



An
Bord
Pleanála

Inspector's Report ABP-315246-22

Development	Proposed house, wastewater treatment system and polishing filter and all associated site works.
Location	Inishroo, Kinara, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	2260919
Applicant(s)	Martin Linnane.
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Observer(s)	None.
Date of Site Inspection	27 th June 2023.
Inspector	Barry O'Donnell

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.5ha and is located in the townland of Inishroo, approx. 3.5km west of Kinvara in south County Galway. It consists of a greenfield plot that is currently in agricultural use and which is enclosed on all sides by a low-level stone wall.
- 1.2. The site is accessed via a private single lane track that connects to the N67 National Road to the south. The track also provides access to the applicant's family home and farm.
- 1.3. The rural area surrounding the site has a rural character and has experienced limited development to date. In addition to the applicant's family home, there is a detached bungalow on the west-adjointing site and there is a cluster of houses further west.
- 1.4. The topography of the area sees land levels rise gently to a local high point approx. 200m east of the site, from where there are expansive views towards Galway Bay, to the north, and also toward The Burren, to the west.

2.0 Proposed Development

- 2.1. The proposed development entailed within the public notices comprises the erection of a dwelling house, wastewater treatment system and polishing filter and all associated services.
- 2.2. The application included the following supporting documentation
 - Site Specific Flood Risk Assessment,
 - Appropriate Assessment Screening Report, and
 - Site Characterisation Form.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission on 4th November 2022, for 2 reasons as follows: -

1. The proposed development is located along the N67 national secondary road. Based on the Planning Authority's site inspection, Galway County Council's Road and Transportation Department's and Transport Infrastructure Ireland's consultation responses and the plans and particulars received, and having regard to the horizontal alignment of the national road and the absence of satisfactorily demonstrated sightlines in accordance with DM Standard 28 of the Galway County Development Plan 2022-2028, the proposed access arrangement utilising the existing site entrance on to the N67 is deemed unsatisfactory owing to the forward sight distance of right-turning vehicles entering the site for vehicles approaching from the east and the additional traffic-turning movements generated by the proposed development onto/off this road which would interfere with the safety and free flow of traffic on this heavily trafficked strategic route. It is considered that, if permitted as proposed, the development would endanger public safety by reason of traffic hazard, obstruction of road users, or otherwise, and would set an undesirable precedence for similar development, would contravene materially Policy Objectives NR1 and NR4 and DM Standard 26 of the Galway County Development Plan 2022-2028 and thus be contrary to the proper planning and sustainable development of the area.
2. It is considered the proposed development by reason of its siting in this rural coastal setting along the Galway Bay Scenic Route, a Class 3 'Special' designated landscape, would result in a built form that would not fit appropriately or integrate effectively into this visually prominent location and would contravene materially Policy Objective LCM1, Policy Objective LCM3, Policy Objective PVSR1 and DM Standard 8 of the Galway County Development Plan 2022-2028. Accordingly, to grant the proposed development would set an undesirable precedence for similar development along this scenic route, and the potential deterioration of the same, interfere with the unique character of the coastal landscape, would detract from the visual amenity of the area, would contravene materially a policy objective and a development management standard contained in Galway County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. A Planning Report dated 4th November 2022 has been provided, which reflects the decision to refuse permission. In addition to the recommended reasons for refusal, the report identifies a number of issues as follows: -

- Regarding rural housing need, the report indicates that there is some ambiguity regarding the applicant's need and states that an updated rural housing need form, evidence of his current address and an outline of longstanding residence in the area are required.
- Additional trial holes are identified as required, in order to verify the depth of soil above bedrock and, further, the report suggests that a tertiary system would be more appropriate for the site, in view of the site's characteristics and its proximity to a number of European sites.
- Regarding surface water, the report questions the adequacy of the proposed soakpit to accommodate all run-off from the site and questions whether additional soakpits will be required.

3.2.2. Other Technical Reports

An emailed **Roads and Transportation Section** report dated 1st November 2022 has been provided, which advises that compliance with sight distance requirements has not been demonstrated.

3.3. Prescribed Bodies

3.3.1. Transport Infrastructure Ireland made a submission on 10th October 2022, advising that the development is at variance with official policy in relation to control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) as it would (a) would create an adverse impact on the national road, (b) would result in the intensification of an existing direct access to a national road and (c) would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

3.3.2. The Department of Housing, Local Government and Heritage (DAU) made a submission on 5th October 2022, advising that the Planning Authority must be

satisfied that the development will not have a significant effect on adjacent European sites, prior to granting consent.

