



An  
Bord  
Pleanála

## Inspector's Report ABP-312930-22

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<b>Development</b>	Construction of a single storey house, garage, proprietary wastewater treatment system, vehicular entrance and all associated services. A NIS accompanies this planning application.
<b>Location</b>	Ballynamanagh East, Clarinbridge, Co. Galway.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	212309
<b>Applicant</b>	Conor Lee
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Conor Lee
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> September 2022

**Inspector**

Ian Campbell

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Ballynamanagh East, on the southern side of a local access road (L4101), c. 1.5 km west of Clarinbridge, Co. Galway. The appeal site is located within a rural area, outside of a settlement.
- 1.2. The appeal site is anvil shape, has a stated area of 0.25 ha and appears to be used for agricultural purposes. The roadside/northern boundary of the appeal site is formed by a dry stone wall. The appeal site falls from north to south, with a gradient of 1.5 metres across the site. Further south, the lands continue to fall towards Dunbulcan Bay and the Clarin River, which are located c. 100 metres south of the appeal site. The appeal site's elevated position affords it impressive views over Dunbulcan Bay and the Clarin River.
- 1.3. There is substantial ribbon development in the vicinity of the appeal site with a cluster of detached dwellings to the north-west and north-east of the appeal site. The farm complex c. 200 east of the appeal site is indicated as the applicant's family home.

## 2.0 Proposed Development

- 2.1. The proposed development comprises;
  - Construction of a single storey, four-bedroom, detached dwelling:
    - stated floor area c. 198 sqm.
    - ridge height c. 5 metres.
    - material finishes to the proposed house comprise timber cladding, painted render and natural stone for the external walls. The roof covering comprises slate (blue/black colour).
    - positioned c. 22 metres from the public road.
  - Construction of a single storey garage:
    - stated floor area c. 31 sqm.
    - ridge height c. 4 metres.

- material finishes to the proposed garage comprise timber cladding or corrugated aluminium sheeting for the external walls. The roof covering comprises slate (blue/black colour) or corrugated aluminium sheeting.
- The installation of a packaged waste water treatment system and a gravity soil polishing filter.
- A new splayed vehicular entrance.
- Landscaping, and boundary treatment comprising timber post and rail fencing.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 8<sup>th</sup> February 2022 for 3 no. reasons which can be summarised as follows;

1. The subject site is located within the Galway Transportation Planning Study Area of County Galway and subject to strong urban influence. The applicant has not satisfactorily demonstrated compliance with the requirements of Objective RHO1 of the Galway County Development Plan 2015-2021. The proposed development would contravene materially Objective RHO 1 and would be contrary to ministerial guidelines.
2. Having regard to the scale, mass, bulk and design of the proposed dwelling house and the siting of the dwelling within a Class 3 and 4 designated landscape, on a substantially elevated coastal site, it is considered that the development would result in a built form that would not integrate effectively into this rural location, and would contravene materially Objective RHO 9, RHO3, Objective LCM1 and Objective LCM2 and DM Standard 6 of the Galway County Development Plan.
3. Sightlines have not been satisfactorily demonstrated from the proposed entrance and, if granted, would endanger public safety by reason of traffic hazard.

I note that Reasons No. 1 and 2 included in the Notification of Decision to Refuse Permission issued by the Planning Authority makes reference to material

contravention of the Galway County Development Plan 2015-2021. The Galway County Development Plan 2022-2028 came into effect on the 20<sup>th</sup> 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 includes the following comments;

- The subject site is located in an un-serviced, un-zoned rural area, within an area under strong urban pressure. The applicant's housing need has not been established. Details submitted indicate that the applicant moved to this rural area in 2016.
- Effluent disposal proposals are within the parameters of the EPA CoP 2021.
- Sightlines have not been demonstrated to the near road edge and as such would likely require the removal of additional obstructions on adjoining lands.
- The subject site is particularly sensitive, forming part of the landholding of Ballynamana House, in an area which opens out to provide views of the water with no screening to aid assimilation. While the proposal has considered the sensitivities of the site, the siting is of particular concern when viewed from the public road, and from across the water. There appears to be less visually sensitive sites within the landholding, consideration of which is not apparent.

