



An
Bord
Pleanála

Inspector's Report

ABP-312306-21

Development	House, wastewater treatment system, percolation area and site ancillary works. A Natura Impact Assessment (NIS) has been provided with the application.
Location	Glenbrack, Gort, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	211817
Applicant(s)	John Gillane & Michelle Lally
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	John Gillane & Michelle Lally
Observer(s)	None
Date of Site Inspection	22 nd June 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is situated on the western side of a private road, c. 1.5 km north-west of the centre of Gort. The appeal site has a stated area of 0.3211 ha, is rectangular in shape, appears to be used for agriculture and is under grass. The roadside boundary of the appeal site comprises a timber fence. Access to the appeal site is from a gated entrance along the eastern boundary. The appeal site falls from east to west. Topographical levels are indicated as c. 17 metres (OD Malin) along the eastern boundary of the appeal site and c. 14.5 metres (OD Malin) along the western boundary of the appeal site. Beyond the appeal site the lands continue to fall from east to west.
- 1.2. The adjoining area is rural in character. Coole – Garryland Nature Reserve is located to the west of the appeal site. There is a two storey detached dwelling, indicated as the first party's family home, located to the south of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - Construction of a two storey, four-bedroom, detached dwelling:
 - stated floor area c. 250 sqm.
 - ridge height c. 8.4 metres.
 - material finishes to the proposed house comprise nap plaster for the external walls. Timber cladding is indicated on the front elevation. The roof covering comprises natural slate (blue/black colour).
 - set back c. 10 metres from the road.
 - a stone boundary wall, 1.2 metres in height is proposed to the front/east of the appeal site (no elevational drawings submitted).
 - The installation of a packaged waste water treatment unit and a soil polishing filter.

Whilst not referred to in the development description contained in the public notices, the proposed development also entails;

- A new vehicular access, utilising an existing agricultural entrance.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 24th November 2021 for 4 no. reasons which can be summarised as follows;

1. The subject site is located in within the Galway Transportation Planning Study Area of County Galway and subject to strong urban influence. The applicant has not satisfactorily demonstrated that they comply with the requirements of Objective RHO1. The proposed development would contravene materially Objective RHO1 and DM Standard 5 of the Galway County Development Plan 2015-2021 and would be contrary to Ministerial Guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended).
2. Having regard to the identification of flood risk within the site and identified historical flood risk associated with the site, the planning authority is not satisfied that the site and development is not at risk of flooding in the future. The proposed development would materially contravene Objectives FL 1 and FL 4 of the Galway County Development Plan 2015-2021, in relation to flood risk, and would be contrary to Ministerial Guidelines issued under Section 28 of the Planning & Development Act, 2000 (as amended).
3. The site of the proposed development is located wholly within the Coole-Garryland Complex SAC and in proximity to the Coole-Garryland Complex SPA and Kiltartan Cave SAC. Based on the information included with the application and the submissions received, the planning authority cannot be certain that the project will not adversely affect the integrity of Coole Garryland Complex SAC and Coole Garryland Complex SPA and Kiltartan Cave, in light of their conservation objectives.
4. The proposed development would result in the direct loss of the Coole Garryland Complex pNHA. The development would materially contravene Objective NHB1 NHB2 and Policy NHB1 of the Galway County Development Plan 2015-2021.

I note that Reason No.'s 1, 2 and 4 included in the Notification of Decision to Refuse Permission issued by the Planning Authority make reference to material contravention of the Galway County Development Plan 2015-2021. The Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan. As such, I do not therefore consider that the Board is bound by the provision of Section 37 (2) (b) of the Planning and Development Act 2000 (as amended).

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (dated 23rd November 2021) includes the following comments;

- The NIS submitted does not consider Kiltartan Cave SAC; the loss of area of the Coole Garyland Complex SAC; flood risk; or the 'at risk' status of Caherglassaun Turlough Groundwater Body.
- The site is located within a flood risk area and was subject to Fort Ardrahan 1994-1995 flood events.
- The site is located within the Galway Transportation Planning Study Area and is subject to strong urban influence. The site is also within the 'Urban Fringe' of Gort. The applicant has not demonstrated their housing need in accordance with Objective RH01 of the Galway County Development Plan.
- Public water supply finishes at the end of the L-85311. A letter of feasibility from Irish Water has not been submitted.
- Subject to a reduction in height and a landscape plan, the proposed dwelling is acceptable.

The report of the Planning Officer recommends a refusal of permission consistent with the Notification of Decision which issued.

3.2.2. Other Technical Reports

None received.

3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage (Development Applications Unit) – The proposed development is located within Coole-Garryland Complex SAC and approximately 360 metres from Coole-Garryland SPA. Prior to granting consent, Galway County Council should be satisfied that any risk arising from this development, either on its own or in-combination with other developments, to species and habitats and downstream designated sites, does not arise. In particular, Galway County Council is advised to assess the vulnerability of the groundwater and the potential risk of eutrophication arising from the construction phase and future operation of the development. In the event that development proceeds, Galway County Council must ensure that appropriate measures are taken to protect water quality. All mitigation measures outlined in the Natura Impact Statement must be strictly adhered to in order to ensure protection of water quality during construction and subsequent operation. Exterior lighting should be designed to prevent light spill and hedgerows planted should include only native species.

3.4. Third Party Observations

None received.

4.0 Planning History

Subject Site

None.

5.0 Policy Context

5.1. National Policy

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

National Policy Objective 15 states -

‘Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or

decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.'

