



An
Bord
Pleanála

Inspector's Report

ABP-314986-22

Development	Construction of 3 houses.
Location	Baile Na hAbhann, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	22964
Applicant	Noel Regan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal
Appellant	Noel Regan Developments Ltd.
Observer(s)	Reilig Realt na Marea Teoranta Conradh na Gaeilge DoHLGH
Date of Site Inspection	5 th April 2023
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 2.2 Ha and is located in the townland of Baile na hAbhann (Ballynahown), within the settlement of na Forbacha (Furbo), c. 12 km west of Galway City.
- 1.2. The appeal site is broadly rectangular in shape and falls from north to south, with a level difference of c. 2 metres between the north-east of the appeal site and the south of the appeal site. A culvert¹ is indicated crossing the site from north to south. A second culvert is indicated to the south-east of the appeal site. Overhead cables traverse the southern part of the appeal site.
- 1.3. The appeal site is located to the west of an existing residential development, Gleann na bhFear, which comprises 15 no. dwellings. The road and open space serving Gleann na bhFear is indicated within the blue line boundary of the site and vehicular access is proposed through this adjacent development. An area of land to the south of the appeal site is also indicated as being within the applicant's ownership/control.
- 1.4. A waste water treatment plant which serves the houses within Gleann na bhFear is situated on the western part of the appeal site. The base of a road and drainage infrastructure (manholes) are in place on the appeal site.
- 1.5. A laneway (indicated as a wayleave) runs from the appeal site to the Realt na Mara Church, south of the appeal site.
- 1.6. Documentation² submitted with the planning application/appeal refers to a watercourse along the western boundary of the site, stated as a convergence of the River Knock and Inch River. Additionally, the Flood Risk Assessment submitted with a previous application (see PA Ref. 11/529 & ABP Ref. PL07.239786) indicates an open channel along the southern boundary of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises the following;

¹ See 'Proposed Drainage Drawing' submitted with the application.

² See page vii of Appropriate Assessment Screening report.

- 3 no. storey and a half detached houses (2 x House Type A, c. 190 sqm, and 1 x House Type B, c. 257 sqm. Material finishes to the houses are indicated as render for the external walls and blue/black colour roof slate);
- Construction of new access road connecting into 'Gleann na bhFear', which is accessed via the L-5392, in turn connecting to the R336 further south.
- Connection into existing surface water and watermains within Gleann na bhFear.
- 3 no. waste water treatment systems and percolation areas.
- Attenuation tank (225 m3) located to south-west of site.
- Public open space, lighting, landscaping, footpaths and associated site works.

Reference is made in the Appropriate Assessment Screening report to the importation of c. 500 m3 of fill material (soil) to establish levels on the site.

2.2. The planning application was accompanied by the following reports/studies;

- Planning Design Statement (prepared by Tobin Consulting Engineers).
- Site Characterisation Form x 3 (prepared by Tobin Consulting Engineers).
- Flood Risk Assessment (prepared by Tobin Consulting Engineers).
- Civil Works Design Report (prepared by Tobin Consulting Engineers).
- Appropriate Assessment Screening Report (prepared by Tobin Consulting Engineers).
- Linguistic Impact Statement (prepared by Tobin Consulting Engineers).

2.3. The planning appeal was accompanied by the following reports/studies:

- Design Statement (prepared by Tobin Consulting Engineers).
- Tier 2 Assimilative Capacity Assessment Report (prepared by Tobin Consulting Engineers).

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 5th October 2022 for 3 no. reasons which can be summarised as follows;

1. The proposed development would result in a proliferation of wastewater treatment systems in the area and would be prejudicial to public health.
2. The safe disposal of effluent on the site cannot be guaranteed in accordance with the EPA Code of Practice 2021 having regard to the shallow overburden and vegetative indicators on the site, which are indicative of a high winter water table, and in the context of the need for water quality given the proximity of the site to Furbo Woods pNHA. The proposal would endanger public health, would pose an unacceptable risk to surface waters contrary to the EU Groundwater Directive [80/86/EEC], would be contrary to Ministerial Guidelines, and would **materially contravene**³ policy Objectives WR1, WS7, WW4, WW6, NHB1, NHB4 and NHB6 of the Galway County Development Plan 2022-2028.
3. The proposed development, by reason of its siting on a locally elevated site with a Class 3 landscape sensitivity, to the rear of dwellings, would not sufficiently contribute to a sense of place or assimilate into the village setting and would be contrary to Section 3.4.4. of the Galway County Development Plan 2015-2021⁴, Section 6.8 of the Sustainable Residential Development in Urban Areas 2009 (DEHLG) Section 2.6 and 7 of the Urban Design Manual 2009 (DEHLG) and would set a precedent for substandard development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the following;

- The proposed development, by reason of its siting on this locally elevated site on the periphery of Furbo village and to the rear of the existing dwellings would

³ My emphasis.

⁴ Reference to the previous Galway County Development appears to be a typographical error.

not contribute to a sense of place or assimilate appropriately into this village setting.

- The siting of the proposed dwellings would result in discordant development that would not fit appropriately or integrate effectively into this rural setting and would result in a pattern of suburban development which is considered to be visually obtrusive and would detract from this visually prominent coastal rural setting.
- The proposed layout does not reinforce the existing urban form of Furbo given its location to the northwest periphery, and would detract from the general amenity of the area.
- The proposal does not comply with Sustainable Residential Development in Urban Areas, 2009, the accompanying Urban Design Manual - A Best Practice Guide for Planning Authorities and, Design Manual for Urban Roads and Streets, 2012, in which it is sought to create connected compact neighbourhoods that promote alternatives to car journeys and to encourage sustainable modes of transport.
- The Planning Authority is not satisfied with the Linguistic Impact Statement submitted.
- Reilig Realt na Mara Teoranta have advised the Planning Authority that no consent exists for the applicant to use the pedestrian access. Contractual agreements have not been entered into with the applicant with regard to the use of their land/road under planning 11/529 or any subsequent planning application. Demonstration of the relevant consents should be provided by the developer.
- The proposal to use the existing entrance and Glean na bhfear estate road is acceptable.
- The safe disposal of effluent on the site cannot be guaranteed in accordance with the EPA Code of Practice 2021 having regard to the shallow overburden and vegetative indicators on the site which are indicative of a high winter water table, and in the context of the need for water quality given the proximity of the site to Furbo Woods NHA.