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 Planning Authority should be satisfied that the information submitted in the

Appropriate Assessment Screening report and NIS adequately addresses all potential impacts on the qualifying interest species of nearby designated sites and on water quality, and that all proposed mitigation and best practice measures are included in a planning condition.

### 3.4. **Third Party Observations**

None received.

## 4.0 **Planning History**

### Appeal Site

None.

### Lands to West

**PA. Ref. 20/33** - Permission consequent to a grant of outline GRANTED for a two storey house.

Lands to North-East

**PA. Ref. 22/935** – Permission GRANTED for a change of house type to that permitted under PA. Ref. 18/700 and ABP. Ref. 304623-19.

## 5.0 **Policy Context**

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

National Policy Objective 19 states -

*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.*

### 5.1.2. **Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10)2021**

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

### 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 Pressure' (Rural Housing Zone 2 GCTPS) (see Map 4.1 and 4.2 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 20<sup>th</sup> 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 Galway County Transportation and Planning Study Area (GCTPS). The appeal site is located within an area identified as a 'Rural Area Under Strong Urban Pressure (Rural Housing Zone 2 GCTPS) (see Map 4.2. Galway County Development Plan 2022 – 2028).

5.2.3. 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 – Sightline distances required for access onto National, Regional, Local and Private Roads

5.2.4. In terms of Landscape Character Type, the appeal site is located within the 'Coastal Landscape' (see Appendix 4 of CDP), which has a 'special' landscape sensitivity and

is highly sensitive to change by new development of scale. The appeal site is not affected by any protected views (see Map 08, Appendix 4) or scenic routes (see Map 09, Appendix 4).

### 5.3 Natural Heritage Designations

- Galway Bay Complex pNHA (Site Code: 000268), borders appeal site to south.
- Galway Bay Complex SAC (Site Code: 000268), c. 100 metres south.
- Inner Galway Bay SPA (Site Code: 004031), c. 100 metres south.

### 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 appeal submission comprises a personal statement with supporting documentation from the first party and a submission from Emer Maughan, agent/architect acting on behalf of the first party. The grounds for appeal may be summarised as follows;

#### Rural Links

- The first party has strong links to the rural area where he has lived for a substantial continuous part of his life. The first party has a rural generated housing need. The first party's father is from a farming family in Co. Clare. The first party lived in the area since he was 6 months old, initially at a rural location in Kilcolgan for 2 years (supporting documentation submitted), and



then at Parklands, a housing estate on the outskirts of Clarinbridge from 2002 until 2016, before moving to Ballinamana House in 2016 where the first party's family also acquired a farm. In total the first party notes that he has lived within a rural area for 8 no. years.

- The first party and his family renovated Ballinamana House, brought farmland back into use and cleared the appeal site of scrub, which he contends demonstrates his rural links and commitment to remain rural.
- The first party's family have a herd number, are Bord Bia approved and have been purchasing cattle, which in the opinion of the first party was disregarded by the Planning Authority.
- The first party is involved in the day to day running of the family farm.
- Documentation attesting to the involvement of the first party's family in farming has been submitted including a receipt for the slaughter of cattle (dated 2021) and correspondence from the Department of Agriculture, Food and the Marine in relation to a farm payment (dated 2020) and regarding animal vaccination (dated 2021). This documentation is addressed to John/Johnny Lee (the applicant's father).
- The first party contends that he is being discriminated against because he resided at Parklands between 2002 and 2016. Parklands is however located within the same townland as Ballinamana House (i.e. Ballynamangh East) and there are farms located between Parklands and Clarinbridge village. Both Parklands and Ballinamana House, being located within hub of Clarinbridge village, should be considered rural and not urban. In the 2016 census the population of Clarinbridge was 364 and therefore it cannot be classed as urban.
- The first party and his family are involved in the local community, including local football clubs, a community development association and the board of management of the local school. Documentation attesting to the involvement of the first party and his family in the community has been submitted, including from football clubs and the Board of Management of Scoil Mhuire.