National Policy Objective 19 states -

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

In rural areas 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. Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10) 2009

The EPA CoP 2009 was revised in March 2021. The 2009 CoP may continue to be used for site assessments and subsequent installations commenced before 7th June 2021 or where planning permission has been applied for before that date'. I note that the planning application was lodged with Galway County Council on the 1st October 2021 and the site assessment was carried out in April/May 2021. Based on the forgoing, the EPA CoP 2009 is considered to be the relevant CoP for the purpose of this appeal.

5.1.3. Ministerial Guidance

Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

The appeal site is located within an area identified as a 'Rural Area Under Strong Urban Influence (Rural Housing Zone 2 GCTPS) (see Map 4.1, Galway County Development Plan 2022 - 2028). The Guidelines state that these areas exhibit

characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

5.2. Development Plan

5.2.1. The proposed development was considered by the Planning Authority under the Galway County Development Plan 2015-2021 however the Galway County Development Plan 2022-2028 came into effect on the 20th June 2022 and is now the relevant development plan.

5.2.2. The appeal site is not subject to any specific land-use zoning under the Galway County Development Plan 2022-2028. The appeal site is located within the 'Urban Fringe' of Gort and is within the Galway County Transportation and Planning Study Area (GCTPS).

5.2.3. In terms of Landscape Character Type, the appeal site is located within the 'Central Galway Complex Landscape' (see Appendix 4 of CDP). Regarding landscape sensitivity, the appeal site is located within a Class 1 'Low Sensitivity Landscape'. The appeal site is not affected by any protected views (see Map 08, Appendix 4) or scenic routes (see Map 09, Appendix 4).

5.2.4. The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

- Policy Objective RH2: Rural Housing Zone 2 (Rural Area Under Strong Urban Pressure-GCTPS-Outside Rural Metropolitan Area Zone 1)
- DM Standard 28: Sight Distances Required for Access onto National, Regional, Local and Private Roads

5.3. Natural Heritage Designations

- Coole – Garryland Complex SAC (Site Code 000252) – within site.
- Coole – Garryland SPA (Site Code 004107) - c. 360 metres west.
- Coole – Garryland pNHA (Site Code 000252) – within site.

- East Burren Complex SAC (Site Code 001926) – c. 3 km south-west.
- East Burren Complex pNHA (Site Code 001926) – c. 3 km south-west.
- Lough Cutra SAC (Site Code 000299) – c. 5 km south-east.
- Lough Cutra SPA (Site Code 004056) – c. 5 km south-east.
- Lough Cutra pNHA (Site Code 000299) – c. 5 km south-east.
- Kiltartan Cave (Coole) SAC (Site Code 000286) – c. 2.3 km north.
- Kiltartan Cave (Coole) pNHA (Site Code 000286) - c. 2.3 km north.

5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. I consider that any issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

- The first party contend that they comply with Objective RHO 1 of the Galway County Development Plan 2015-2021. Proof of the first party's rural link to the area was submitted and the lands have been within family ownership for over 20 years.
- The appeal site is elevated and has never flooded. Attached documentation to this effect includes OPW flood maps and a topographical survey indicating the profile of the landscape, with the appeal site situated 7 metres higher than the lands to the rear/west of the appeal site. A letter from an insurance company stating that the appeal site is not within a flood zone.

- The NIS submitted with the planning application concluded that the proposed development would not adversely affect the integrity of Coole Garryland Complex SAC or Coole Garryland Complex SPA. Kiltartan Cave SAC was not included in the NIS but was for a similar NIS (see PA. Ref. 19/1146 – permission for a house and waste water treatment system). The NIS for this development, which was situated closer to Kiltartan Cave SAC, concluded that the development did not pose a risk to the Lesser Horseshoe Bat.
- The proposed development will not impact any qualifying avian species. The appeal site is not used by any mammalian species. Subject to the implementation of the proposed mitigation measures, there will be no permanent direct or indirect impacts on Natura sites, habitats or species.
- The on-site waste water treatment system proposed will address any potential for impacts on ground water.
- The Planning Authority granted permission for a development (see PA. Ref. 19/1146) which was closer to Coole Garryland Complex SAC.
- The Planning Authority did not taken into consideration the NIS submitted with the planning application.
- The appeal site is predominantly comprised of 'Improved Agricultural Grassland', and is not a habitat type for which the SAC was designated. The appeal site is located just inside the SAC, with a private road forming the border line for the SAC. The family home was left out of the SAC, although the family home is at the same level as the appeal site. The first party propose to mitigate the loss of the SAC (i.e. 0.2867%) through the creation and management of woodland.
- The first party propose to use an existing water supply on the appeal site.
- Documentation submitted from - (i) solicitor of the first party's family stating that the lands have been in the ownership of the family for generations; (ii) the father of John Gillane (the first party) outlining the overcrowded situation in the existing family home and the need for the proposed dwelling; (iii) a letter from John Gillane outlining the requirement for the proposed dwelling and (iv)

correspondence from insurance company stating that the appeal site is not within a flood area.

6.2. **Planning Authority Response**

None received.

6.3. **Observations**

None received.

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Rural Housing Policy
- Design/Siting & Impact on Visual Amenity
- Waste Water
- Access
- Flooding
- Appropriate Assessment

7.2. **Rural Housing Policy**

7.2.1. The appeal site is identified in the Galway County Development Plan 2022 – 2028 (see Map 4.2) as being within Zone 2 - Galway County Transport & Planning Study (GCTPS), which corresponds an 'Area Under Strong Urban Influence'. In accordance with National Policy Objective 19 of the National Planning Framework (NPF) the provision of single housing in such cases is based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria.