- The site is located within Protected Views (Ref: 29) of the Galway CDP 2022 - 2028. The site is also located 140 metres to the north of the designated Galway Bay Scenic Route.

3.2.2. Other Technical Reports

None received.

3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage – advising that PA should be satisfied that the proposal can adequately treat and dispose of waste water so as to rule out negative impacts on nearby woodlands habitats, species and water quality.

3.4. Third Party Observations

The issues raised in third party observations are summarised in the report of the Planning Officer as follows;

- Importance of promoting and protecting the linguistic and cultural heritage of the Gaeltacht area; promoting signage and placenames in Irish; and the importance of the Language Impact Statement.
- Concerns in relation to the proposed discharge of stormwater into a storm sewer which runs through a site at Gaoth na Mara as it is without the benefit of any wayleave or full design and calculations.
- The use of the existing road for pedestrian access from Gleann na bhFear is inconsistent with the agricultural use for which it was intended and it would be inappropriate to upgrade this road for pedestrian access. Reilig Realt na Mara does not consent to the use of the right of way by the applicant. The applicant has already laid pipes and conduits for services under the route without obtaining the consent of the registered owners of the road.
- The proposal is reliant on connectivity being created through Gleann na bhFear, which itself is reliant on consent which shall not be forthcoming. Reilig Realt na Mara Teoranta have never given its consent to the developer to use their lands to be used by the developer to comply with connectivity requirement as required

by the Planning Authority. A demonstration of the relevant consents should be provided prior to a decision to consider further residential development at this location.

- The compliance submission in respect of Condition No. 3 of Ref. No. 11/529 may lead to the erroneous view that consent was given by the Board of Reilig Realt na Mara.

4.0 Planning History

Appeal Site (recent and relevant)

PA Ref. 11/529 & ABP Ref. PL07.239786 – Permission GRANTED for 15 no. houses.

Condition no. 3 provided that a proposal for the upgrading of the pedestrian right of way to accommodate pedestrian movements shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Under **PA. Ref. 17/831** the development permitted under PA Ref. 11/529 & ABP Ref. PL07.239786 was extended for a duration of 5 no. years, up to July 2022.

PA. Ref. 20/19 & ABP. Ref. 307017-20 – Permission REFUSED for 7 no. houses connecting to treatment plant permitted under PA Ref. 11/529 & ABP Ref. PL07.239786.

Reasons for refusal concerned the capacity of the treatment plant to cater for additional development and the absence of a flood risk assessment.

PA. Ref. 21/1232 – Permission REFUSED for 5 no. houses, and for the varying of Condition No. 1 of ABP Ref. PL.07.239786 to allow for the proposed 5 no. units together with 2 no. existing houses located to the east of the Glean na bhFear estate to connect to the existing shared treatment plant.

Refusal reasons related to the proximity of the subject site to Furbo Woods pNHA and the need for water quality in the area, and the absence of spare capacity in the communal waste water treatment plant to serve the development.

5.0 Policy Context

5.1. National Policy

5.1.1. 'Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10) 2021' - sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

5.2. Ministerial Guidelines

5.2.1 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10) 2021 (EPA).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010.
- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- Urban Design Manual - A Best Practice Guide (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- Treatment Systems for Small Communities, Business, Leisure Centres and Hotels, 1999 (EPA).

5.3 Development Plan

5.3.1. The Galway County Development Plan 2022-2028 is the relevant development plan.

5.3.2. The appeal site is not subject to any specific land use zoning in the Galway County Development Plan 2022-2028.

5.3.3. The appeal site is located within a 'Coastal Landscape' (see Map 1) which are described as being 'highly sensitive to change in appearance and character by new development of scale'. In terms of sensitivity, Coastal Landscapes are described as having a 'special sensitivity', the second highest of 4 no. tiers of landscape sensitivity.

Protected View Point 29 (of the north Clare coast) is depicted on Map 8 as being within the vicinity of Na Forbacha. The Galway Bay Scenic Route (see Map 9) follows the route of the R336 through Na Forbacha.

5.3.4. The appeal site is located within the Gaeltacht and the GCTPS (Galway County Transport Planning Study).

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

Chapter 2 – Core Strategy

- Map 2.2 (Settlement Hierarchy)
- Paragraph 2.4.4. (Future Settlement Growth)
- Objective SS7 (Development of Rural Settlements and Rural Nodes - Level 7)

Chapter 4 – Rural Living & Development

- Paragraph 4.5.2.2. (Un-serviced Villages)
- Objective RC1 (Sustainable Development in Villages)
- Objective RC5 (Rural Clustering on Un-Serviced Land in Villages)
- Objective RC6 (Residential Development Potential of Villages)

Chapter 13 – The Gaeltacht & Islands

- Objective GA4 (Language Enurement Claus)
- Objective GA 5 – (Linguistic Impact Statement)

Chapter 15 – Development Management Standards

- DM Standard 2 (Multiple Housing Schemes - Urban Areas)
- DM Standard 12: (Rural Clustering on un-serviced lands in Villages)
- DM Standard 38: (Effluent Treatment Plants)
- DM Standard 46 (Compliance with Landscape Sensitivity Designations)

5.4. **Natural Heritage Designations**

- Furbogh Wood pNHA (Site Code 001267) – c. 20 metres west.

- Moycullen Bogs NHA (Site Code 002364) – c. 1.4 km north-west and c. 1.6 km north-east.
- Connemara Bog Complex SAC (Site Code 002034) – c. 5 km north-west.
- Connemara Bog Complex SPA (Site Code 004181) – c. 7.5 km north-west.
- Galway Bay Complex SAC (Site Code 000268) – c. 5.5. km east.
- Inner Galway Bay SPA (Site Code 004031) – c. 5 km east.
- Lough Corrib SPA (Site Code 004042) – c. 10 km north-east.
- Lough Corrib SAC (Site Code 000297) – c. 9 km north-east.