## Siting and Design of House

- The location of the site has been chosen so as not to fragment the farm, and also as the proposed entrance allows for good visibility. The location of the proposed dwelling is also as far from the shore as possible and there are no flood risk issues.
- Permission was granted on the neighbouring site to the west for a two storey dwelling with a higher ridge height than the proposed dwelling. Additionally, dwellings in the vicinity have ridge heights which are higher than the proposed dwelling.
- A design statement has been submitted which outlines the design rationale for the proposal. The design of the proposed dwelling has been inspired by Lockside House, by Haysom Ward Millar, the 2018 RIBA House of the Year. The design uses single storey volumes, pitched roof forms and the careful selection of materials to assimilate into the site. The house is sited on the flat part of the site, away from the estuary. The proposal will be a low carbon house.
- Ballinamana House is not a Protected Structure. The appeal site is located c. 215 metres from Ballinamana House and will not negatively affect views from it.
- The proposal accords with the Council's Design Guidelines for the Single Rural House. The design of the proposed dwelling emulates a cluster of farm buildings and fits into the landscape. The appeal site does not fall within any focal point. No objections were submitted in relation to the planning application and there was no objection from any consultees.

## Access

- Sightlines of 70+ metres in both directions have been demonstrated. Sightlines are in accordance with NRA TD 41-95. The removal of additional obstructions is not required. The proposal would not cause a traffic hazard or obstruct road users.

### Impact on Visual Amenity

- Owing to its single storey design, the proposed dwelling will not negatively affect the visual amenity of the area or dominate the skyline. The site is lower than the public road and will not dominate views from the L4101 towards the estuary. Material finishes comprise muted colours which will not stand out.

### Impact on Designated Sites

- The proposed development will not adversely affect Galway Bay Complex SAC or Inner Galway Bay SPA.

## **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 & Traffic Safety
- 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. Policy Objective RH2 of the Galway County Development Plan 2022-2028 (which applies to rural areas under strong urban influence – GCTPS – outside rural metropolitan area zone 1) sets out specified 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.
- 7.2.2 The first party contends that he has rural links to the area and as such has a rural generated housing need, having lived in the rural area for a total of 8 no. years (i.e. 2 no. years at Kilcolgan and 6 no. years at Ballinamana House). The first party intimates that the Parklands housing estate should also be considered as a rural area, as it is located within the same townland as his current family home (i.e. Ballynamanagh East) and on the basis that when he resided there it had rural characteristics. In my opinion the Parklands housing estate is not located within the open countryside, noting its location within the 50 kmph speed limit of the village and given that it is served urban infrastructure, including a public footpath connecting it to the village. Regarding the documentation submitted to demonstrate the first party's linkage to the rural area, I note that with the exception of correspondence from NUIG (dated 2021), Revenue (un-dated) and Clarinbridge GAA (dated 2021), the remaining correspondence either relates to Parklands, does not refer to a specific address (i.e. Presentation Collage, Athenry), or refers to the townland of Ballynamanagh East (i.e. correspondence from the Church of the Annunciation Parish Office) and is therefore ambiguous as it could relate to either the first party's residence at Parklands or Ballinamana House, as both located are situated within the townland of Ballynamanagh East. On the basis of the documentation submitted by the first party I consider that the first party has demonstrated that he has resided within the rural area for a total of 3 no. years (i.e. 1

no. year at Ballinamana House (2021) and 2 no. years at Kilcolgan). Objective RH2 (1 a) of the Galway County Development Plan 2022 – 2028 requires applicants to have resided for a period of 7 no. continuous years, or more. I therefore do not consider that the first party has demonstrated that he has ‘rural links’ to the area as set out under Objective RH2, and has not therefore demonstrated compliance with the Galway County Development Plan 2022 – 2028 in relation to proposals for single housing in the rural area.