- 7.2.2. Policy Objective RH2 of the Galway County Development Plan 2012-2028 (which applies to rural areas under strong urban pressure – GCTPS – outside rural metropolitan area zone 1) sets out specific circumstances where applicants may be considered eligible for a dwelling in a rural area. Depending upon which criteria of Objective RH2 an application for a dwelling is being made, applicants are required to demonstrate their ‘Rural Links’ and/or ‘Substantiated Rural Housing Need’ to the area.
- 7.2.3. The primary justification made by the first party (John Gillane) for the dwelling at this location is on the basis of his long standing family connection to the area and his requirement for a dwelling, having regard to the unsuitability of his current living arrangements. It is stated in the documentation submitted that the first party also supports his bachelor uncle in Glenbrack. The Rural Housing Needs Form submitted with the planning application also refers to the first party being a member of a farm family. With the exception of a farm insurance policy in the name of the first party’s father no details have been furnished in relation to an involvement in agriculture. I note that the first party is employed in Galway, c. 40 km from the appeal site and is not seeking permission for a rural dwelling on the basis of engagement in agriculture.
- 7.2.4. I accept that the first party has intrinsic links with this area, however compliance with the rural settlement strategy requires consideration of not just local but also national policy provisions that deal specifically with this matter. Whilst provision is made under Policy Objective RH2 of the Galway County Development Plan 2012-2028 for applicants to be considered for a dwelling where they have spent a substantial, continuous part of their lives and have immediate family connections in the area, or where applicants can demonstrate that the lands on which they are seeking to build their first home has been in family ownership for a period of 20 years or more, I am not satisfied based on the information submitted that a rural-based generated housing need has been demonstrated in a manner that is consistent with higher level provisions. As stated above, the appeal site is located within an area under strong urban influence, within easy reach of urban settlements, in particular Galway City, with the M18 adjacent to the appeal site. I also note the proliferation of single dwellings in this rural locality, which is reflective of the significant pressure this rural area is under. The National Planning Framework provides that careful planning is required to manage the demand for rural housing in accessible countryside around cities and

towns. The assessment of rural links and the facilitation of rural housing is addressed in the context of a case by case analysis of each individual site and the carrying capacity of the area. In this regard, I note the location of the appeal site within the urban fringe of Gort, where the erosion of the urban fringe is discouraged (see paragraph 4.6.1. GCDP), and the ecological sensitivities of the appeal site and wider area. While I accept that the applicant has intrinsic links with this area, I am not satisfied based on the documentation submitted with the application and the appeal, that that the first party has robustly demonstrated a genuine socio and/or economic housing need that would necessitate a dwelling at this rural location. Having regard to the forgoing, I consider that the first party has not demonstrated that he meets the criteria of 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 set by the Sustainable Rural Housing Guidelines.

7.3 Design/Siting & Impact on Visual Amenity

7.3.1. The proposed dwelling comprises a two storey dwelling. I consider the design of the proposed dwelling to be sympathetic to the character of the area. I do not consider that the proposed dwelling would result in any significant negative impacts on the visual amenity or character of the area.

7.4 Waste Water

7.4.1. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a Regionally Important Aquifer where the bedrock vulnerability is high.

7.4.2. The report of the Planning Officer states that the appeal site overlies a regionally important conduit karst aquifer with vulnerability classed as 'extreme' and that accordingly the groundwater protection response for the site would appear to be R(2)2, noting that that the trail hole was excavated to a depth of 2.9 metres, and not 3 metres. The Planning Authority note that the requirements of R(2)2 appear to have been met, as the details provided indicate c. 2.4 metres of unsaturated subsoil beneath the invert of the polishing filter.

7.4.3. I have consulted the GSI Ireland website and I note that the appeal site is located in an area with a Regionally Important Aquifer where the bedrock vulnerability is extreme, as stated in the report of the Planning Officer. I note that the Site Characterisation Report submitted with the application upgraded the ground protection response to R2(2) in light of the sensitivities of the site and its proximity to turloughs. Accordingly, I note the suitability of the site for a treatment system (subject to normal good practice and the following condition, that there is a minimum thickness of 2 metres unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system, or a secondary treatment system as described in Sections and 9 is installed, with a minimum thickness of 0.3 metres unsaturated soil/subsoil with P/T- values from 3 to 75 (in addition to the polishing filter which should be a minimum depth of 0.9 m), beneath the invert of the polishing filter (i.e. 1.2 m in total for a soil polishing filter). The applicants' Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

7.4.4. The trail hole depth referenced in the Site Characterisation Report was 2.9 metres. No bedrock was encountered in the trail hole. Section 3.2 of the Site Characterisation Report states that the water table was encountered at a depth of 2.9 metres. The soil conditions found in the trail hole are described as comprising clay, top soil and sand gravel. Percolation test holes were dug and pre-soaked. A T value of 9.19 and P value of 8.97 were recorded. Based on the EPA CoP 2009 (Table 6.3) the site is suitable for a secondary treatment system with a polishing filter at ground surface or overground. At the time of my site inspection the trail hole had been filled. The percolation test holes were not visible.

7.4.5. The Site Characterisation Report submitted with the application concludes that the site is suitable for treatment of waste water. I am satisfied that the proposal complies with the required separation distances set out in Table 6.1 of the CoP 2009. It is proposed to install a packaged waste water treatment system and a raised soil based polishing filter (pumped). The Site Characterisation Report notes that the invert level off the polishing filter will be 500 mm below the ground which will provide 2.4 metres of vertical separation, exceeding the R2(2) and R2(3) ground protection responses. Based on the information submitted, I consider that the site is suitable for the treatment system proposed.