3.4. **Third Party Observations**

- 3.4.1. The Planning Authority report indicates that no third-party submissions were received on the application.

4.0 **Planning History**

- 4.1. I did not encounter any recent planning records pertaining to the site.

5.0 **Policy Context**

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

- 5.1.1. The site is in a rural, unzoned part of County Galway. Map 4.1 contains the Rural Area Types, from which it can be seen that the site is in the Galway County Transport & Planning Study (GCTPS) area. Chapter 4 outlines that the rural areas contained within the GCTPS area (together with rural areas within the Metropolitan Area designation) constitute rural areas under strong urban pressure.
- 5.1.2. The site is located in a Coastal Landscape, identified in Chapter 8 as a class 3 'Special' landscape. Section 8.13.2 states that this landscape category has a 'high sensitivity to change'. The N67 in the area of the site is also designated as a scenic route, the *Galway Bay Scenic Route*.
- 5.1.3. The following policies are relevant to the appeal: -
- RC2:** To manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with the Rural Housing Policy Objectives as outlined in Section 4.6.3.
- RH2:** It is policy objective to facilitate rural housing in this rural area under strong urban pressure subject to the following criteria: 1 (a) Those applicants with long standing demonstrable economic and/or social Rural Links or Need to the area through existing and immediate family ties seeking to develop their first home on the existing family farm holding. Consideration shall be given to special circumstances

where a landowner has no immediate family and wishes to accommodate a niece or nephew on family lands. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case-by-case basis.

OR

1 (b) Those applicants who have no family lands, or access to family lands, but who wish to build their first home within the community in which they have long standing demonstrable economic and or social Rural links* or Need and where they have spent a substantial, continuous part of their lives i.e. have grown up in the area, schooled in the area or have spent a substantial, continuous part of their lives in the area and have immediate family connections in the area e.g. son or daughter of longstanding residents of the area. Having established a Substantiated Rural Housing Need*, such persons making an application on a site within an 8km radius of their original family home will be accommodated, subject to normal development management.

To have lived in the area for a continuous seven years or more is to be recognised as a substantial, continuous part of life and also as the minimum period required to be deemed longstanding residents of the area.

Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case-by-case basis.

OR

1 (c) Those applicants who can satisfy to the Planning Authority that they are functionally dependent in relation to demonstrable economic need on the immediate rural areas in which they are seeking to develop a single house as their principal family Residence in the countryside. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case-by-case basis.

OR 1

(d) Those applicants who lived for substantial periods of their lives in the rural area, then moved away and who now wish to return and build their first house as their permanent residence, in this local area. Documentary evidence shall be submitted to

the Planning Authority to illustrate their links to the area in order to justify the proposed development and it will be assessed on a case-by-case basis.

OR

1 (e) Where applicants can supply, legal witness or land registry or folio details that demonstrate that the lands on which they are seeking to build their first home, as their permanent residence, in the area have been in family ownership for a period of 20 years or more, their eligibility will be considered. Where this has been established to the satisfaction of the Planning Authority, additional intrinsic links will not have to be demonstrated.

OR

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

OR

1 (g) Rural families who have long standing ties with the area but who now find themselves subsumed into Rural Villages. They have no possibility of finding a site within the particular Rural Villages. Rural Villages dwellers who satisfy the requirements for Rural Housing Need as outlined in RH2 will not be considered as Urban Generated and will have their Housing Need upheld.

2. An Enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies. Definitions applied above:

RH4: Those applicants seeking to construct individual houses in the open countryside in areas located in Landscape Classification 2, 3 and 4 are required to demonstrate their demonstrable economic or social Rural Links or Need* as per RH 2, i.e.

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

shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case-by-case basis.

OR

1(b) Those applicants who have no family lands, or access to family lands, but who wish to build their first home within the community in which they have long standing demonstrable economic and or social Rural links or Need* and where they have spent a substantial, continuous part of their lives i.e. have grown up in the area, schooled in the area or have spent a substantial, continuous part of their lives in the area and have immediate family connections in the area e.g. son or daughter of longstanding residents of the area.

Having established a Substantiated Rural Housing Need*, such persons making an application on a site within an 8km radius of their original family home will be accommodated, subject to normal development management.