7.2.3 The first party states that he is involved in the day to day running of the family farm, assisting his father on the farm at evenings and weekends, and that on completing his education it is his intention to work part-time on the family farm. I note that no supporting documentation attesting to the involvement of the first party in the running of the family farm has been provided. I further note that the correspondence which has been submitted relating to farming activity is addressed to the first party’s father. I do not therefore consider that the first party has demonstrated a need for a dwelling in the rural area on the basis of being ‘functionally dependant’ on the rural area as set out under Objective RH2 (1 c) of the Galway County Development Plan 2022 – 2028.

7.2.4 In summation, whilst the documentation submitted indicates a strong local connection, I am not satisfied that a need to reside at this rural location has been demonstrated. I note the location of the appeal site in an area under strong urban influence/pressure, within easy reach of urban settlements, in particular Galway City. 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. Based on the documentation submitted with the application and the appeal, the first party has not clearly demonstrated a 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, a rural generated housing need that meets the test set by the Sustainable Rural Housing Guidelines or rural links and/or substantiated rural housing need as required by the Galway County Development Plan 2022-2028.

### 7.3 Design/Siting & Impact on Visual Amenity

7.3.1 The second refusal reason cited by the Planning Authority concerns the scale, mass, bulk and design of the proposed dwelling, and its integration into the rural landscape. I concur with the Planning Authority in relation to the sensitivity of the appeal site. The appeal site is elevated relative to the lands to the south and as such will be visible when viewed from the opposite side of the Clarin River. However, in my opinion the design of the proposed dwelling responds to the sensitivities of the site. The dwelling is broken into a number of distinct volumes, which effectively dissipates the mass of the dwelling when viewed in the context of the wider landscape. The height of the proposed dwelling has also been kept low, protecting the skyline when viewed from the south. I note that there are expansive views over the estuary from the L4101 however I do not consider that the proposed dwelling would significantly affect views towards the estuary from the L4101 noting its single storey nature and its position on the site. In summation, I consider the proposal to be acceptable in terms of its siting and design and I do not consider that the proposed dwelling would result in any significant negative impacts on the character of the adjoining landscape or on the visual amenity of the area.

### 7.4 Waste Water

7.4.1 The Site Characterisation Report submitted with the application identifies that the appeal site is located in an area with a Regionally Important Aquifer where the bedrock vulnerability is Moderate. A ground protection response to R1 is noted but this was subsequently revised to R2<sup>2</sup>. Accordingly, I note the suitability of the site for a treatment system subject to normal good practice and subject to the additional conditions<sup>1</sup>. The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area.

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<sup>1</sup> That there is a minimum thickness of 2 metres of unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system,

or

that a secondary treatment system is installed, with a minimum thickness of 0.3 metres of unsaturated soil/subsoil with percolation values from 3 to 75 (in addition to the polishing filter, which should be a minimum depth of 0.9 metres), beneath the invert of the polishing filter (i.e. 1.2 metres in total for a soil polishing filter).

- 7.4.2 The trial hole depth referenced in the Site Characterisation Report was 2.6 metres. Neither bedrock nor the water table were encountered in the trial hole. The soil conditions found in the trial hole are described as comprising loam and sand gravel with cobbles and boulders. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 10.42 was recorded. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a secondary treatment system and a soil polishing filter. The trial hole was open at the time of my site inspection and the conditions in the trial hole generally correspond with the information contained in the Site Characterisation Report.
- 7.4.3 The Site Characterisation Report submitted with the application concludes that the site is suitable for the treatment of waste water. I am satisfied that the proposal complies with the required separation distances set out in Table 6.2 of the CoP 2021. It is proposed to install a packaged waste water treatment system and a soil polishing filter. Based on the information submitted, I consider that the site is suitable for the treatment system proposed.
- 7.4.4 The EPA CoP requires a trial hole depth of 3 metres in areas with Regionally Important Aquifers whereas the trial hole was excavated to a depth of 2.6 metres. However, noting the proposal to install a treatment system with a soil polishing filter with an adequate depth of unsaturated subsoil to treat effluent on the site, I am satisfied that the treatment of effluent on the site can be catered for without a risk to groundwater.