7.5 Access

7.5.1. Access is proposed onto a private road and as such the road is not subject to a posted speed limit. Sightlines of 70 metres to the north and 60 metres to the south are indicated on the site layout plan. The achievable sightlines generally equate with those required under the Galway County Development Plan 2022 – 2028 (DM Standard 28) for roads with a posted speed limit of 50 kmph. Given the characteristics of the road at this location I consider sightlines at the proposed vehicular entrance to be acceptable.

7.6 Flooding

7.6.1. The second reason for refusal concerns flood risk. The report of the Planning Officer refers to the site being located within an area at risk of flooding, and subject to Fort Ardahan 1994-1995 flood events.

7.6.2. The first party contend that the appeal site is not located within a flood risk area and have submitted maps from Floodmaps.ie to support this. Correspondence from an insurance company stating that the appeal site is not within a flood area has also been submitted. In addition, the first party refer to the elevated nature of the appeal site, with topographical levels on the appeal site being c. 7 metres above the level of the lands to the west.

7.6.3 I have reviewed Floodmaps.ie and note the recorded historic flood event referred to (i.e. Fort Ardahan which occurred in 1994-1995) which was in the vicinity of the appeal site. The source of this flooding was groundwater, from a turlough. I also note from reviewing Floodmaps.ie that the extent of past flood events includes part of the appeal site, including where the proposed waste water treatment system is to be located, and most of the surrounding area, including the local access road (relevant flood map attached to this report). I also note that a vast area around the appeal site is indicated on Floodmaps.ie as having a 'High Probability' of groundwater flooding, including the access road to the south-east (relevant flood map attached to this report). Aside from the prevalence of groundwater flooding in the vicinity, noting the elevated nature of the appeal site, and the sensitivities of the appeal site and the lands to the west, which are situated at a lower level, I consider that an assessment of pluvial would be required. Having regard to the history of flooding in the vicinity of the appeal site, I consider that a site specific flood risk assessment would be required in order to

address the potential for a recurrence of ground water flooding and to examine the appeal site in the context of pluvial flood risk.

7.7 **Appropriate Assessment**

7.7.1 Stage 1 Screening

7.7.2 Compliance. The requirements of Article 6(3) of the Habitats Directive 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.

7.7.3 Background. The applicant submitted an Appropriate Assessment Screening report (prepared by Paul Neary, Environmental Consultant) for the proposed development. 14 no. European sites within a 15km zone of influence of the appeal site were examined in the Stage 1 Appropriate Assessment Screening report. Following this screening exercise, 2 no. European sites where potential direct and indirect effects could not be discounted were identified. The applicant's Stage 1 Appropriate Assessment Screening report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. Having reviewed the document, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

An Ecological Survey of the appeal site was undertaken as part of the NIS. Details of when this survey was undertaken have not been specified. The ecological survey states that the appeal site is currently used for stock grazing and fodder production, with the associated movement of agricultural machinery and application of chemical and organic fertiliser resulting in a short sward.

7.7.4 Likely Significant Effects. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European Site.

7.7.5 The Proposed Development. The development is described on page 11 of the Stage 1 Appropriate Assessment Screening report. It comprises;

- The construction of a house.
- Waste water treatment system and polishing filter.

7.7.6 Potential Effects of the Proposed Development. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European Sites:

- Loss of habitat of Coole- Garryland Complex SAC (Site Code 000252).
- The uncontrolled release of pollutants to ground or surface water (e.g. run-off, silt, fuel, oils, wastewater effluent) at construction and operational phases of the proposed development.
- Should Whooper Swan, the single qualifying Interest of Coole Garryland SPA (Site Code 004107) use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat loss, habitat fragmentation and disturbance to this bird species.
- Should any bird species which are Qualifying Interests from another European site use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).
- Should bat species connected with Lough Cutra SAC, Kiltartan Cave SAC or East Burren Complex SAC (i.e. Lesser Horseshoe Bat), or any other European site use the site for resting, foraging, breeding etc. then the proposed development would have the potential to result in habitat fragmentation and disturbance to this species (i.e. ex-situ impacts).

7.7.7 Submissions and Observations. An observation has been received from the Department of Housing, Local Government and Heritage (see paragraph 3.3 for a full summary of the issues raised). The submission notes the vulnerability of groundwater and the potential risk of eutrophication arising from the construction phase and future operation of the development.

7.7.8 European Sites and Connectivity. The appeal site is located within Coole - Garryland Complex SAC (Site Code 000252) and is located c. 360 metres from Coole - Garryland SPA (Site Code 004107). A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Coole – Garryland Complex SAC (Site Code 000252)	<ul style="list-style-type: none"> • Natural eutrophic lakes with Magnopotamion or Hydrocharition - type vegetation [3150] • Turloughs [3180] • Rivers with muddy banks with Chenopodion rubri p.p. and Bidention p.p. vegetation [3270] • Juniperus communis formations on heaths or calcareous grasslands [5130] • Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] • Limestone pavements [8240] 	Within appeal site	The appeal site is wholly located within Coole - Garryland Complex SAC and as such a likelihood of significant effects exists.	Y

	<ul style="list-style-type: none"> • Taxus baccata woods of the British Isles [91J0] 			
Coole – Garryland SPA (Site Code 004107)	<ul style="list-style-type: none"> • Whooper Swan (Cygnus cygnus) [A038] 	c. 360 metres west of appeal site	Noting the proximity of the appeal site to Coole - Garryland SPA a likelihood of significant effects exists.	Y
Kiltartan Cave SAC (Site Code 000286)	<ul style="list-style-type: none"> • Caves not open to the public [8310] • Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303] 	c. 2.3 km north of appeal site	There is no connectivity between the appeal site and Kiltartan Cave SAC. The appeal site is located <u>outside</u> the foraging range for the Lesser Horseshoe Bat associated with Kiltartan SAC. I do not consider a likelihood of significant effects.	N
East Burren Complex SAC (Site Code 001926)	<ul style="list-style-type: none"> • Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140] • Turloughs [3180] • Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation [3260] • Alpine and Boreal heaths [4060] 	c. 3 km west of appeal site	There is no connectivity between the appeal site and East Burren Complex SAC. The appeal site is <u>outside</u> the foraging range for the Lesser Horseshoe Bat. I do not consider a likelihood of significant effects.	N