To have lived in the area for a continuous seven years or more is to be recognised as a substantial, continuous part of life and also as the minimum period required to be deemed longstanding residents of the area.

Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case-by-case basis.

OR

1(c) Those applicants who can satisfy to the Planning Authority that they are functionally dependent in relation to demonstrable economic need on the immediate rural areas in which they are seeking to develop a single house as their principal family Residence in the countryside. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case-by-case basis.

OR

1(d) Those applicants who lived for substantial periods of their lives in the rural area, then moved away and who now wish to return and build their first house as their permanent residence, in this local area. Documentary evidence shall be submitted to the Planning Authority to illustrate their links to the area in order to justify the proposed development and it will be assessed on a case-by-case basis.

OR

1(e) Where applicants can supply land registry or folio details that demonstrate that the lands on which they are seeking to build their first home, as their permanent residence, in the area have been in family ownership for a period of 20 years or more, their eligibility will be considered. Where this has been established to the satisfaction of the Planning Authority, additional intrinsic links/need will not have to be demonstrated.

OR

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

In addition, an Applicant may be required to submit a visual impact assessment of their development, where the proposal is in an area identified as "Focal Points/Views" in the Landscape Character Assessment of the County or in Class 3 and Class 4 designated landscape areas. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case-by-case basis. An Enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies.

RH9: It is a policy objective of the Planning Authority to have regard to Galway County Council's Design Guidelines for the Single Rural House with specific reference to the following:

- a) It is the policy objective to encourage new dwelling house design that respects the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape;
- b) It is the policy objective to promote sustainable approaches to dwelling house design and encouraging proposals to be energy efficient in their design and layout;
- c) It is the policy objective to require the appropriate landscaping and screen planting of proposed developments by using predominately indigenous/local species and groupings.

RH15: Residential development along National Roads will be restricted outside the 50-60kmp speed zones in accordance with the DoECLG Spatial Planning and National Road Guidelines (2012).

Consideration shall be given to the need of farm families to live on the family holding on a limited basis and a functional need to live at this location must be demonstrated. Documentary evidence shall be submitted to the Planning Authority to justify the proposed development and will be assessed on a case by case basis. Where there is an existing access, the combined use of same must be considered and shown to be technically unsuitable before any new access can be considered. Access via local roads shall always be the preferred access and in all cases, it must be demonstrated that this is not possible.

An Enurement condition will be attached to grants of planning permission for the above.

LCM1: Preserve and enhance the character of the landscape where, and to the extent that, in the opinion of the Planning Authority, the proper planning and sustainable development of the area requires it, including the preservation and enhancement, where possible of views and prospects and the amenities of places and features of natural beauty or interest.

LCM3: Consideration of landscape sensitivity ratings shall be an important factor in determining development uses in areas of the County. In areas of high landscape sensitivity, the design and the choice of location of proposed development in the landscape will also be critical considerations.

PVSR1: Preserve the protected views and scenic routes as detailed in Maps 8.3 and 8.4 from development that in the view of the Planning Authority would negatively impact on said protected views and scenic routes. This shall be balanced against the need to develop key infrastructure to meet the strategic aims of the plan.

NR1: To protect the strategic transport function of national roads and associated national road junctions, including motorways through the implementation of the 'Spatial Planning and National Roads Guidelines for Planning Authorities' DECLG, (2012) and the Trans-European Networks (TEN-T) Regulations.

NR4: The policy objective of the Planning Authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 km/h apply. This provision, in accordance with the relevant TII Guidelines, applies to all categories of development'. Consideration will be given, where appropriate, for the facilitation of regionally strategic projects and utility infrastructure.

5.1.4. Chapter 15 also contains development standards to guide and control development, a number of which are relevant to the appeal.

5.2. National Planning Policy Framework

5.2.1. National Policy Objective 19 is of relevance to the proposed development. It requires the following:

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

- *In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;*
- *In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements'.*

5.3. Sustainable Rural Housing Guidelines for Planning Authorities

5.3.1. The Guidelines identify a number of rural area typologies and accompanying Map 1 provides an indicative outline of these area typologies. According to this indicative map, the subject site is in an 'area under strong urban influence'. It is noted from the Guidelines that this map is an indicative guide to the rural area types only and that the development plan process should be used to identify different types of rural area.