## 7.5 Access & Traffic Safety

- 7.5.1 The third refusal reason cited by the Planning Authority concerns sightlines, specifically that sightlines have not been measures to the near side edge of the road. The posted speed limit at the location of the appeal site is 80 kmph however having regard to the horizontal and vertical alignment of the road I consider that vehicles using the road would likely travel at a lower speed. I note that DM Standard 28 (Table 15.3) of the Galway County Development Plan 2022 – 2028 requires sightlines of 70 metres for local roads with a design speed of 50 kmph and I consider this to be a more appropriate sightline requirement. Based on the site layout plan submitted with the appeal, I note that the maximum achievable sightlines are 70 metres to the east and west from a setback of 2 metres. Works to the boundary wall along the L4101 are

indicated. Based on the Land Registry documentation submitted with the initial planning application I note that the boundary wall to the east of the proposed vehicular entrance is within the ownership of the first party's family, whom I note have consented to the making planning application. The first party has control over c. 60 metres of the 70 metre sightline to the west. Works to the third party boundary west of the proposed vehicular entrance are not indicated as being required. Based on the information submitted, I consider sightlines to be acceptable.

## 7.6 **Appropriate Assessment**

### 7.6.1 Stage 1 Screening

7.6.2 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.

7.6.3 Background. The applicant submitted an Appropriate Assessment Screening report (prepared by Planning Consultancy Services, dated November 2021) for the proposed development. 20 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 were identified on the basis of potential hydrological connectivity with the appeal site, specifically Galway Bay Complex SAC and Inner Galway Bay SPA. The Stage 1 Appropriate Assessment Screening report notes a potential for a deterioration of water quality, affecting visibility and turbidity, during construction phase of the development potentially impacting Galway Bay Complex SAC and Inner Galway Bay SPA. 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.



### Supplementary Studies/Reports:

A Preliminary Construction Environmental Management Plan (pCEMP) prepared by Planning Consultancy Services and dated November 2021 was submitted<sup>2</sup>. The plan contains measures to ensure environmental protection and waste prevention, along with mitigation measures for the construction phase of the proposed development.

A baseline ecological survey was undertaken on the 14<sup>th</sup> September 2021. The appeal site is described as comprising a number of different habitats. There is a stonewall BL1 surrounding the site. Treelines(WL2) and Scrub (WS1) made up of Hawthorn, Blackthorn and Brambles are located inside the stonewall. The centre of the site is a classified as Improved Agriculture Grassland (GA1). Sward grass with minimal diversity and low species richness covers c. 80% of the site. Plant species noted in the improved agricultural grassland are Thistles (*Cirsium* spp.), Dock leaves (*Rumex Obtusifolius*), Clover (*Trifolium* spp.) Silverweed (*Potentilla anserina*), and Perennial ryegrass (*Lolium perenne*). European robin (*Erithacus rubecula*), Magpies (*Pica pica*) and Ravens (*Corvus corax*) were noted on the site. No other species were seen or heard on site. No species, or any signs of their presence, considered as Qualifying Interests in Galway Bay Complex SAC or were recorded on the site. Furthermore, no Annex II species, or any signs of their presence, were recorded on site. The ecological survey was undertaken outside the optimal time to undertake a habitat and flora survey however the applicant states that this is not a constraint as all habitats within and adjacent to the subject site were readily identifiable during the site visit.

7.6.4 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.

7.6.5 The Proposed Development. The development is described on page 5 of the Stage 1 Appropriate Assessment Screening report. It comprises the construction of a dwelling, served by an on-site waste water treatment system.

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<sup>2</sup> Page 2 of the pCEMP refers to a house with a floor area of 253 sqm and a garage with a floor area of 25 sqm. This appears to be a typographical error. The proposed house has a stated floor area of 198 sqm and the garage has a stated floor area of 30.5 sqm.