5.5. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site as well as the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

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

General

- The proposal is a logical infill development at a suitable density.
- The proposal complies with applicable Development Plan policy, specifically;-
 - Section 2.4.4. (Core Strategy) which provides that development be directed towards villages as alternative to housing in the open countryside;
 - Objective SS7, which states that development within rural settlements and rural nodes shall be assessed in the context of connectivity, capacity, design etc.;

- Section 4.5.2. (Chapter 4) which refers to development in serviced and un-serviced villages and allows for the clustering of up to 5 no. dwellings served by individual treatments systems;
 - Objective RC5 which restates that consideration may be given for the clustering of up to 5 no. dwellings served by individual treatments systems;
 - Objective GA1 regarding the protection of Gaeltacht areas;
 - Objective GA4 regarding language enurement clause; and
 - DM Standard 12 which restates that consideration may be given for the clustering of up to 5 no. dwellings served by individual treatments systems.
- The current proposal addresses the refusal reasons under PA. Ref. 20/19, reducing the number of units from 7 no. to 3 no. and serving the proposed units with individual waste water treatment systems.

Re. Refusal Reasons 1 and 2

- No report was received from the Environment Section in respect of the application.
- The DoHLGH did not recommend a refusal of permission.
- The PA expressed concerns for adverse effects on water quality to occur in spite of the application being accompanied by Site Characterisation Reports, a Civil Works report, an Appropriate Assessment Screening report and a Flood Risk Assessment, which were undertaken by qualified engineers.
- The applicant has also submitted a Tier 2 Assimilative Capacity Assessment Report, undertaken by a qualified hydrologist which notes the following;
 - The well-drained soils and subsoils that form the transition zone and upper shallow bedrock zone can sustain the estimated total hydraulic loading of 3.2 m³/d within the 0.68 hectare site.
 - Based on a simple mass balance, the nitrate loading on the 0.68 hectare site is ~50 kg/yr Nitrate. For comparison purposes, the loading is significantly less than standard agricultural loading of 170 kg/yr Nitrate.

- There is no groundwater connection with the Oak Woods at Furbo pNHA and no basis for assuming a significant impact.
- Planned indirect discharge to groundwater by percolation of tertiary treated effluent is feasible and compliant with the Groundwater Regulations 2010.
- In terms of contaminant loading it was predicted that the resulting nitrate concentration in the groundwater will be 8.85 mg/L, which is below the groundwater quality standard of 50 mg/L specified in the Groundwater Regulations 2010. The resulting MRP concentration in the groundwater was predicted to be 0.099 mg/L, although there is no groundwater quality standard for phosphorus. There is also no MRP threshold value for coastal waters provided in the EPA Guidance on the Authorisation of Discharges to Groundwater (2011). On this basis, it is estimated that the impacts of nitrate and MRP on the receiving groundwater and coastal waters will be imperceptible (i.e., there will be negligible risk from the planned discharge to groundwater).
- A compliance monitoring point for the planned discharge activity is recommended at the site boundary on the down-gradient side of the percolation area.
- The proposed three houses are located 200m from the pNHA. Oak woods are present primarily along the Furbo Stream and to the north of the pNHA. The nearest wooded area is 200 metres upgradient from the site and therefore there will be no impact on the adjacent woodland. There is neither a groundwater pathway to the oak wood area or a sensitive receptor based on conservation objectives for Oak Woods.
- Groundwater flow is towards the coast and not to the Oak Woodlands.
- The subsoils on the site are gravely till, and not clay as stated in the report of the Planning Officer.
- Domestic wastewater is not listed as a significant pressure on the Spiddal Ground Water Body (GWB), within which the appeal site is located. Loadings

from the proposal are low and will not have a significant pressure on the groundwater quality.

Re. Refusal Reason 3:

- The site is not locally elevated. The landscape rises to the north and north-east. The proposed houses are c. 3 metres lower than the houses within Gleann na bhFear.
- The site is screened and sheltered to the south-west by vegetation.
- The site is not visible from the Galway Bay Scenic Route, Scenic Viewpoint 29 or Furbo Beach. Development in the village and the contours of the landscape block the site from view from the R336. Whilst some views of the site from the church would be possible the proposal would not detract from the church setting.
- Regarding inclusivity, the proposal is an extension to Gleann na bhFear, which contains a mix of household sizes and profiles. Furbo and the proposed development is assessable to all socio-economic groups. It is a challenge for a development of 3 no. units to address socio-economic inequalities. The site is accessible the local village and to Galway by bus.
- Regarding connectivity, all important services within Furbo are with 5-20 minutes walking time of Gleann na bhFear, including the village. A bus stop, providing connections to Galway City and south Connemara is c. 6 minutes walking distance from the site.
- In relation to compliance with 6.3 of Sustainable Residential Development in Urban Areas, the site is within walking distance of village services. The proposal also offers an alternative to housing in the open countryside. Separately, the Design Statement submitted addresses the 12 no. criteria from the Guidelines, demonstrating that the proposal complies with same.

In conclusion the appellant notes that, the proposal complies with the Core Strategy and DM Standards of the CDP; the documentation submitted with the application and the supplementary Tier 2 Assimilative Capacity Assessment Report address the concerns raised in Reason 1 and 2 comprehensively, concluding that there is no potential impact on Furbo Woods pNHA and that the on-site wastewater treatment

systems proposed are suitable for the safe disposal of domestic effluent; the proposal has been amended to overcome previous concerns with PA. Ref. 20/19; the proposal is a modest extension to Glean na bhFear, on an infill site; the Design Statement and connectivity mapping demonstrates that the site can be assimilated into the village successfully; the proposed dwellings are appropriate to families but can be adapted for a variety of households; and, the applicant has no objection to a Language Enurement Clause.

6.2. Planning Authority Response

None received.

6.3. Observations

The following observations were received in respect of the appeal.

Department of Housing, Local Government and Heritage (Development Applications Unit)

- The site is within 17 metres of Furbogh Woods pNHA (Site Code 001267), and 407 metres of the Knock and Lough Inch rivers, known sites for Freshwater Pearl Mussel. Prior to granting permission for the proposed development the Board should be satisfied that waste water can adequately be disposed of on the site in order to rule out any negative impacts on woodland habitats, species and on water quality within the nearby pNHA, and that the proposal will not pose a significant impact on the qualifying interest species and habitats of European Sites nearby, and on the water quality of these sites and downstream.

