



An  
Bord  
Pleanála

## Inspector's Report

### ABP-315846-23

---

<b>Development</b>	Construction of new ferry staff accommodation, office and equipment storage. A Natura Impact Statement (NIS) accompanies application.
<b>Location</b>	Cloonamore, Inishbofin, Co. Galway.
<b>Planning Authority</b>	Galway County Council.
<b>Planning Authority Reg. Ref.</b>	2261155.
<b>Applicant(s)</b>	Pat Concannon.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party versus decision.
<b>Appellant(s)</b>	Pat Concannon.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	21 June 2023.
<b>Inspector</b>	Stephen Rhys Thomas.

## Contents

1.0 Site Location and Description .....	3
2.0 Proposed Development .....	3
3.0 Planning Authority Decision .....	3
3.1. Decision .....	3
3.2. Planning Authority Reports .....	6
3.3. Prescribed Bodies .....	7
3.4. Third Party Observations .....	7
4.0 Planning History.....	7
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations .....	9
5.3. EIA Screening .....	9
6.0 The Appeal .....	10
6.1. Grounds of Appeal .....	10
6.2. Planning Authority Response .....	10
6.3. Observations .....	11
7.0 Assessment.....	11
8.0 Recommendation.....	23
9.0 Reasons and Considerations.....	24

## 1.0 Site Location and Description

1.1. The site is located inland at the eastern portion of the island of Inishbofin, offshore and west of County Galway. A road passes along the southern boundary of the site and another cul-de-sac laneway forms the eastern boundary. The site is elongated in shape with changes in level throughout. There are rocky outcrops and marshy areas to the site. There are no trees on the site and the boundaries are composed of drystone walls with low lying vegetation. A powerline traverses the site. To the east lies a traditional single storey cottage in good repair, close to the road edge. A newer bungalow dwelling is situated at the end of the cul-de-sac laneway that forms the eastern boundary of the site.

## 2.0 Proposed Development

2.1. Permission is sought for:

- The construction of a ferry staff accommodation unit, office and equipment storage, comprising two attached single storey mono-pitched metal roofed structures with a tone cladding.
- A wastewater treatment system.

2.2. A Natura Impact Statement (NIS) accompanies application.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. The planning authority issued a notification to refuse permission for five reasons as follows:

1. The proposed development to provide for habitable accommodation with ancillary office and storage facilities is therefore considered to be a residential dwelling for all intended purposes. The subject site is located in within Class 3 Landscape where Policy Objective RH4 of the 2022-2028 Galway County Development Plan sets out qualifying criteria for those with a genuine rural generated housing need seeking to construct a dwelling house within the

Rural Housing Zone 4. Based on the absence of sufficient details to substantiate the applicant's rural linkage to this area in accordance with the requirements of Policy Objective RH4 it is considered that the applicant has not satisfactorily demonstrated that they meet the housing need criteria set out in the Galway County Development Plan. Therefore, the proposed development is considered contrary to the rural housing provisions of the said county development plan. Accordingly, to grant the proposed development would contravene materially Policy Objective RH 4 and DM Standard 7 contained in the Galway County Development Plan 2022-2028, would set an undesirable precedent for similar future development in the area, and would be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development occurs within the Inishbofin and Inishshark Special Area of Conservation (SAC) (Site Code: 000278 and within 40 metres of the Inishbofin, Omey Island and Turbot Island Special Protection Area (SPA) which is protected under the EU Habitats Directive (92/43/EEC) & EU Birds Directive (79/409/EEC, as amended by Directive 2009/147/EC) and the European Communities (Natural Habitats) Regulations 1997, as amended by the European Communities (Birds and Natural Habitats) Regulations 2011. The protection of these European sites is further reinforced in the 2022- 2028 Galway County Development Plan under Policy Objectives NHB 1, NHB 2, NHB 3, NHB 4, NHB 5, NHB 9 and DM Standard 50. Based on submissions received and information included with the planning application and to the concerns identified by the Planning Authority in relation to the drainage characteristics of the site, to the proposed discharge to groundwater and groundwater flow direction, and to the suitability of the site for the treatment of wastewater arising from the proposed development, the planning authority in conjunction with the application of the precautionary principle, consider that adverse effects on the integrity and conservation objectives of the European sites in the vicinity, cannot be ruled out, as a result of the proposed project. Therefore, the Planning Authority cannot be certain that the project will not adversely affect the integrity of Natura 2000 sites Inishbofin and Inishshark SAC and Inishbofin, Omey Island and Turbot Island SPA in light of their conservation objectives which would contravene materially policy objectives

and development management standards contained in the current Galway County Development Plan and would be contrary to the proper planning and sustainable development of the area.