7.6.6 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:

- The uncontrolled release of pollutants to ground water (e.g. run-off, silt, fuel, oils, etc.) and subsequent impacts on water quality sensitive habitats of Galway Bay Complex SAC (Site Code – 000268) and Inner Galway Bay SPA (Site Code – 004031).
- Disturbance to bird species which are Special Conservation Interests (SCI) of Inner Galway Bay SPA (Site Code – 004031).
- Should any bird species which are Special Conservation Interests (SCI) of Inner Galway Bay SPA (Site Code – 004031), or 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).

7.6.7 Submissions and Observations – see paragraph 3.3 (above).

7.6.8 European Sites and Connectivity. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. I note that the applicant included a greater number of European sites in their initial screening consideration, with sites within 15km of the development site considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

**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
Galway Bay Complex SAC (Site Code 000268)	<ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Coastal lagoons [1150]</li> <li>• Large shallow inlets and bays [1160]</li> <li>• Reefs [1170]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (Glaucopuccinellietalia maritima) [1330]</li> <li>• Mediterranean salt meadows (Juncetalia maritimi) [1410]</li> <li>• Turloughs [3180]</li> <li>• Juniperus communis formations on heaths or calcareous grasslands [5130]</li> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>• Calcareous fens with Cladium</li> </ul>	c. 100 metres south of appeal site	Noting the proximity of the appeal site to Galway Bay Complex SAC a likelihood of significant effects exists.	Y

	<p>mariscus and species of the Caricion davallianae [7210]</p> <ul style="list-style-type: none"> <li>• Alkaline fens [7230]</li> <li>• Limestone pavements [8240]</li> <li>• Lutra lutra (Otter) [1355]</li> <li>• Phoca vitulina (Harbour Seal) [1365]</li> </ul>			
Inner Galway Bay SPA (Site Code 004031)	<ul style="list-style-type: none"> <li>• Black-throated Diver (Gavia arctica) [A002]</li> <li>• Great Northern Diver (Gavia immer) [A003]</li> <li>• Cormorant (Phalacrocorax carbo) [A017]</li> <li>• Grey Heron (Ardea cinerea) [A028]</li> <li>• Light-bellied Brent Goose (Branta bernicla hrota) [A046]</li> <li>• Wigeon (Anas penelope) [A050]</li> <li>• Teal (Anas crecca) [A052]</li> <li>• Red-breasted Merganser (Mergus serrator) [A069]</li> <li>• Ringed Plover (Charadrius hiaticula) [A137]</li> <li>• Golden Plover (Pluvialis apricaria) [A140]</li> <li>• Lapwing (Vanellus vanellus) [A142]</li> <li>• Dunlin (Calidris alpina) [A149]</li> </ul>	c. 100 metres south of appeal site	Noting the proximity of the appeal site to Inner Galway Bay SPA a likelihood of significant effects exists.	Y

	<ul style="list-style-type: none"> <li>• Bar-tailed Godwit (Limosa lapponica) [A157]</li> <li>• Curlew (Numenius arquata) [A160]</li> <li>• Redshank (Tringa totanus) [A162]</li> <li>• Turnstone (Arenaria interpres) [A169]</li> <li>• Black-headed Gull (Chroicocephalus ridibundus) [A179]</li> <li>• Common Gull (Larus canus) [A182]</li> <li>• Sandwich Tern (Sterna sandvicensis) [A191]</li> <li>• Common Tern (Sterna hirundo) [A193]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>			
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7.6.9 Galway Bay Complex SAC and Inner Galway Bay SPA have been ‘screened in’ having regard to the connectivity and proximity with the appeal site. All other Natura 2000 sites surrounding the proposed development have been ‘screened out’ due to a lack of connectivity. In relation to ex-situ effects, the appeal site is comprised of improved grassland and low intensity grassland and scrub and as such has a low habitat value. In the event that wintering bird species associated SPA’s in the area use the site for feeding, foraging etc. there is ample similar alternative habitat in the vicinity of the appeal site. Similarly, wintering bird species of Inner Galway Bay SPA who may occasionally use the appeal site for feeding, foraging etc. would also have an abundance of available similar habitat in the vicinity.