	<ul style="list-style-type: none"> • Juniperus communis formations on heaths or calcareous grasslands [5130] • Calaminarian grasslands of the Violetalia calaminariae [6130] • Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] • Lowland hay meadows (Alopecurus pratensis, Sanguisorba officinalis) [6510] • Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] • Petrifying springs with tufa formation (Cratoneurion) [7220] • Alkaline fens [7230] • Limestone pavements [8240] • Caves not open to the public [8310] • Alluvial forests with Alnus glutinosa and Fraxinus excelsior 			
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	<p>(Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <ul style="list-style-type: none"> • Euphydrias aurinia (Marsh Fritillary) [1065] • Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303] • Lutra (Otter) [1355] 			
Lough Cutra SAC (Site Code 000299)	<ul style="list-style-type: none"> • Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303] 	c. 5 km south-east of appeal site	There is no connectivity between the appeal site and Lough Cutra SAC. The appeal site is located <u>outside</u> the foraging range for the Lesser Horseshoe Bat associated with Lough Cultra SAC. I do not consider a likelihood of significant effects.	N
Lough Cutra SPA (Site Code 004056)	<ul style="list-style-type: none"> • Cormorant (Phalacrocorax carbo) [A017] 	c. 5 km south-east of appeal site	There is no connectivity between the appeal site and Lough Cutra SPA. The appeal site does not represent a suitable habitat for Cormorants to forage, breed or rest. I do not consider a likelihood of significant effects.	N

7.7.9 Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1 above), Coole – Garryland Complex SAC and Coole – Garryland SPA have been ‘screened in,’ as the appeal site is located within Coole – Garryland Complex SAC and is located in close proximity to Coole – Garryland SPA. All other Natura 2000 sites surrounding

the proposed development have been 'screened out' due to a lack of connectivity. The appeal site is outside the foraging range for the Lesser Horseshoe Bat associated with Kiltartan Cave SAC, Lough Cultra SAC and East Burren Complex SAC. Based on information contained on the website of the NPWS (Conservation Objectives Supporting Document – Lesser Horseshoe Bat, Version 1, January 2018), I note that the weighted average maximum foraging distance for the Lesser Horseshoe Bat is 2.02 km. The foraging range for the Lesser Horseshoe Bat has also been used to inform the extent of the zone of influence which I have used in this screening.

7.7.10 Conservation Objectives of European Sites 'Screened-In'. There is no Conservation Management Plan for Coole – Garryland Complex SAC. The generic Conservation Objective for Coole – Garryland Complex SAC is;

'to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II habitats for which the SAC has been selected'.

There is no Conservation Management Plan for Coole – Garryland SPA. The generic Conservation Objective for Coole – Garryland SPA is;

'to maintain or restore the favourable conservation condition of the Bird Species listed as Special Conservation Interests for this SPA'.

7.7.11. Identification of Likely Effects. In light of the above Conservation Objectives the main elements of the proposal which may give rise to impacts on the European sites listed above are as follows:

Construction Phase Impacts on Coole – Garryland Complex SAC - During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater. Noting the slope of the site, surface water could flow further into the SAC. Given the nature and scale of the proposed construction works and given that the appeal site is located within Coole – Garryland Complex SAC, there is the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons.

Construction Phase Impacts on Coole- Garryland SPA – Should the single Qualifying Interest for Coole - Garryland SPA (i.e. Whooper Swan) use the site for resting,

foraging, breeding etc. then the proposed development would have the potential to result in habitat loss, habitat fragmentation or disturbance to this species of bird.

Operational Phase Impacts on Coole – Garryland Complex SAC - During the operational phase, there is potential for surface water runoff to discharge to groundwater. Noting the slope of the site, surface water could flow further into the SAC. There is therefore the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as the release of hydrocarbons. During the operational phase of the proposed development, effluent from the proposed development will be treated in an on-site waste water treatment system. The inadequate treatment of effluent within the appeal site could result in ground water pollution within the SAC.

Operational Phase Impacts on Coole - Garryland SPA – Should Whooper Swans use the site for resting, foraging, breeding etc. then the proposed development would have the potential to result in habitat loss, habitat fragmentation and disturbance to this species of bird.

In-combination Impacts. There are no recent planning applications for the surrounding area that share a direct link with the subject site.

A summary of the outcomes of the screening process is provided in the screening matrix Table 7.2 overleaf.

Table 7.2 - Summary Screening Matrix				
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Coole – Garryland Complex SAC (Site Code 000252)	Within site	During the construction phase there is potential for surface water runoff from site works to temporarily discharge to groundwater. Surface water could also flow further into the SAC. There is the potential for	No effect	Screened in for AA

		<p>the water quality pertinent to this European Site to be negatively affected by contaminants, from site clearance and other construction activities and also from the release of hydrocarbons.</p> <p>Run-off from the site during the operational phase of the development could flow further into the SAC.</p> <p>The inadequate treatment of effluent within the appeal site could result in ground water pollution within the SAC.</p>		
Coole - Garryland SPA (Site Code 004107)	c. 360 metres south of site	Should Whooper Swans use the site for resting, foraging, breeding etc. then the proposed development would have the potential to result in habitat loss, habitat fragmentation or disturbance to this species of bird during both construction and operational phase of the development.	No effect	Screened in for AA

7.7.12 Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

7.7.13 Screening Determination. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually **could have a significant effect** on

Coole – Garryland Complex SAC/European Site No. 000252 and Coole - Garryland SPA/European Site No. 004107, in view of the site’s Conservation Objectives, and Appropriate Assessment is therefore required. Additionally, the proposed development is wholly located within Coole – Garryland Complex SAC.