- 5.3.2. For areas under strong urban influence, the Guidelines outline that the development plan should *'on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.'*
- 5.3.3. The Guidelines require a distinction to be made between urban and rural generated housing needs, in the different rural area types. In relation to the identification of people with rural generated housing needs, the Guidelines refer to 'Persons who are an intrinsic part of the rural community' and 'Persons working full-time or part-time in rural areas. Of relevance to this appeal, 'Persons who are an intrinsic part of the rural community' are identified as having *"spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes."*

5.4. Natural Heritage Designations

- 5.4.1. The site is not located within or adjacent to any designated European site, the closest such sites being Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031), which encroach to within c.110m north of the site.

5.5. EIA Screening

- 5.5.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,

- 5.5.3. The subject development comprises the construction of a house with sewerage treatment system and associated site works, on a site with an area of 0.5ha. It falls well below the applicable threshold for mandatory EIA.
- 5.5.4. In respect of sub-threshold EIA, having regard to the limited nature and scale of the proposed development, which does not require specialist construction methods, it is considered that there is no real likelihood of significant effects on the environment. 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

- 6.1.1. The grounds of appeal can be summarised as follows: -
- The applicant has a functional and economic need to live in this location.
 - N67 National Road/Sightlines
 - The applicant currently undertakes 6 two-way movements along the site access and the proposal will not have a significant effect on this travel pattern. If he is required to build or buy in another location, the number of movements will increase significantly, resulting in an additional 4-6 movements arising from the need to travel to and from the farm.
 - A speed survey report undertaken on 23rd November 2022 found that the 85th percentile speed on the road is close to 70km/h, less than the 80km/h speed limit. The median speed on the eastbound side of the road was 63km/h and for the westbound side the median speed was 61km/h.
 - A letter is provided by Alan Lipscombe Traffic & Transport Consultants, which deals with sightlines at the entrance and which states that visibility splays are appropriate for the observed speeds.
 - A drawing is provided, which demonstrates a 115m eastward visibility splay can be provided and a 120m westward visibility splay can be provided. traffic travelling westbound along the N67 will have 100m visibility to a vehicle turning right onto the site access.

- Siting of development in a Class 3 area
 - The design and scale of the house accord with the *Design Guide for the Single Rural House*.
 - The house will not interrupt long distance views toward the Burren or Galway Bay as existing sheds and mature trees already interrupt the views. The proposed house is also similar in height to adjacent housing.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. None.

7.0 Assessment

7.1. Having inspected the site and considered the contents of the appeal in detail, I consider the main planning issues to be considered are:

- Compliance with the rural housing strategy,
- Visual impact and material contravention,
- Access,
- Drainage,
- Appropriate assessment.

7.2. Compliance with the Rural Housing Strategy

7.2.1. The subject site is located in the townland of Inishroo, approx. 3.5km west of Kinvara, in south County Galway. It is in an area designated by the development plan as the 'Galway County Transport & Planning Study (GCTPS) area' and is an area under strong urban pressure. Development Plan policy RH2 is the applicable rural housing policy for this area and it requires applicants to comply with specified criteria, relating to longstanding and/or family connections to the area or an economic need to live in the area. Policy RH4 also applies and it states that

applicants for housing proposals in landscape classification areas 2, 3 and 4 are required to demonstrate their economic or social rural links or need.

- 7.2.2. National Policy Objective (NPO) 19 of the National Planning Framework is also pertinent to the appeal and it states that in areas under urban influence the provision of single housing in the countryside should be facilitated based on the core consideration of demonstrable economic or social need to live in the rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- 7.2.3. The Board will note that whilst the Planning Authority did not object to the development on the grounds of rural housing need, some questions were raised regarding the applicant's statement of compliance and, in particular, the Planning Report indicated that an updated rural housing need form would be required, including evidence of the applicant's current address and an outline of longstanding residence in the area.
- 7.2.4. A supplementary rural housing form was provided as part of the application, within which the applicant indicates that they have a family and functional economic need, as they are engaged in farming of family land. The applicant states that he lives in the family home currently and has provided submissions from St. Joseph's National School, Kinvara and Gort Community School as evidence of his longstanding connection to the area.
- 7.2.5. Having considered the application and appeal documents, I am satisfied that the applicant has demonstrated a longstanding family connection to the area and has also demonstrated a functional need to live in the rural area, with reference to the provision of details of his farming operation. I am satisfied that compliance with the broad requirements of policies RH2 and RH4 of the development also NPO19 has been demonstrated and I thus consider the development is acceptable in principle, subject to consideration of other relevant factors below.