7.6.10 Conservation Objectives of European Sites ‘Screened-In’. There is no Conservation Management Plan for Galway Bay Complex SAC. The generic Conservation Objective for Galway Bay 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 Inner Galway Bay SPA. The generic Conservation Objective for Inner Galway Bay SPA is;

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

7.6.11. 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 Galway Bay Complex SAC - During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and flow into the 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.

Operational Phase Impacts on Galway Bay Complex SAC - During the operational phase, effluent from the proposed house will be treated by an on-site waste water treatment system and surface water run-off from the site discharged to soakaways. There is therefore no potential for the water quality pertinent to this European Site to be negatively affected by the proposed development during the operational phase.

Construction Phase Impacts on Inner Galway Bay SPA – During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and flow into the SPA, with consequent potential for water sensitive habitat/habitat supportive of SCI associated with Inner Galway Bay SPA to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons.

Operational Phase Impacts on Inner Galway Bay SPA – As stated above at paragraph 7.6.9, the appeal site is has a low habitat value and should wintering bird species associated SPA’s in the area and/or wintering bird species of Inner Galway Bay SPA use the site for feeding, foraging etc. there an abundance of similar habitat in the vicinity.

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:
Galway Bay Complex SAC (Site Code 000268)	c. 100 metres	During the construction phase there is potential for surface water runoff from site works to temporarily discharge to groundwater and reach the SAC. There is the potential for 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.	No effect	Screened in for AA
Inner Galway Bay SPA (Site Code 004031)	c. 100 metres	During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and flow into the SPA, with consequent potential for water sensitive habitat/habitat supportive of SCI associated with Inner	No effect	Screened in for AA

		Galway Bay SPA to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons.		
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7.6.12. 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.

7.6.13. 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 Galway Bay Complex SAC/European Site Code 000268 and Inner Galway Bay SPA/European Site Code 004031, in view of the site’s Conservation Objectives, and Appropriate Assessment is therefore required.

7.6.14. **Stage 2 – Appropriate Assessment**

7.6.15 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.

7.6.16 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).

7.6.17 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:

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

The possibility of significant effects on other European sites has been excluded on the basis of objective information and noting that there is no possible ecological connection or pathway between the appeal site and other Natura 2000 sites surrounding the proposed development. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.6.18 The Natura Impact Statement. A NIS prepared by Planning Consultancy Services examines and assesses potential adverse effects of the proposed development on Galway Bay Complex SAC and Inner Galway Bay SPA. The NIS identifies the main potential impacts from the proposed development on Galway Bay Complex SAC and Inner Galway Bay SAC as the potential for silt laden surface water run-off to exit the site and enter the SAC and SPA. The NIS includes an examination of recent planning applications where permission has been granted in the vicinity of the appeal site under the heading of 'likely cumulative impact/in-combination with other plans and projects'. The works as proposed have been assessed in Table 3.1 and it has been concluded that on adhering to mitigation measures, there is no potential to result in adverse

effects on any European site. I note that there are no recent planning applications for the surrounding area that share a direct link with the subject site.

7.6.19. Section 3.3 of the NIS sets out mitigation measures which will be adhered to. Measures are proposed for the construction phase of the proposed development and include;

#### Site Set-Up

- The stone wall around site should be kept in place to prevent materials entering Galway Bay Complex SAC and the Inner Galway Bay SPA. All works will be located within the confines of the wall.
- A Silt Trap will be erected around the southern boundary of the site to prevent surface water runoff into Galway Bay Complex SAC and the Inner Galway Bay SPA.

#### Earth Works

- Soil excavations, soil depositing or soil stripping shall not take place immediately following periods of heavy or prolonged rainfall.
- All stockpile areas of sand, gravels and soils should be stored on level terrain and shall be covered during heavy rainfall periods.
- If gravel or handstand materials are being brought on site, ensure that the source is free of invasive species such as Japanese Knotweed, Gunner and Rhododendron.