Reilig Realt na Marea Teoranta

- The pedestrian link connecting to the Realt Na Mara church grounds is in the ownership of Reilig Realt na Marea Teoranta. The applicant has not received permission to use these lands as a pedestrian link/route and has no legal entitlement to enter these lands to upgrade or construct lighting, or to lay pipes or wires.

- Details of the location of the proposed treatment systems have not been provided.
- The underlying aquifer is classified as being of Extreme Vulnerability. While it is speculated in the application that there is little or no groundwater/surface water connectivity there are and will always be pathways through which surface water will connect with the groundwater. The application suggests in one location that 2m³ per day of wastewater will be discharged to ground and in another 1m³ per day per house or a total of 3m³ per day. Annually this would amount to a discharge of 1,095m³ of effluent to ground. This poses a substantial risk to the underlying groundwater quality on the site and to the adjacent properties and lands.
- The three sites have been filled and excess materials are currently stored on site. The Site Characterisation Forms appear to contain information on trial holes excavated in areas that have been recently filled. This information cannot be relied on to represent the actual ground conditions or connectivity to groundwater or the water table level.
- The import of 500m³ of fill is proposed. Most fill is high in organic content and specific measures to control the runoff of silt are required during the construction period. No control measures are proposed in the application.
- The site varies between 9.2m OD and 10.4m OD. No finished ground levels or contours are provided for the three sites but the quantity of fill estimated appears to be a gross under-estimate as the site area is 2.2 Ha, that is 22,000m² and the fill suggested stone amounts to only 23mm per m² of site area.
- The proposed site is located directly to the north of the existing Realt a Mara graveyard. The proposed site is substantially higher level than lands owned by Realt Reilig na Mara, where the graveyard will be extended when permission is obtained.
- Effluent from the proposed development is likely to contaminate surface/groundwater over time due to the high level of the underlying granite.

Conradh na Gaeilge

- A sociolinguistic analysis is required in respect of the proposal. It is not clear that the report submitted by Tobin Engineers was undertaken by a qualified expert in sociolinguistics. Reference is made to the *Ráth Cairn Teoranta v ABP* case.
- A restriction should be imposed on the resale of a house to any non-Irish speaker. It is not recommended that language conditions affect people concerning houses in the constituency from which they are from. People who provide appropriate evidence of competence at level B2 or above in spoken Irish and who have a local need for housing should not have to satisfy further requirements.
- The language impact statement does not state what percentage of the houses would be reserved for Irish speakers.
- Signage should be in Irish.
- Assessment of the proposal should take account of the Language Plan for the area.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal and observations, 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:

- Principle of Proposed Development
- Waste water/impact on water quality
- Visual impact
- Other Matters
- Appropriate Assessment

7.2. Principle of Proposed Development

7.2.1. The proposed development entails 3 no. dwellings on un-zoned and un-serviced lands. The adjacent development, Gleann na bhFear connects to a waste water treatment plant which is located within the appeal site. Owing to a lack of capacity in this system it is proposed to serve the 3 no. proposed dwellings with individual waste water treatment systems.

7.2.2. Baile na hAbhann is designated as a 'Rural Settlement' (Level 7 a) in the Core Strategy of the Galway County Development Plan 2022-2028. Regarding the development of Rural Settlements and Rural Nodes (Level 7), Policy Objective SS7 provides that '*in the case of smaller settlements for which no specific plans are available, development shall be considered on the basis of its connectivity, capacity (including social, cultural, and economic, infrastructural and environmental capacity) and compliance with the Core Strategy and Settlement Hierarchy, good design, community gain and proper planning and sustainable development*'. Policy Objective RC5 'Rural Clustering on un-serviced lands in Villages', provides '*support the development of clusters of five houses or less within the footprint of existing villages with individual wastewater treatment plants in accordance with the most up to date EPA Code, of Practice for Wastewater Treatment and Disposal Systems serving single houses*'. This approach is further outlined at Section 4.5.2.2 of the Development Plan where it states that '*in addressing the villages that have a deficiency in wastewater infrastructure it is warranted to support the clustering of five houses or less on sites with individual waste water treatment plants in certain circumstances to enhance the viability and attractiveness of these areas and to provide a viable alternative to the single house in the countryside*'. The principle of 3 no. dwellings served by individual waste water treatment systems therefore complies with the policies and objectives of the Galway County Development Plan 2022-2028 in respect of development in un-serviced settlements.

7.3. **Waste Water/impact on water quality**

7.3.1. Refusal reason 1 and 2 relate to the proliferation of waste water treatment systems in the area and impact on water quality respectively. The proposed development comprises 3 no. dwellings served by individual tertiary waste water treatment systems which will be located alongside the existing treatment plant serving Gleann na bhFear.

7.3.2. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a 'Poor Aquifer' where the bedrock vulnerability is 'Extreme'. A ground protection response to R21 is noted. Accordingly, I note the suitability of the site for a treatment system subject to normal good practice and subject to additional condition⁵. The applicant's Site Characterisation Report identifies that there is no Groundwater Protection Scheme in the area. 3 no. Site Characterisation Reports were submitted. Details of trial data is as follows;

	Trial Hole A	Trial Hole B	Trial Hole C
Depth of Trial Hole	1.75 metres	1.8 metres	1.7 metres
Depth of Water Table	1.6 metres (bgl)	N/A	N/A
Depth of Bedrock	1.75 metres (bgl)	1.8 metres (bgl)	1.7 metres (bgl)
Recorded T/sub-surface value	7	12.69	13
Recorded P/surface value	8.36	10.28	9.53

7.3.3. The soil conditions found in the trial holes are described as comprising sand clay. Percolation test holes were dug and pre-soaked. Based on the EPA CoP 2021 (Table 6.4) Sites A, B and C are suitable for a secondary treatment system and soil polishing filter or a tertiary treatment system and infiltration area. The Site Characterisation Report submitted with the application concludes that the sites are suitable for 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 provide each dwelling with a secondary treatment system and sand polishing filter (i.e. tertiary treatment). Based on the information submitted, I consider that the site is suitable for the treatment system(s) proposed.

⁵ There is a minimum thickness of 2 m unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system or, a secondary treatment system as described in Chapters 8 and 9 is installed, with a minimum thickness of 0.3 m 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 m), beneath the invert of the polishing filter (i.e. 1.2 m in total for a soil polishing filter).