3. The site of the proposed development is located within an open and exposed designated Class 3 landscape with sensitivity rating of special and high sensitivity to change. Noting the sensitivities of this Class 3 landscape and the site context and in the absence of a visual impact assessment, the development as proposed including the proposed dwelling and assisted office and equipment store, access road and associated surfacing, which does not have required minimum setback required to the public road, and in the absence of a landscaping proposal would not assimilate effectively into this sensitive rural landscape. The proposal would therefore contravene materially Policy Objectives LCM 1 and LCM 2, RH9 and DM Standards 8, 11, 29 and 46 contained in the Galway County Development Plan, 2022-2028. Accordingly to grant the proposed development would interfere with the character of the landscape, would detract from the visual amenity of the area, would militate against the preservation of the rural environment, would contravene materially development plan policy objectives and development management standards contained in the current county development plan, would set an undesirable precedent for similar future development in the area, and therefore would be contrary to the proposed planning and sustainable development of the area.
4. Having regard to observations at site inspection in the form of the volume of water in the trial hole, soft and wet ground conditions, the vegetation indicators thereon in the form of rushes/reeds, the Planning Authority is not satisfied that the safe disposal of domestic effluent on site can be guaranteed in strict accordance with the EPA Code of Practice Manual 2021 for Wastewater Treatment and Disposal Systems Serving Single Houses (PE  $\leq 10$ ), particularly in the height of the winter watertable notwithstanding the proposed use of a packaged wastewater treatment system. Accordingly, to grant the proposed development would be prejudicial to public health, would be contrary to Objective WW6 and DM Standard 38 of the Galway County Development Plan 2022-2028, would pose an unacceptable risk to surface

water and be contrary to the proper planning and sustainable development of the area.

5. In the absence of satisfactory details submitted on file relating to the consent from Irish Water to connect to the public water mains to serve the proposed development, it is considered that the development if permitted as proposed would pose a serious risk to the public health of persons occupying this dwelling house, would be contrary to Development Management Standard 36 of the Galway County Development Plan, 2022-2028 and therefore, would be contrary to the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- Housing need is a requirement in Landscape Sensitivity 3.
- The proposed development, even though for staff members of the ferry company, is considered to be a residential dwelling. Housing need must be demonstrated in accordance with policy objective RH4 and as per RH2. DM 46 is also relevant with reference to landscape. Housing need has not been demonstrated by the applicant.
- Access/egress, sight lines are adequate.
- There is no confirmation from Irish Water that connection to the public mains can be achieved.
- Wastewater treatment, despite proposal to install a packaged treatment system and sand polishing filter, concerns remain about subsoil depth and wintertime water table. Ground conditions indicate a poorly drained site, and the impact of effluent on public health and the Inishshark and Inishbofin SAC cannot be discounted.
- The location of the site in a sensitive landscape and the design of the dwelling would result in an unacceptable impact on the landscape. No landscape plan or landscape visual impact has been submitted.
- DM 29 requires a further set back from the road.

- For all of the reasons above, the application was refused in accordance with the recommendation of the Planner.

#### 3.2.2. Other Technical Reports

None.

### 3.3. Prescribed Bodies

- 3.3.1. Development Applications Unit (NPWS) – Nature Conservation, the NIS does not explicitly consider the impacts on Corncrake. The mitigation measures outlined in the CEMP should be implemented and works not carried out during nesting period. Potential groundwater impacts have not been explicitly considered. As the site is within an SAC and proximate to an SPA, the Screening Report and NIS should fully consider these matters.

#### 3.4. Third Party Observations

None.

### 4.0 Planning History

#### 4.1. Site

None.

### 5.0 Policy Context

#### 5.1. Development Plan

- 5.1.1. The Galway County Development Plan 2022 -2028 is the operative statutory plan for the area. The site is subject to the following designations:

- A Structurally Weak Area.
- Rural Housing Policy - Zone 4
- Landscape Sensitivity Category 2-4.
- Landscape Sensitivity – 3 Special

- Landscape Character Area – Island Landscape

5.1.2. There are a number of relevant policies and objectives, and they include:

Chapter 2 Core Strategy, Settlement Strategy and Housing Strategy

Policy Objectives Settlement Hierarchy

SS8 Development of Rural Communities

Galway County Council shall recognise the important role of rural communities to the sustainable development of County Galway and shall ensure the careful management of development in these areas, having due regard to the relevant policy objectives set out elsewhere in the plan.