#### Air Quality, Dust and Emissions

- Dust and malodours will be kept to a minimum.
- The site shall be dampened down as necessary to minimise windblown dust when necessary, or during periods of dry weather.
- Dust suppression equipment must be used when point source emissions are likely.
- No burning of materials will be allowed on site.
- The deposition of debris on local roads will be kept to a minimum.

### Refueling, Fuel and Hazardous Materials Storage

- All machinery maintenance and re-fueling shall be carried out off-site.
- Spill kits must be used for contaminants such as fuels and lubricants.
- All petroleum products to be banded during the construction stage.

### Environmental Approvals and Licenses

- Appropriate waste permits will be provided/retained by the supervising engineer for the completion of demolition/waste disposal file.

### Ground Water Contamination

- All direct discharges of pollutants into groundwater is prohibited.
- Drip trays must be used for all machinery and monitoring undertaking to ensure that there is no risk of overflowing and that they are adequately sized to deal with the specific element of machinery that they are protecting against.

### Drainage and Water Quality

- The works shall be planned and executed in accordance with Environmental Protection Agency Guidelines.
- Wash water from on-site mixers or lorries shall be disposed of appropriately off site.
- The contractor should ensure that operations do not give rise to the discharge of large quantities of dirty water into the water courses. Measures must be in place to ensure that silt will not be allowed to enter the water system.
- To prevent run-off from stripped ground, banks are to be placed on the downstream side of stockpiles.
- Water from excavations shall be pumped to land and allowed to settle, or passed through silt traps, before returning into the watercourse.
- Good site management will ensure that surface water and groundwater will be protected from accidental contamination.
- Washing out of concrete trucks should not be permitted within the site and should be conducted in hard standing areas.
- Works with concrete shall be done during dry conditions for a period sufficient to cure the concrete (at least 48 hours).

- Concrete pours shall occur in contained areas.
- Portable toilets and sanitary facilities will be provided for site use.
- Plant will be re-fuelled away from watercourses.
- All site operatives will have immediate access to spill kits when machinery is being used.
- A silt trap is to be placed around the southern boundary of the site to prevent surface water runoff; this is to be in place throughout the duration of all construction works.

I note that the mitigation measures referred to in the NIS mirror those contained in the Preliminary Construction and Environmental Management Plan.

7.6.20 The NIS concludes that;

- The project will not adversely affect the integrity of any European site.
- Pathways for potential significant effects on the Galway Bay Complex SAC and Inner Galway Bay SPA are robustly blocked.
- There will be no negative direct impacts or reduction in Annex I habitat area or Annex II species within any European Site.
- There will be no reduction in key habitats supporting populations of Annex I species and no reduction in the populations of any Annex II species.
- The works themselves will involve little disturbance or disruption to the ecological processes in the area during construction, operation or decommissioning.
- Subject to the implementation of the measures set out in Section 3.3 of the NIS, it is not expected that the proposed development will give rise to any direct, indirect or secondary impact on Galway Bay Complex SAC or Inner Galway Bay SPA.

7.6.21 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:

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

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

7.6.22 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.

7.6.23 The following sites are subject to Appropriate Assessment:

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

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](http://www.npws.ie)).

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

- Impacts on water quality from the discharge of contaminated surface water run-off during the construction phase of the proposed development to ground water and surface water, affecting aquatic QIs and SCI-supporting habitat.

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

7.6.26. Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Galway Bay Complex SAC and Inner Galway Bay 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.

7.6.27. 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 Galway Bay Complex SAC and Inner Galway Bay 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, individually or in combination with other plans or projects would not adversely affect the integrity of Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031), 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 Galway Bay Complex SAC and Inner Galway Bay SPA.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Galway Bay Complex SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Inner Galway Bay SPA.

## 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 - 2028, 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.

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Ian Campbell  
Planning Inspector

1<sup>st</sup> February 2023