7.7.14 **Stage 2 – Appropriate Assessment**

7.7.15 Article 6(3). The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 as amended are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- The Natura Impact Statement and associated documents.
- Appropriate assessment of implications of the proposed development on the integrity each European site.

7.7.16 Compliance with Article 6(3) of the EU Habitats Directive. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site’s conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

7.7.17 Screening The Need for Appropriate Assessment. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in-combination with other plans or projects will have a significant effect on the following European sites:

- Coole - Garryland Complex SAC (Site Code: 000252)
- Coole – Garryland SPA (Site Code: 004107)

The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment.

- East Burren Complex SAC (Site Code 001926).
- Lough Cutra SAC (Site Code 000299).
- Lough Cutra SPA (Site Code 004056).
- Kiltartan Cave (Coole) SAC (Site Code 000286).

Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.7.18 The Natura Impact Statement. An NIS prepared by Paul Neary, Environmental Consultant examines and assesses potential adverse effects of the proposed development on Coole – Garryland Complex SAC and Coole- Garryland SPA. The NIS notes the following;

Impacts on Habitats:

- The appeal site represents a land take of 0.2867% of Coole – Garryland Complex SAC. The land take is on the eastern periphery and will not result in any habitat fragmentation.
- The habitat on the appeal site is ‘Improved Agricultural Grassland’ (GA1), and is therefore not the habitat for which Coole – Garryland Complex SAC was designated.
- No annexed botanical species were detected during the ecological survey and given the historic, current and potential land uses, the appeal site would not revert to an annexed habitat e.g. Yew Woodlands or Orchid-rich Calcareous Grassland.
- Development will be confined to the target area, which is extremely localised in the context of the site as a whole and the Annex habitat types present therein.

- There will be no impact on qualifying or non-qualifying annexed habitats outside the immediate area of the site, either during construction or subsequent habitation.

Impacts on Qualifying Avian Species:

- No annexed avian species were recorded in the location of the proposed development, nor would any be anticipated as they are confined predominantly to the aquatic sections or the shore of the Turlough.
- Whooper Swans are overwintering and there is no record of them utilising the development site which is located adjacent to an existing dwelling and the local access road.
- Avian species would be confined to the aquatic section of the SAC, c. 1.4 km west of the appeal site.
- The proposed development will not impact, either directly or indirectly, on any qualifying Avian species for which the SAC or SPA was designated as the majority of these species are confined to the lentic / lotic systems within the SAC/SPA.
- The rationale for this determination is based on (i) absence of suitable on site habitats i.e. no potential nesting sites or suitable roosts; (ii) plot size is such that it lacks sufficient land cover to support significant populations of annexed species; (iii) the impact of the wild mink population predated on ground nesting species; (iv) the absence of a concerted sustained predator control program in the area; (v) the presence of a dwelling to the South of the development site, and (vi) the current land use with a short sward subject to agricultural activity.

Impacts on Qualifying Mammalian Species:

- The SAC was not designated for the presence of any mammalian species.
- Species such as *Lutra*, *Martes martes*, *Meles meles* and *Lepus timidus hibernicus* will not use the site given the current land use and the continual minor disturbance from the existing dwelling to the south. *Lepus timidus hibernicus* would not be found at this location due to the short sward and the absence of suitable habitat. The historical use of the site did not and would not offer any suitable cover for larger mammalian species or for species, such as *Erinaceus europaeus* or *Scirurus vulgaris*.

- Lutra Lutra is a reclusive species that tend to be found within 80 metres of suitable habitat, therefore as the aquatic section is at its closest 1.4 km to the north-west.
- The SAC was not designated for the presence of bat species, with no potential roost present on site with an absence of features to encourage foraging.

Impacts on Qualifying Aquatic Species:

- There is no direct connection between the proposed development area and the Turlough.
- The OSWWTS is designed to be 1 category above that required by the EPA, which adds a further layer of protection.
- The proposed development does not require water abstraction or direct discharge to surface water, land or air with the main elements of light construction being of extremely short duration.
- No changes to surface water quality (microbiologically, chemically, physically or quantitatively) are anticipated.
- The minimum mandatory separation distance of the OSWWTS from the identified receptors are exceeded.
- Compliance with the EPA COP 2009 dictates that there will be no impact on ground or surface water quality as there are no surface water targets within 60 metres of the proposed soil polishing filter/percolation area.
- The unsaturated subsoil depth and tertiary treatment option exceeds the requirements of the EPA CoP 2021.

Impacts on Qualifying Botanical Species:

- It is unlikely that there will be any impact on any qualifying, or listed, species of plant as no such species were present on the site. No annexed botanical species were observed during the ecological survey of the proposed such species were present on the site.
- ([3150] Natural Eutrophic Lakes, [3180] Turloughs, [3270] Chenopodion rubri p.p and Bidenton p.p. Vegetation, [5130] Juniper Scrub, [6210] Orchid-rich Calcareous Grassland, [8240] Limestone Pavement or [91J0] Yew Woodlands) would not expand their range or populate the site due to the current land use.