7.3. **Visual Impact and Material Contravention**

- 7.3.1. Reason No. 2 of the Planning Authority's refusal states that in view of its location in a coastal setting on the Galway Bay Scenic Route, which is designated by the development plan as a Class 3 special designated landscape, the development would not fit appropriately or integrate effectively into this visually prominent location

and would materially contravene a number of specified development plan policies. The refusal reason further states that the development would interfere with the unique character of the coastal landscape and would detract from the visual amenity of the area.

- 7.3.2. In appealing the decision, the applicant submits that the proposed design and scale of the house accord with the *Design Guide for the Single Rural House* (Appendix 5 of the development plan) and that the development will not interrupt long distance views.
- 7.3.3. Regarding the issue of material contravention, I have given consideration to each of the policies referenced in the Planning Authority's decision and I am of the view that none is so specific as to be demonstrably contravened by this development. I therefore do not consider that the development is in material contravention of these policies and I am satisfied that the provisions of Section 37(2) of the Act are not applicable in this instance.
- 7.3.4. Turning to the issue of visual impact, I noted on my visit to the site that there a local high point on the N67 c.200m to the east of the site, with land levels thereafter falling gently toward Galway Bay. The site and surrounding farmholding are bounded by a low-rise stone wall, which together with the aforementioned topography, allows views from this high point through the site. Views from the west are of a shorter-range variety, affected by the incline, and the subject site is only visible in short range views, as it is blocked from view by planting within the garden of an adjacent residential property.
- 7.3.5. The section of the N67 where the site is located has a rural character and the proposed house will be a noticeable addition in the available views, but I do not consider the visual impact would significant or unacceptable. It has a low overall ridge height and is set back from the road by in excess of 40m, with the existing roadside boundary retained behind the visibility splay. I consider these design considerations are adequate to allow the development to assimilate into the landscape.
- 7.3.6. I do not consider the development would have any significant or unacceptable blocking effect on the available views of Galway Bay and the wider countryside.

7.3.7. The proposed contemporary 'T' shape bungalow design is of its time and I consider it is broadly acceptable. In order to simplify the appearance of the house on its front elevation, I consider the east end design should be revised, with the stone cladding and raised eaves section omitted in favour of a uniform eaves and render finish. This can be controlled by condition, should the Board decide to grant permission.

7.4. Access

7.4.1. Access to the site is proposed from a private, single lane track that serves the applicant's wider landholding and which also provides access to the applicant's family home. The track connects to the N67 to the south.

7.4.2. Reason No. 1 of the Planning Authority's refusal states that the proposed access arrangement is unsatisfactory and that the generation of additional traffic would interfere with the safety and free flow of traffic on the road. The reason further states that the development would endanger public safety by reason of traffic hazard, obstruction of road users and would set an undesirable precedent for similar development.

7.4.3. In its submission on the application, TII advised that the development is at variance with official policy in relation to control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) as it would (a) would create an adverse impact on the national road, (b) would result in the intensification of an existing direct access to a national road and (c) would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.

7.4.4. *Spatial Planning and National Roads Guidelines for Planning Authorities* provides ministerial guidance in relation to development affecting national primary and secondary roads and, of relevance to the appeal, Section 2.5 states that on land adjoining National Roads to which speed limits greater than 60km/h apply, '*the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses*'.

7.4.5. The development will give rise to modest levels of traffic during the construction and operational phases. Traffic during the construction phase will be for a temporary period and would not, in my view, be of such a level that would have any impact on the operation of or safety of motorists on the N67.

- 7.4.6. The operational phase will generate some additional traffic, associated with daily domestic activities. However, the level of such movements would not be of a significant order and, further, I consider this must be balanced against the without-development scenario, whereby the applicant will live away from the farm and will likely make multiple round trips each day, associated with the farming operation. It is my view that the intensity of the usage of the lane is likely to be of a similar degree in both scenarios.
- 7.4.7. Moreover, the site layout drawing identifies the provision of a westward sightline of 120m and eastward sightline of 115m at the junction with the N67, which involves setting back the existing roadside wall from the N67. This will have the effect of improving visibility from the junction, to the benefit of vehicles using the junction and all road users using this section of the N67.
- 7.4.8. Taking a balanced view, I am satisfied that no intensification of use of the junction at the N67 is likely to arise. I therefore conclude that the development is not at variance with policy in relation to control of development on/affecting national roads, as contained within Spatial Planning and National Roads Guidelines for Planning Authorities.

