foul effluent discharges	Yes.

¹ www.epa.ie accessed 15/01/2019

	<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> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates.</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the</p>		<p>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.</p>	
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	<p>Caricion davalliana.</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>Golden Plover.</p> <p>Lapwing.</p> <p>Dunlin.</p> <p>Bar-tailed Godwit.</p> <p>Curlew.</p> <p>Redshank.</p> <p>Turnstone.</p>	<p>Approximately 183 metres south of the appeal site.</p>	<p>Yes. Requires further assessment due to there being potential hydrological connectivity between the appeal site and the SPA via groundwater. 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 and bird species, either alone or in combination, due to pollution or sedimentation arising from the construction/operational phases of the development. Potential to impact upon resting or browsing areas for protected bird species.</p>	<p>Yes.</p>

	Black-headed Gull.			
	Common Gull.			
	Sandwich Tern.			
	Common Tern.			
	Wetland and Waterbirds.			

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

7.8.11. 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:

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

7.8.12. In relation to Galway Bay Complex SAC (000268), I note that this site is approximately 198 metres from the appeal 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. Given the location of the site in a limestone karst area, there is increased potential for a pathway by way of groundwater which could have a significant adverse effect on the 'Calcareous fens with *Cladium mariscus* and species of the *Caricion davalliana*' 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. While surface water provides another potential pathway to the site, given lack of a

hydrological surface water pathway between the two, 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.

7.8.13. In relation to Inner Galway Bay SPA (004031), I note that this site is approximately 183 metres south of the appeal 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. Given the proximity of the appeal site to the SPA and the location of the site in a limestone karst area, there is a potential pathway by way of groundwater which could have a significant adverse effect on the SPA, in view of the site's conservation objectives as they relate to bird species, having regard to potential habitat loss and/or fragmentation, impacts to habitat structure, disturbance to species of conservation concern, mortality to species and noise pollution. Given the proximity of the appeal site to the SPA, there is potential that the development would result in ground disturbance of an area where protected birds rest and browse. While surface water provides another potential pathway to the site, given the lack of a hydrological surface water pathway between the two, 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.

7.8.14. 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) cannot be ruled out, having regard to the sites' conservation objectives, and a Stage 2 Appropriate Assessment is required.

AA Screening Determination

7.8.15. On the basis of the information provided with the application and appeal and having regard to the deficiencies in the submitted AA screening as described above, and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant adverse effect on the Galway Bay Complex SAC (000268) and Inner Galway Bay SPA (004031), or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

8.0 Recommendation

8.1. Refuse permission.

9.0 Reasons and Considerations

1-On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the Galway Bay Complex SAC (000268) and Inner Galway Bay SPA (000431), in view of the sites' conservation objectives. In such circumstances the Board is precluded from granting approval/permission.

2- Having regard to the topography of the site, the elevated positioning of the proposed development, together with its design and scale, the extensive driveway, 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 local environment and would establish 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 location of the site that overlies a regionally important aquifer where the groundwater vulnerability is classified as being high. 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 tertiary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

Fergal Ó Bric
Planning Inspectorate

22nd August 2022