- 7.3.4. An observer to the appeal raises concerns in relation to the accuracy of trial hole data based on the presence of fill/excess material on the site. I note that the Site Characterisation Report did not refer to the presence of overburden or fill on the site or in the areas where trial holes were dug. I also note that the report of the Planning Officers refers to shallow overburden and vegetative indicators on the site which are indicative of a high winter water table. I am generally satisfied that the information contained in the Site Characterisation Report is reflective of the conditions which I observed on the site. I did not observe vegetation suggestive of poor permeability or evidence of a high water table during my site inspection.
- 7.3.5. Gleann na bhFear is served by a waste water treatment plant⁶ (specifically a proprietary treatment system and a sand polishing filter). This system is located on the western part of the appeal site. From reviewing the documentation submitted with PA. Ref. 11/529 & ABP Ref. PL07.239786, under which the existing waste water treatment system on the western part of the appeal site was permitted, I note that this system has a design capacity of 88PE. In accordance with ‘Treatment Systems for Small Communities, Business, Leisure Centres and Hotels’, 1999, published by the EPA, a minimum separation distance of 37 metres is required between treatment systems catering for development with a PE ranging from 81-100⁷ and existing development. From reviewing the site layout plan submitted with the proposed development I note that the proposal accords with this requirement.
- 7.3.6. Regarding the issue of proliferation, I note that the Section 5.4.1. of the EPA CoP 2021 states that *‘any potential impact of the proposed system due to the increased pathogen or nutrient loads on the groundwater quality in the area should be assessed in areas of high-density housing. Densities of DWWTS greater than six per hectare in areas of ‘extreme’ or ‘high’ groundwater vulnerability may mean a negative effect on groundwater quality, particularly with respect to levels of E. coli and nitrate (Morrissey et al., 2015)’*. The 3 no. treatment systems are located within an area equating to c. 0.68 Ha, and when taken in conjunction with the area of open space south of Site A and the internal access road the relevant area is c. 1 Ha, which is substantially below

⁶ This system is designed to cater for the 15 no. dwellings within Gleann na bhFear and 7 no. dwelling adjacent to Gleann na bhFear.

⁷ See Table 4, Treatment Systems for Small Communities, Business, Leisure Centres and Hotels’, 1999. EPA.

the threshold referenced in the EPA CoP 2021 of 6 systems per hectare, after which a negative effect on water quality may arise. I note that the Tier 2 Assimilative Capacity Assessment report submitted by the appellant proposes to provide a compliance monitoring point at the site boundary on the down-gradient side of the percolation area. Should the Board be minded to permit the proposed development I recommend that a condition is attached requiring details of this monitoring mechanism to be agreed with the Planning Authority prior to commencement of development.

7.3.7. The Planning Authority have raised the issue of water quality in the context of the proximity of the appeal site to Furbogh Wood pNHA. The appeal site is not located within Furbogh Wood and the proposed houses and treatment systems are located on the eastern part of appeal site c. 130 metres from the western boundary of the appeal site, beyond which is Furbogh Wood pNHA. Importantly, I note that the topography of the appeal site falls southwards towards to coast and I am therefore satisfied that there is no potential for potentially contaminated surface or groundwater to reach Furbogh Wood pNHA.

7.3.8. An observer to the appeal raises the issue of discrepancies in the information submitted by the appellant in respect of the rate of discharge from the treatment system to the ground. I note that the appellant refers to a number of different figures when referencing the volume of effluent discharging to the ground. Page vii of the Appropriate Assessment Screening report states that *'there is potential that approximately 2 m³ of wastewater will be discharged per day to the on-site waste water treatment system'*; while at page x it is stated *'residual waste water from the houses which will be discharged to groundwater via a OSWWTS will have a volume of <1 m³/day in line with WFD Regulations'*. Elsewhere, page 1 of the Tier 2 Assimilative Capacity Assessment state that *'the estimated total hydraulic loading of 3.2m³/d within the 0.68 Ha site'*. I note that groundwater vulnerability in the area is classified as extreme and in response to the concerns raised by the Planning Authority regarding potential impacts on water quality the appellant submitted a Tier 2 Assimilative Capacity Assessment in order to establish whether the site has capacity to cater for the discharge of effluent to the ground. Reference to a discharge of 3.2m³ relates to the entire development of 3 no. houses, however in light of reference to the volume of discharge being <1 m³/day and elsewhere to c. 2 m³ per day it is unclear

which figure is accurate and consequently which figure has been used in the Tier 2 Assimilative Capacity Assessment to reach the conclusion that that proposed loadings are low and will not have a significant impact on groundwater quality. Based on the information submitted, specifically the discrepancies in the information submitted as it relates to hydraulic loading/effluent discharging to the ground contained in the Appropriate Assessment Screening report and the Tier 2 Assimilative Capacity Assessment I am not satisfied that it has been demonstrated that the treatment of effluent on the site can be catered for without a risk to groundwater. I recommend that permission is refused on this basis.

7.3.9. An observer raises concerns that their land may be impacted by contaminated groundwater as the proposed development occupies an elevated site relative to their lands. Based on the discrepancies outlined above at paragraph 7.3.8 I am unable to conclude that the appeal site has a sufficient capacity to treat effluent and I am therefore unable to conclude that properties/lands situated at lower levels relative to the appeal site would not be adversely affected by potentially contaminated groundwater.

7.3.10. I note that the Planning Authorities second refusal reason states that the proposed development materially contravenes Policy Objectives WR1, WS7, WW4, WW6, NHB1, NHB4 and NHB6 of the Galway County Development Plan 2022-2028. These policy objectives relate to protection of water quality (WR1 and WS7), provision of adequate capacity (WW4), compliance with the EPA CoP 2021 (WW6), and the protection of biodiversity (NHB1, NHB4 and NHB6), and are not, in my view, sufficiently specific so as to justify the use of the term "materially contravene" in terms of normal planning practice. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act, 2000, as amended, should it be minded to grant permission for the proposed development.