7.5. **Drainage**

Foul Drainage

- 7.5.1. The Board will note that whilst the Planning Authority did not object to the development on the basis of foul drainage proposals, the Planning Report expresses the view that additional trial holes would be required in order to verify the available depth of soil above bedrock. This arises from the observed presence of rock in the trial hole spoil heap and within the trial hole itself. The report further suggests that a tertiary treatment system would be more appropriate for the site, in view of the site's characteristics and its proximity to a number of European sites.
- 7.5.2. The development includes the provision of a secondary treatment system and raised soil polishing filter, with treated waters thereafter discharging to groundwater. The Site Suitability Assessment Report submitted with the application identifies the category of aquifer as 'Regionally important', with a vulnerability classification of 'High'. In accordance with Section 5.4.2 of the EPA Code of Practice Domestic

Wastewater Treatment Systems, an 'R2²' response category is identified. Table E1 of the Code of Practice provides the following note for an R2² response category: -

Acceptable subject to normal good practice and the following additional condition:

1. There is a minimum thickness of 2m unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system.

OR

2. 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).

7.5.3. The Site Suitability Assessment Report indicates that a trial hole with a depth of 1.2m recorded 300mm of topsoil and the remaining 900mm depth of the hole comprised sandy gravel with boulders. Bedrock is stated to have been encountered at the base of the trial hole. In relation to the percolation characteristics of the soil, a subsurface percolation test result of 12.42 min/25mm was returned. A surface percolation test result of 14.06 min/25mm was returned.

7.5.4. The trial hole remained open at the time of my site visit and I noted a significant presence of large rock/boulders in the spoil heap and within the hole itself. In particular, the side profiles of the trial hole contained rock immediately below the surface. Geological Survey of Ireland (GSI) groundwater vulnerability mapping¹ indicates an extensive presence of 'Rock at or near surface or karst' in the vicinity of the site, which together with the heavy presence of rock in the spoil heap and trial hole itself, brings into question whether there is an adequate depth of soil in which to treat wastewater. The Code of Practice requires a total depth of 1.2m (including both soil and the polishing filter) to be available as part of the provision of a secondary treatment system.

7.5.5. Given the existence of bedrock within the appeal site, together with the fact that the site overlies a regional aquifer where groundwater vulnerability is designated as "Extreme", I am concerned that there is potential for inefficient treatment of

¹ <https://dcenr.maps.arcgis.com/apps/MapSeries/index.html?appid=a30af518e87a4c0ab2fbde2aac3c228>

wastewater on the site, which may negatively affect water quality within the aquifer. I agree with the Planning Authority, that further trial holes would be required in order to demonstrate that the site is suitable for the treatment of wastewater and I thus conclude that the applicant has not adequately demonstrated that wastewater can be efficiently treated on the site. I recommend that permission should be refused on this basis.

Surface Water Drainage

7.5.6. Surface water is proposed to drain to a soakaway to the rear of the house. Whilst the Planning Authority did not object to this aspect of the development, the Planning Report questions whether the soakpit is adequate to accommodate all run-off or whether additional soakpits will be required.

7.5.7. No calculations were provided with the application to confirm the adequacy of the proposed soakpit to accommodate all run-off from the site. However, and notwithstanding this the site includes a small built footprint and I am satisfied that there is adequate space available for the provision of an additional or larger soakpit, should this be provided. This can be controlled by condition, should the Board decide to grant permission.

7.6. Appropriate Assessment

Appropriate Assessment Screening

Compliance with Article 6(3) of the Habitats Directive

7.6.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Background on the Application

7.6.2. The applicant submitted an Appropriate Assessment Screening Report, prepared by Moore Group Environmental Services. It provides a description of the proposed development, identifies European sites within a possible zone of influence and identifies potential impacts arising from the development.

Screening for Appropriate Assessment- Test of likely significant effects

7.6.3. 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).