Other Factors that may result in impacts:

- There are no climatic considerations associated with the development.
- Noise, vibration, air quality and light during construction or operational phase will not impact on the SAC/SPA habitats given the location of the site.
- Fugitive dust during the construction phase could be described as inert and harmless in the chemical context and would not have a negative impact on the designated natura sites.
- Noise will not have a deleterious effect on the designated sites either during construction or subsequent habitation. Typical values in the vicinity of the development post construction would be in the order of 45-55 dB.
- Interference with the designated site outside of the proposed site boundary due to vibration would not occur given the nature and scale of the proposed development.

Potential cumulative impacts:

- The small scale, and nature of the development at a location of existing GA1 habitat dictates that there is no potential for a cumulative negative impact to arise.

7.7.19 Based on the information contained in the NIS, the main potential impacts from the proposed development on Coole – Garryland Complex SAC are identified as;

- Loss of SAC habitat.
- Impacts on water quality from the discharge of contaminated surface water run-off during the construction phase of the proposed development to ground water.
- The discharge of effluent from the OSWWTS to ground water during the operational phase of the proposed development.
- Discharge of fugitive dust.
- Noise and vibration impacts.
- Introduction of invasive species into the SAC.
- Compaction.

- Impacts arising from habitation of the appeal site.

Based on the information contained in the NIS, the main potential impacts from the proposed development on Coole – Garryland SPA are identified as

- Loss of habitat and habitat fragmentation.
- Disturbance to the Whooper Swan during both the construction and operational phase of the proposed development.

7.7.20 Section 7 of the NIS sets out mitigation measures which will be adhered to. Measures proposed include;

Construction Phase:

- Supervised installation of the OSWWTS by a competent person.
- No mature trees to be removed, felled or coppiced.
- Maximum size of excavator on site to be 5 tones and shall be rubber tracked.
- Distribution gravel in the infiltration shall not be limestone.
- Measures shall be implemented to ensure no soil, subsoil or aggregates egress the site and shall be reworked within the site boundary.
- Pouring of concrete must take place in the dry and allowed to cure prior to removing forms/shuttering.
- No machinery, plant or material are permitted to enter or operate outside of the development site boundary.
- No material may be removed from or deposited in the Natura site outside of the development site boundary.
- No maintenance of heavy plant shall occur on site with all preventative maintenance carried out prior to entry to the site.
- Refueling of heavy plant shall only occur as necessary with no hydrocarbons stored on site.
- Storm water from the roof and paved areas shall be discharged to a soak pit.
- Batch concrete trucks are prohibited from washing out the drum on site.

- Aggregates shall not be stored within 20 metres of any watercourse, drain or stream and should be covered during periods of heavy rain.
- A watertight container must be provided on site to accept empty packaging from cement, lime, bonding, grout and skim. Separate watertight container shall be provided to accept empty containers that would have contained liquids involved in construction such as mortar mix, paints, thinners, wood preservatives, paints, water proofers, bonding, varnish.
- Excavated material shall not be stockpiled on site but should be landscaped and reseeded immediately.
- All chemicals such as water proofers, thinners, wood preservatives, mortar mix etc. shall be retained in a specific bunded area or storage unit with liquids removed as necessary.
- All empty packaging shall be stored in appropriate containers for disposal as required.
- The clean aggregate for the internal road construction would be imported and spread in a phased manner following directly behind the excavator in order to protect the exposed subsoil and would only be carried out during a dry weather period.
- No tree/scrub removal/felling/trimming are proposed or would occur during the nesting period.
- Storm water from the proposed development to be diverted to a soak pit, with no direct discharge to any drain, water course or stream.
- No heavy construction activity shall occur during the avian wintering period.
- Extensive deciduous tree planting (native deciduous of the same species present in the SAC shall occur along the western and northern boundary of the development site).

Occupation Phase

- The construction of ponds and /or water features is strictly prohibited.
- Control of weeds within the recreational areas shall be performed manually.
- Where moss is to be controlled, Sulphate of Iron only may be used.
- The on-site waste water treatment system shall be maintained and de-sludged.

- No species as listed in appendix F (non-native species) shall be used for the purposes of landscaping.
- The application of pesticides, insecticides or herbicides is prohibited.

The applicant's NIS concludes that while there is a land take of 0.2867% from the Coole – Garryland Complex SAC, this is deemed insignificant as the habitat concerned is identified as 'Improved Agricultural Grassland' GA1, and provided the mitigation measures are implemented, there will be no permanent significant direct or indirect impacts on the Natura sites habitat or species.

7.7.21 Having reviewed the documents, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the following European sites alone, or in combination with other plans and projects:

- Coole - Garryland Complex SAC (Site Code: 000252)
- Coole – Garryland SPA (Site Code: 004107)

The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of the potential impacts on Coole – Garryland Complex SAC and Coole – Garryland SPA.

7.7.22 Appropriate Assessment of implications of the proposed development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

7.7.23 The following sites are subject to Appropriate Assessment:

- Coole - Garryland Complex SAC (Site Code: 000252)
- Coole – Garryland SPA (Site Code: 004107)

A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests are set out in Table 7.1 of this report. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website (www.npws.ie).

7.7.24 The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites include;

- Loss of SAC habitat as a direct result of developing the site for a dwelling.
- Habitat fragmentation as a direct result of developing the site for a dwelling.
- The discharge of contaminated surface water run-off during the construction phase of the proposed development to groundwater.
- The discharge of effluent from the OSWWTS to groundwater during the operational phase of the proposed development.
- The discharge of fugitive dust during the construction phase of the proposed development.
- Noise and vibration impacts during the construction and operational phase of the proposed development.
- The introduction of invasive species into the SAC during the construction phase of the proposed development.
- Disturbance to the Whooper Swan, and any other QI of a European Site who may use the site as a habitat for beading, resting or foraging, during both the construction and operational phase of the proposed development.