Chapter 13 The Galway Gaeltacht and Islands.

IS 1 Economic and Tourism Development on the Islands

Support the economic and tourism development of the islands for the benefit of island communities generally and to encourage the development of speciality or niche economic sectors that might be appropriate to different islands.

IS 2 Development Proposals on the Islands

a) Support sustainable development proposals that contribute to the long term economic and social development of the islands;

b) Priority shall be given to development that contributes to retention of the year-round population on the islands, that has a clear and identifiable economic and social benefit and that is compatible with the capacity of the local community to accommodate it;

c) Ensure that new development of any kind is sympathetic to the individual form and character of the islands landscapes and traditional building patterns.

IS 4 Rural Housing on the Islands

Support permanent rural housing on the islands for applicants who can demonstrate that they have permanently lived on the island for a substantial and sustained period of time and can contribute to the long-term viability of the islands. 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.



### 5.1.3. Section 15.3 Rural Living and Development

DM Standards 7, 8, 9, 11, 36, 38, 43, 46, 47 and 61.

Policy Objective RC 2 Rural Housing in the Countryside

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.

RH 4 Rural Housing Zone 4 (Landscape Classification 2,3 and 4)

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.

### 5.1.4. Landscape Policies and Objectives:

LCM 1 Preservation of Landscape Character

LCM 2 Landscape Sensitivity Classification

Appendix 4 - Landscape Character Assessment

Appendix 5 – Design Guidelines for Single Rural Housing

## 5.2. **Natural Heritage Designations**

### 5.2.1. The site overlaps or is in close proximity to the following designated sites:

- Inishbofin and Inishshark SAC (000278)
- Inishbofin, Omey Island and Turbot Island SPA (004231)

A Natura Impact Statement (NIS) accompanies application.

## 5.3. **EIA Screening**

### 5.3.1. Having regard to the nature of the proposed development and even with its location close to sensitive locations and features, there is no real likelihood of significant adverse 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. A First Party Appeal was submitted to An Bord Pleanála on the 16<sup>th</sup> February 2023 by the Applicant opposing the Local Authority's decision, the grounds of appeal can be summarised as follows:

- The proposed dwelling will be used for a variety of staff engaged in the business of operating the ferry between the island and the mainland. Occupants will change constantly and so it is not relevant to apply the housing needs policies of the Development Plan. Instead, other policies that support marine infrastructure should be applied, section 6.5.5 Ports, Harbours, Piers and Slipways and Section 31.2 Strategic Aims with reference to services and infrastructure, particularly tourist infrastructure TI1.
- In terms of the SAC/SPA, an NIS was lodged with the application. The site has good drainage, with a watercourse that drains freely to the west. The wastewater treatment system has been designed with a soil polishing filter to mitigate concerns over the SAC/SPA and public health in general.
- The site is in a sheltered location, not readily visible between two raised hills. A design impact report and landscape plan have been submitted, the house is set 15 metres back from the road.
- A letter from Irish Water is not necessary when the Island is served by a Group Water Scheme to which the development will connect.

The appeal is supported by a Visual Impact Assessment, prepared by Eamon Gavin Architects, soil condition photographs and a landscape plan.

### **6.2. Planning Authority Response**

None.

### 6.3. **Observations**

None.

## 7.0 **Assessment**

7.1.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Rural Housing
- Landscape
- Public Health
- Water Supply
- Appropriate Assessment

### 7.2. **Rural Housing**

7.2.1. The planning authority have decided to refuse permission for the single house development because it fails to meet the rural housing policies set out the Development Plan. Specifically, the site is located in a Class 3 Landscape (Special), Policy RH4 sets out the qualifying criteria for those with a housing need to build in Rural Housing Zone 4. No details have been submitted to support the need for the dwelling based on development plan housing need policies and objectives, and permission was refused on this basis. The applicant acknowledges that the proposed dwelling is not for individual use and explains that it will be occupied by staff essential to the running of the ferry company. According to the applicant the development should be considered in light of other Development Plan policies that support marine infrastructure, section 6.5.5 Ports, Harbours, Piers and Slipways and Section 31.2 Strategic Aims with reference to services and infrastructure, particularly tourist infrastructure T11.