7.4. **Visual Impact**

7.4.1. The third refusal reason cited by the Planning Authority refers to the visual impact of the proposed development. The Planning Authority considered that the proposal would not assimilate into the village setting and refer to the locally elevated nature of the appeal site, the sensitivities of the landscape (i.e. Landscape Sensitivity Class 3), the

location of the appeal site to the rear of existing dwelling and to the resulting suburban pattern of development. The Planning Authority considered that the proposal does not comply with Section 6.3 of the Sustainable Residential Development In Urban Areas (Cities, Towns and Villages) DEHLG 2009, 'general advice' which includes that development integrate with the pattern and grain of existing development; Section 6.8 'layout and design considerations' which provides that development makes a positive contribution to its setting, has a sense of identity and provides for effective connectivity; and, Section 2, 6 and 7 of the accompanying Urban Design Manual – A Best Practice Guide DEHLG 2009 in relation to connections, distinctiveness and layout respectively.

7.4.2. The appeal site comprises lands immediately adjacent to Gleann na bhFear, with access proposed through this existing development. The design of the proposed dwellings are not dissimilar to the dwellings within Gleann na bhFear. The topography of the area rises from the coast/R336 in a northerly direction, however in my opinion the appeal site is not elevated to the extent that development located thereon would be intrusive. The proposal is modest in scale, consisting of 3 no. storey and a half dwellings with maximum ridge heights of c. 8 metre. The closest dwelling would be in excess of 150 metres from the R336, with a row of houses and a church located between the appeal site and the R336. Having regard to the nature of the appeal site and to the scale and design of the proposed houses I am satisfied that the proposed development would integrate with the pattern of development in the area, would not be incongruous in the local landscape and would not have a significant negative impact on the visual amenities of the area.

7.4.3. The report of the Planning Officer makes reference to proximity to Protected View 29. I note that this protected view is of the County Clare coast which is a seaward view and is therefore not affected by the proposal.

7.5. **Other Matters**

7.5.1. Impact on Residential Amenity – whilst not raised in the appeal, noting the scale, design and separation distance between the proposed dwellings and adjacent property, I am satisfied that the proposed development will not give rise to significant

negative impacts on the neighbouring property, including the dwellings within Gleann na bhFear.

7.5.2. Levels - an observation to the appeal notes that no finished ground levels or contours are provided for the three sites. I note that contour levels, the finished floor levels of each house and the access road are indicated on the 'Proposed Site Layout'. In addition, the drawing entitled 'Proposed Site Sections' also indicates levels on each site.

7.5.3. Flood Risk – the appellant has submitted a Stage 2 Flood Risk Assessment. Regarding fluvial flooding the assessment notes that the site is c. 350 metres east of the Knock Stream and that the finished floor levels (FFL) of the proposed houses will be c. 1 metre higher than the 1,000 year flood level indicated in the OPW's PFRA study; that pluvial flooding will be managed on the site by the storm water drainage and SuDS, limiting discharge rates to greenfield rates; that there is no evidence of groundwater flooding, and that the risk from coastal flooding is minimal given that the FFL's of the proposed houses are c. 7 metres above the 1000 year coastal flood level. Overall the assessment concludes that the risk from flooding is low and that the design of the proposed development will minimise flooding outside the site. Having reviewed the Flood Risk Assessment submitted I am satisfied that the appeal site is not significantly affected by flooding, and would not result in an increased risk of flooding elsewhere.

7.5.4. Linguistic Impact – The appeal site is located within the Cois Fharráige district (District D) of Conamara. Policy Objective GA5 of the Galway County Development Plan 2022-2028 requires the submission of the Linguistic Impact Statement for housing proposal for two or more houses in the Gaeltacht area. A Linguistic Impact Statement (LIS), prepared by Tobin Consulting Engineers was submitted with the planning application. The report notes the following;

- The proposal will not have a negative impact on the Irish language in the area or culture in the village.
- The habitual use of Irish in na Forbacha is lower than Spidéal and other key Gaeltacht areas and thus the idea that this development will endanger the Irish

speaking population by causing a shift amongst native speakers in favour of English is highly unlikely.

- Protecting the language and allowing further development to facilitate population growth need not be conflicting policy objectives.
- The development and the protection of the Irish language is a complex issue which will require a multi-policy intervention and a societal commitment for the protection and development of the language.
- The developer aims to promote the Irish Language and has proposed that the future tenants of the proposed development complete and achieve a minimum required standard of Irish language fluency as the proposed development is within a Gaeltacht area. It will be subject to a language enurement Clause as outlined in the Galway County Development Plan 2022-2028.

I note that the Galway County Development Plan does not specify the qualifications required by persons undertaking Linguistic Impact Statements for Gaeltacht areas. I note that this issue arose in the Rathcairn judgment [2020-522JR], where at paragraph 108 Ms. Justice O' Hanlon concluded that the author of a linguistic impact statement drew conclusions which he was not qualified to do so. In my opinion caution should be exercised when using linguistic impact statements to assess proposals within Gaeltacht areas where the author of the report has no referenced competence in sociolinguistics or language planning. In my opinion the LIS submitted, and the conclusions reached therein, are not sufficiently robust for the Board to rely on in determining the impact of the proposed development on the Irish language within Na Forbacha. Notwithstanding this, I note that the proposal comprises 3 no. dwellings and is therefore 1 no. dwelling above the threshold set out in Objective GA4 and GA5 for requiring a language enurement clause and the submission of a linguistic impact statement respectively. Should the proposal be permitted I note that at a minimum 2 no. of the dwellings⁸ would be conditioned with a language enurement clause (based on Policy Objective GA4) and having regard to this I consider that the proposal would not be likely to have a significant negative impact on the Irish language in this area.

⁸ Census 2022 data indicates the population of Furbogh Electoral Division, which includes Baile Na Habhann, as 1,634, of which 1,053 are aged 3 and over and can speak Irish. In terms of frequency of speaking Irish, of the 1,053 who can speak Irish and are aged 3+, 65 no. indicate that they speak Irish daily both within and outside the education system.