7.7.25. Assessment of proposed Mitigation Measures - The NIS outlines a number of mitigation measures. For the most part the mitigation measures are intended to avoid the release of contaminated run-off to from the site and to groundwater. A number of issues arise in respect of the proposed mitigation measures and I consider that the NIS is deficit as a result.

- The NIS does not provide sufficient information regarding the monitoring of each mitigation measure or identify actions which will be taken in the event of the failure of a particular mitigation measure. Additionally, it is not clear who will be responsible for the implementation of the mitigation measures.
- The NIS does not adequately address the potential for flood risk on/adjacent to the appeal site. The NIS does not address how the effectiveness of mitigation measures could be impacted on by flooding. As such potential impacts on groundwater cannot be ruled out.

- Mitigation Measure No. 9 provides that ‘refuelling of heavy machinery shall only occur as necessary, with no hydrocarbons stored on the site’. Noting the vulnerability of groundwater, and the sensitivities of the appeal site and wider area, I consider that more robust mitigation is required to address refuelling of machinery within the appeal site, including measures to address potential accidental spillages etc.

Regarding the NIS generally, I note the following;

- The accompanying Ecological Report does not provide details of the site surveys, for example dates, times, conditions etc. I consider this to be of relevance in assessing the impact of the proposed development on Coole – Garryland SPA, as the Whooper Swan overwinters in Ireland and its presence on the site may not be detected during certain times of the year.
- The requirement to design lighting in a manner that avoids light spill was raised in the submission of the Department of Housing, Local Government and Heritage. In relation to lighting, the NIS (page 51) states that ‘light will not impact on the SAC/SPA habitats listed in the features of interest, given the location of the site, either during construction or subsequent use either directly or indirectly’. In my view consideration of the effects of lighting, in particular during the operational phase of the proposed development requires greater examination in the NIS to support this statement of no effect.
- The appeal submission refers to the appeal site being ‘predominantly’ Improved Agricultural Grass, while the NIS states that the site is comprised of Improved Agricultural Grass. Given that the appeal site is wholly located within an SAC I consider that there should be no discrepancy or ambiguity in relation to the habitat present on the appeal site.
- The NIS (page 48) states that ‘the potential for significant negative impacts is limited, and to a certain extent can be mitigated’. I consider that this statement is ambiguous in the context of the conclusion of the NIS, which states ‘provided the mitigation measures are implemented, there will be no permanent significant direct or indirect impacts on the Natura sites habitat or species’.
- Page 67 of the NIS refers to ‘the removal of an on-site waste water treatment system from the lake shore to an inland position’. It is unclear what this section

of the NIS refers to noting the development description for the proposed development.

- The NIS refers to compensation measures (at section 7). It is unclear what compensation measures are being proposed. Reference in this section of the NIS is made to the deciduous tree planting however it is unclear whether this is the compensation measure referred to. Compensation for habitat loss with new habitat can only be addressed under Article 6(4).

In summation, I am therefore not satisfied that the measures are sufficient to address potential impacts from pollution during construction and operation, disturbance to QI associated with European sites, and that the potential for deterioration of habitats and species identified within the European Sites is not likely.

7.7.26 Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am unable to ascertain with confidence that the project would not adversely affect the integrity of Coole – Garryland Complex SAC and Coole – Garryland SPA in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.7.27 Appropriate Assessment Conclusion. 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. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Coole – Garryland Complex SAC and Coole – Garryland SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, could individually, adversely affect the integrity of Coole – Garryland Complex SAC and Coole – Garryland SPA, in view of the site's Conservation Objectives.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Coole – Garryland Complex SAC and Coole – Garryland SPA.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.

Particular concerns are expressed in relation to;

- The absence of information regarding the monitoring of each mitigation measure or the identification of action(s) which will be taken in the event of the failure of a particular mitigation measure.
- The extent of previous flooding, which is indicated on Floodmaps.ie as including part of the appeal site, and its implication for the efficacy of mitigation measures and consequently the potential deterioration of water quality, which has not been adequately assessed.
- Ambiguity in relation to the carrying out of the Ecological Survey.
- Ambiguity in relation to the habitat of the appeal site, noting the discrepancy between the appeal submission and the NIS.
- Reference to proposed compensatory measures.
- Various inconsistencies within the NIS.

7.7.28 As such, I consider that there remains a reasonable scientific doubt as to the absence of adverse effects on the integrity of on Coole – Garryland Complex SAC and Coole – Garryland SPA and as such the Board is precluded from granting permission for the proposed development.

8.0 Recommendation

8.1. Having regard to the above, it is recommended that planning permission be refused for the proposed development based on the following reasons and considerations.

9.0 Reasons and Considerations

1. The site of the proposed development is located within an "Area Under Strong Urban Influence" as set out in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local

Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, 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 a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, to the provisions of the current Galway County Development Plan 2022 - 2018, would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would be contrary to the proper planning and sustainable development of the area.

2. On the basis of the information submitted with the planning application and the 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 Coole - Garryland Complex SAC (Site Code: 000252) and the Coole – Garryland SPA (Site Code: 004107), or any other European site, in view of the site’s conservation objectives. In such circumstances, the Board is precluded from granting permission.
3. The proposed development is in an area which is deemed to be at risk of flooding. It is considered that, in the absence of adequate information relating to the risk of flooding, analysis of such risk, and appropriate mitigating measures to address any risk. The proposed development would be contrary to the proper planning and sustainable development of the area.