Brief description of the development

7.6.4. The development is described at Section 3 of the Screening Report and is also described at Section 2 of this Report. In summary, permission is sought for the erection of a dwelling house, wastewater treatment system and polishing filter and all associated services. The site has a stated area of 0.5ha and is located in the townland of Inishroo, Kinvara, in south County Galway. Foul water is proposed to be treated within an on-site wastewater treatment plant and polishing filter and surface water is proposed to drain to a soakaway within the rear garden.

7.6.5. Taking account of the characteristics of the proposed development, in terms of its location and the scale of works, I consider the following aspects of the development require examination:

- Impact on water quality within a European site arising from surface water discharges during construction, and
- Impact on water quality within a European site arising from the treatment of foul water on the site.

Submissions and Observations

7.6.6. The submissions from the appellants, applicant and Planning Authority are summarised as Section 6 of my Report. The Department of Housing, Local Government also made a submission on the appeal, which references the requirement to undertake Appropriate Assessment.

European Sites

7.6.7. The Screening Report identifies the below European sites as falling within a potential zone of influence:

- Galway Bay Complex SAC (Site Code 000268), c 0.1km north,
- Inner Galway Bay SPA (Site Code 004031), c.0.1km north, and
- East Burren Complex SAC (Site Code 001926), c.1.4km west.

- 7.6.8. Section 5.1 of the Screening Report states that there is no connectivity to any European sites within or outside the potential zone of influence.
- 7.6.9. There are a number of other European sites within a 15km search zone but I am satisfied that, in view of the smallscale nature of the development and the absence of any open drain or watercourse that would provide a connection to a European site, there is no potential for significant effects to arise, other than for those European sites in very close proximity to the site. I have therefore not considered the East Burren Complex SAC further in my assessment.
- 7.6.10. Summaries of both Galway Bay Complex SAC and Inner Galway Bay SPA are outlined below.

European Site (code)	List of Qualifying interest /Special conservation Interest
Galway Bay Complex SAC (Site Code 000268)	<ul style="list-style-type: none"> •Mudflats and sandflats not covered by seawater at low tide •Coastal lagoons •Large shallow inlets and bays •Reefs •Perennial vegetation of stony banks •Vegetated sea cliffs of the Atlantic and Baltic coasts •Salicornia and other annuals colonising mud and sand •Atlantic salt meadows •Mediterranean salt meadows •Turloughs •Juniperus communis formations on heaths or calcareous grasslands •Semi-natural dry grasslands and scrubland facies on calcareous substrates •Calcareous fens with Cladium mariscus and species of the Caricion davallianae •Alkaline fens •Limestone pavements •Otter •Harbour Seal
Inner Galway Bay SPA (Site Code 004031)	<ul style="list-style-type: none"> •Black-throated Diver •Great Northern Diver •Cormorant •Grey Heron •Light-bellied Brent Goose •Wigeon •Teal •Red-breasted Merganser •Ringed Plover •Golden Plover

	<ul style="list-style-type: none"> •Lapwing •Dunlin •Bar-tailed Godwit •Curlew •Redshank •Turnstone •Black-headed Gull •Common Gull •Sandwich Tern •Common Tern •Wetland and Waterbirds
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7.6.11. In respect of Screening, the Ecological Report concludes as follows: -

'It can 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 a European site.'

Evaluation of Potential Significant Effects

7.6.12. As I have outlined previously, the potential for (a) impacts on water quality within a European site arising from surface water discharges during construction and (b) the potential impact on water quality within a European site arising from the treatment of foul water on the site require consideration.

7.6.13. The construction phase gives rise to the potential for surface waters containing suspended solids to arise on the site but, in view of the distance between the subject site and European sites and the presence of extensive areas of improved grassland in the intervening space that will act as a buffer, the likelihood of suspended solids being discharged to the stream is low and can be excluded at this stage.

7.6.14. Regarding the treatment of foul water, the Natura 2000 form for Galway Bay SAC states that it is at High risk from diffuse pollution to surface waters due to household sewage and waste waters. Species of Conservation Interest within Inner Galway Bay SPA use the bay for foraging and impacts on water quality are likely to affect the availability of prey.

7.6.15. The application includes a Site Suitability Assessment Report, which indicates that the site is suitable for the treatment of foul water in an on-site system, but on my visit to the site I observed a heavy presence of rock in the trial hole. This brings into question whether there is an adequate depth of soil available, in which to treat foul

water prior to discharge to ground water. The Code of Practice requires a total depth of 1.2m (including both soil and the polishing filter) to be available as part of the provision of a secondary treatment system.