- 7.5.5. Compliance with Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007) - the proposed houses within the scheme generally comply with the standards for internal accommodation set out in the aforementioned guidelines.
- 7.5.6. Connectivity (new issue) - the proposal assumes a level of pedestrian connectivity via an existing laneway running south alongside the Realt na Mara Church (referred to as a 'potential pedestrian link' in the Design Statement). Condition no. 3 of PA Ref. 11/529 & ABP Ref. PL07.239786 (i.e. Gleann na bhFear) required that a proposal for the upgrading of this area be agreed with the Planning Authority prior to commencement of development. Based on the observation submitted with this appeal it is however unclear whether the applicant has the necessary rights to facilitate this connection, and to carry out works which would be necessary to facilitate pedestrian access, for example surfacing, lighting etc., as it relates to lands purportedly owned by a third party. In the absence of this pedestrian link pedestrians would be required to take a circuitous route through Gleann na bhFear and exit onto the L-5392 which is not served by a public footpath or lighting. In my opinion this would pose a risk to the safety of pedestrians. I recommend that permission is refused on this basis. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reason for refusal set out above, it may not be considered necessary to pursue the matter.

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. A screening report for Appropriate Assessment was submitted with the planning application. The report was prepared by Tobin Consulting Engineers. The Appropriate Assessment screening report identifies 8. no European sites within a

15km radius of the appeal site. All European sites are 'screened out' due to an absence of connectivity and distance from the appeal site. Potential construction phase impacts are identified as run-off of sediment/construction pollution, the emission of dust, noise/disturbance, and invasive species. Potential operational phase impacts are identified as the discharge of effluent to groundwater. The report notes that there is no potential for impact to the water quality of any streams or rivers in the area, that surface water run-off during the operational phase of the development is to be discharged to petrol interceptors and an attenuation tank, with potential for infiltration on the site deemed to be moderate due to the moderate slopes and permeability of soils. The Appropriate Assessment Screening report notes that there are no Annex 1 habitats on the site and that the proposed development will not directly impact any qualifying habitats. The report also notes that no impact on qualifying or non-qualifying annexed habitat outside the immediate area of construction activity is anticipated, that the site does not provide suitable ex-situ habitat for nesting, over wintering birds or for feeding, that the site does not provide suitable habitat for annexed mammalian species, and that noise, vibration, air quality and light will not impact designated habitats. The report concludes that potential likely significant effects from the proposed development can be ruled out for Connemara Bog Complex SAC/SPA, Galway Bay Complex, Inner Galway Bay SPA, Ross Lake SAC and Black Head SAC in view of the sites conservation objectives, and that a Stage 2 (Appropriate Assessment) is not required. Additionally the report notes that the separation distance between the proposed development and the designated sites negates the possibility of cumulative impact on designated sites.

I note that there are a number of discrepancies/anomalies contained in the Appropriate Assessment Screening report submitted by the applicant. The report contains two differing discharge rates for the waste water treatment systems, i.e. 2m³ per day and elsewhere >1m³ per day. Reference is made in the Appropriate Assessment Screening report (see paragraph 4.2.2) to 'the pouring of concrete associated with the hydrogen plant' and to construction works 'undertaken within watercourse when constructing the abstraction and discharge points'. Reference also appears to be made to candidate SAC's (cSAC – see page xiii) however it is unclear what sites are being referred to. Having reviewed the Appropriate Assessment Screening report submitted by the applicant I consider it to be inadequate, containing a number of

anomalies. Notwithstanding this however, I have carried out an Appropriate Assessment Screening of the proposed development.

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 Development⁹. The development comprises permission for;

- 3 no. houses served by 3 no. tertiary waste water treatment systems.
- Construction of new access road.
- Connection into existing surface water and watermains within Gleann na bhFear.
- Attenuation tank.
- Public open space, lighting, landscaping, footpaths and associated site works.

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 surface and ground water (e.g. sedimentation, run-off, fuel, oils) during construction phase of the proposed development.
- Potential for the release of contaminated surface water generated by the proposal at operational stage of the proposal.
- Release of effluent to groundwater at operation stage.

⁹ Reference is made in the Appropriate Assessment Screening report (paragraph 4.2.2) to a hydrogen plant and works being carried out in a watercourse on the site, specifically the abstraction and to discharge points. Reference to a hydrogen plant and to abstraction and discharge within a watercourse appear to be typographical errors.

- Should any bird species which are Special Conservation Interests (SCI) of Connemara Bog Complex SPA (Site Code: 004181), Inner Galway Bay SPA (Site Code: 004031), Lough Corrib SPA (Site Code:004042) 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 6.3 above for summary of observation from DoHLGH. The observation refers to Fresh Water Pearl Mussels in the Knock and Inch Rivers c. 400 metres west of the appeal site. Whilst I note that there may be extant populations of this Fresh Water Pearl Mussel within these watercourses I note that these watercourses are not designated European sites, and having regard to the distance between the appeal site and the Knock and Inch Rivers, and to the topography of the appeal site and adjoining area which falls towards the coast I do not consider a likelihood of significant effects on Fresh Water Pearl Mussel in the Knock or Inch Rivers.

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 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
Connemara Bog Complex SAC (Site Code:002034)	<ul style="list-style-type: none"> • Coastal lagoons [1150] • Reefs [1170] • Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] 	c. 5 km north-west of appeal site.	Having regard to the absence of connectivity between the appeal site and Connemara Bog Complex SAC and to the distance	N

	<ul style="list-style-type: none"> • Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoetes-Nanojuncetea [3130] • Natural dystrophic lakes and ponds [3160] • Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260] • Northern Atlantic wet heaths with Erica tetralix [4010] • European dry heaths [4030] • Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] • Blanket bogs (* if active bog) [7130] • Transition mires and quaking bogs [7140] • Depressions on peat substrates of the Rhynchosporion [7150] • Alkaline fens [7230] • Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] • Euphydryas aurinia (Marsh Fritillary) [1065] • Salmo salar (Salmon) [1106] • Lutra lutra (Otter) [1355] • Najas flexilis (Slender Naiad) [1833] 		between the appeal site and Connemara Bog Complex SAC, I do not consider a likelihood of significant effects.	
Connemara Bog Complex SPA (Site Code:004181)	<ul style="list-style-type: none"> • Cormorant (Phalacrocorax carbo) [A017] • Merlin (Falco columbarius) [A098] • Golden Plover (Pluvialis apricaria) [A140] • Common Gull (Larus canus) [A182] 	C. 7.5 km north-west of appeal site.	Having regard to the absence of connectivity between the appeal site and Connemara Bog Complex SPA and to the distance between the appeal site and Connemara Bog Complex SPA I do not consider a likelihood of significant effects.	N