7.6.16. Regarding the proximity of the proposed system to the SAC and SPA, the Code of Practice does not specify a separation distance from a wastewater treatment plant or percolation area to a heritage feature such as an SAC/SPA but states that a separation distance of at least 50m should be observed from a foreshore.

7.6.17. The proposed system is in excess of 150m from the boundary of the European sites but, notwithstanding this, the subsurface percolation test indicates that the site has a fast percolation rate, which indicates that treated foul waters will quickly discharge to groundwater. Taking a precautionary approach, I consider the potential impact on water quality within a European site arising from the treatment of foul water on the site require consideration cannot be excluded.

Screening Determination

7.6.18. 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 Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in combination, will have a significant effect on the following European site: -

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

Appropriate Assessment

7.6.19. The conservation objectives for Galway Bay Complex SAC seek to maintain the favourable conservation status of qualifying interests.

7.6.20. The conservation objectives for Inner Galway Bay SPA seek to maintain the favourable conservation condition of species of conservation interest.

7.6.21. As I have outlined previously, the Natura 2000 form for Galway Bay SAC states that it is at High risk from diffuse pollution to surface waters due to household sewage and waste waters. Whilst the Site Suitability Assessment Report indicates that the

site is suitable for the treatment of foul water, the characteristics of the trial hole indicate that there is a heavy presence of rock immediately below the surface and it is questionable whether there is an adequate depth of soil available in which to treat foul waters. Any inefficient or substandard treatment within the system is very likely to be passed through to groundwater, in view of the fast rate of percolation.

- 7.6.22. The issue is not addressed by the Appropriate Assessment Screening Report and in the absence of such assessment, I am unable to ascertain whether the development would adversely affect water quality within the European sites and/or the integrity of the sites, in view of their Conservation Objectives.

In-Combination Effects

- 7.6.23. The Screening Report identifies a single grant of permission for retention of a house within 1km of the site, in the last 3 years. The Report further states that in view of the requirement for plans and projects with the potential for in-combination effects to themselves undergo Screening and, as necessary, Stage 2 Appropriate Assessment, it is predicted that no in-combination effects arise.

- 7.6.24. I have previously concluded that I am unable to ascertain whether the treatment of foul water on the site would adversely affect water quality within the European sites. Inefficient or inadequate treatment of foul water on the site may give rise to in-combination effects with other development in the surrounding area.

Appropriate Assessment Conclusion

- 7.6.25. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended.
- 7.6.26. 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 (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031). 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.
- 7.6.27. Following an Appropriate Assessment, it has not been ascertained beyond a reasonable doubt that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of European site Nos

000268 and/or 004031, in view of the sites' Conservation Objectives. This conclusion is based on:

- A lack of information on the possible effects of the treatment of foul water on water quality within the European sites. The trial hole contains a heavy presence of rock in the area immediately below the surface and this brings into question whether there is an adequate depth of soil available in which to treat foul waters. This element of the proposed development was not examined by the Appropriate Assessment Screening Report for possible impacts on the European Sites. This is considered a gap in the overall assessment and therefore in the absence of such information, adverse effects on integrity of the European sites cannot be excluded.

8.0 Recommendation

- 8.1. I recommend that permission be refused for the following reasons and considerations set out hereunder.

9.0 Reasons and Considerations

1. Having regard to the ground conditions encountered on the site, which included a heavy presence of rock within the percolation area trial hole and associated spoil heap, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and appeal, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a secondary wastewater treatment system and raised soil polishing filter. In the absence of adequate treatment of wastewater on the site, the proposed development would be prejudicial to public health.
2. On the basis of the information provided with the application and appeal, including an Appropriate Assessment Screening Report, and in light of the Stage 2 Appropriate Assessment undertaken, the Board is not satisfied that the development, individually or in combination with other plans or projects, would not be likely to have a significant effect on European site Nos. 000268 (Galway Bay Complex SAC) and 004031 (Inner Galway Bay SPA), in view of the sites'

conservation objectives, by reason hydrological link to these sites via groundwater and the failure of the application to demonstrate that there is an adequate depth of soil available on the site in which to treat foul water, prior to discharge to groundwater. In such circumstances, the Board is precluded from granting permission.

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.

Barry O'Donnell
Planning Inspector

29th June 2023.