Galway Bay Complex SAC (Site Code:000268)	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Perennial vegetation of stony banks [1220] • Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] • Salicornia and other annuals colonising mud and sand [1310] • Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Turloughs [3180] • <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130] • Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210] • Calcareous fens with <i>Cladium mariscus</i> and species of the Caricion <i>davallianae</i> [7210] • Alkaline fens [7230] • Limestone pavements [8240] • Lutra (Otter) [1355] • <i>Phoca vitulina</i> (Harbour Seal) [1365] 	c. 5.5 km east of appeal site	Having regard to the absence of connectivity between the appeal site and Galway Bay Complex SAC and to the distance between the appeal site and Galway Bay Complex SAC, I do not consider a likelihood of significant effects.	N
Inner Galway Bay SPA (Site Code: 004031)	<ul style="list-style-type: none"> • Black-throated Diver (<i>Gavia arctica</i>) [A002] • Great Northern Diver (<i>Gavia immer</i>) [A003] • Cormorant (<i>Phalacrocorax carbo</i>) [A017] • Grey Heron (<i>Ardea cinerea</i>) [A028] • Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] 	c. 5 km east of appeal site	Having regard to the absence of connectivity between the appeal site and Inner Galway Bay SPA and to the distance between the appeal site and Inner Galway Bay SPA, I do not consider a	N

	<ul style="list-style-type: none"> • Wigeon (<i>Anas penelope</i>) [A050] • Teal (<i>Anas crecca</i>) [A052] • Red-breasted Merganser (<i>Mergus serrator</i>) [A069] • Ringed Plover (<i>Charadrius hiaticula</i>) [A137] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Lapwing (<i>Vanellus vanellus</i>) [A142] • Dunlin (<i>Calidris alpina</i>) [A149] • Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] • Curlew (<i>Numenius arquata</i>) [A160] • Redshank (<i>Tringa totanus</i>) [A162] • Turnstone (<i>Arenaria interpres</i>) [A169] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Sandwich Tern (<i>Sterna sandvicensis</i>) [A191] • Common Tern (<i>Sterna hirundo</i>) [A193] • Wetland and Waterbirds [A999] 		likelihood of significant effects.	
Lough Corrib SAC (Site Code:000297)	<ul style="list-style-type: none"> • Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] • Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130] • Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140] • Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] • Semi-natural dry grasslands and scrubland facies on calcareous 	c. 9 km north east of appeal site.	Having regard to the absence of connectivity between the appeal site and Lough Corrib SAC and to the distance between the appeal site and Lough Corrib SAC, I do not consider a likelihood of significant effects.	N

	<p>substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <ul style="list-style-type: none"> • Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] • Active raised bogs [7110] • Degraded raised bogs still capable of natural regeneration [7120] • Depressions on peat substrates of the Rhynchosporion [7150] • 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] • Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] • Bog woodland [91D0] • Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] • Austropotamobius pallipes (White-clawed Crayfish) [1092] • Petromyzon marinus (Sea Lamprey) [1095] • Lampetra planeri (Brook Lamprey) [1096] • Salmo salar (Salmon) [1106] • Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303] • Lutra lutra (Otter) [1355] • Najas flexilis (Slender Naiad) [1833] • Hamatocaulis vernicosus (Slender Green Feather-moss) [6216] 			
Lough Corrib SPA (Site Code:004042)	<ul style="list-style-type: none"> • Gadwall (Anas strepera) [A051] • Shoveler (Anas clypeata) [A056] • Pochard (Aythya ferina) [A059] 	c. 10 km north east of appeal site.	Having regard to the absence of connectivity between the appeal site and Lough	N

	<ul style="list-style-type: none"> • Tufted Duck (<i>Aythya fuligula</i>) [A061] • Common Scoter (<i>Melanitta nigra</i>) [A065] • Hen Harrier (<i>Circus cyaneus</i>) [A082] • Coot (<i>Fulica atra</i>) [A125] • Golden Plover (<i>Pluvialis apricaria</i>) [A140] • Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] • Common Gull (<i>Larus canus</i>) [A182] • Common Tern (<i>Sterna hirundo</i>) [A193] • Arctic Tern (<i>Sterna paradisaea</i>) [A194] • Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] • Wetland and Waterbirds [A999] 		<p>Corrib SPA and to the distance between the appeal site and Lough Corrib SPA, I do not consider a likelihood of significant effects.</p>	
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7.6.9. 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), Connemara Bog Complex SAC, Connemara Bog Complex SPA, Galway Bay Complex SAC, Inner Galway Bay SPA, Lough Corrib SAC and Lough Corrib SPA have been screened out due to the weakness in connectivity between the appeal site and these European sites. In terms of the potential for ex-situ effects, the appeal site would not represent a favourable habitat for birds species connected with Connemara Bog Complex SPA, Inner Galway Bay SPA or Lough Corrib SPA for resting, foraging, breeding etc.

7.6.10. 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.

7.6.11 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 or in combination with other plans and

projects would not be likely to give rise to significant effects on European Site No. 002034, 004181, 000268, 004031, 004042 or 000297 or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment is therefore not required. This determination is based on the absence of connectivity between the appeal site and the European sites and the distance between the appeal site and the European sites.

8.0 Recommendation

8.1. Having regard to the above it is recommended that permission is refused based on the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the information submitted with the planning application and appeal, specifically to the discrepancies in relation to the rate of effluent discharge to the ground, with implications for the capacity of the site to cater for the treatment of effluent, noting the vulnerability of groundwater which is classified as extreme, and notwithstanding the tertiary treatment proposed, the Board is not satisfied that the site is capable of treating foul effluent arising from the dwellings and considers that the method of foul water disposal will render the treatment of the effluent unacceptable and could increase the risk of serious water pollution. Accordingly, the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. Based on the information submitted with the planning application/appeal the applicant has not adequately demonstrated that pedestrian connectivity can be facilitated from the proposed development using the laneway running south alongside the Realt na Mara Church, which would require upgrading. In the absence of this link pedestrians would be required to take a circuitous route through Gleann na bhFear, exiting onto the L-5392 which is not served by a public footpath or lighting. It is considered that this access route is substandard and would endanger the safety of pedestrians.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ian Campbell
Planning Inspector

17th October 2023