7.2.2. The applicant has made it clear that the proposed dwelling will be used for the staff that are employed in the ferry service between the island and mainland. Appropriate accommodation has been impossible to find, and this is the applicant's solution to

solve an employment and business related accommodation problem. In that regard, the applicant believes that other policies and objectives of the current development plan would support his proposal. Principally, section 6.5.5 to do with ports, harbours, piers and slipways is cited as well as the overall strategic aims of the plan to support the Gaeltacht and the Islands and encourage and promote tourist infrastructure, TI1 refers.

- 7.2.3. The concerns about the applicant's business, the provision of accommodation for his staff and the economic survival of the area is noted. However, the provisions of the development plan for permitting rural housing are restricted to those that can demonstrate a housing need in accordance with Policy Objective RH4 Rural Housing Zone 4 (Landscape Classification 2,3 and 4). There is no information on file that relates to an individual person and their economic or social rural links or need. This is not surprising given that the purpose of the dwelling as stated by the applicant, is to accommodate a variety of people engaged in the operation of the ferry service. No demonstrable case has been made to comply with the rural housing policies and objectives of the plan and so permission can be refused on that basis.
- 7.2.4. With reference to the case made by the applicant that the provision of living accommodation for workers should be considered under other policies and objectives of the plan are noted. However, with reference to ports, harbours, piers and slipways, I suggest that the intention of the plan is to actually support the provision and renewal of such infrastructure rather to support those that work in and on such infrastructure.
- 7.2.5. With reference to the development plan and support for tourist infrastructure, I note Policy Objectives for Tourism Infrastructure and specifically TI 1 that seeks to encourage and promote tourist related accommodation in settlements and elsewhere subject to requirements, environmental considerations and development-management standards. In this instance, the reference to accommodation is that connected with tourist accommodation and bedspaces rather than tourist workers such as ferry personnel, section 8.8.2 of the current plan refers. Whilst the development plan refers to the marine sector and the employment it generates there are no specific policies or objectives with reference to residential accommodation for marine workers. It is supposed that existing built up areas will provide accommodation and employment in tandem, Chapter 3: Placemaking, Regeneration

and Urban Living of the development plan refers. Whilst it must be frustrating for the applicant, who is facing issues with attracting the appropriate personnel to service and operate their ferries, I am not satisfied that there are any policies within the current development plan that would pave the way for the particular type of development as proposed.

### **7.3. Landscape**

- 7.3.1. The appeal site is located in a landscape that is defined as an Island Landscape with a landscape sensitivity rating of 3 (Special). On that basis, the planning authority are not satisfied that the siting and design of the development will be acceptable. This is because a visual impact assessment was not carried out, the dwelling was not set back from the road and a landscape plan was not submitted. For all these reasons the development was refused permission as it materially contravenes policies and objectives of the development plan that seek to protect sensitive landscapes. The applicant explains the context of the site as being sheltered and away from wider views. A visual impact assessment has been submitted with the appeal, the house set back on the site and a landscape plan prepared.
- 7.3.2. The applicant has submitted a report entitled Visual Impact Assessment, prepared by Eamon Gavin Architects. The report sets out a description of the site and its surrounds, reasons for site selection, design approach and finishes. Photographs that illustrate the roof and wall finishes are presented and the conclusion is that the proposed design accords with Galway County Council design advice and the low level nature of the building will not impact the landscape. The applicant also points out that they have now set back the house 15 metres from the road. Finally, the applicant concludes that the site is located at a position within the island that cannot be easily viewed and will not impact the wider landscape.
- 7.3.3. From the documentation that I can see on file, very little analysis has been done by the applicant to demonstrate that this site and the house design selected would not impact the landscape. I would expect to see at least photographs of the site taken from various viewpoints and ideally a photomontage of the completed development together with any landscape plans proposed. None of this detail has been submitted. From my observations of the site, it is elevated and exposed. There are small hills to the south and it is probable that at such a point inland the site would not be seen

from the coast. However, the entire area including the site is located within a sensitive landscape designated as such within the Development Plan, and it is not just views from the sea that are to be protected but also views from all parts of the island. I am not satisfied that any account has been taken of the landscape in the selection and design of the layout proposed. The selection of materials may be sensitive, but there is no site analysis of how the overall development will sit into the landscape and no visual impact assessment of any kind has been completed. In the absence of any material to show the appropriateness of the site or the development proposed thereon, I am not satisfied that this special island landscape will be protected or preserved.

#### **7.4. Public Health**

- 7.4.1. In terms of wastewater management on the site, the planning authority are not convinced that the site is suitable and given the high water table, even the use of a packaged wastewater treatment system will not be appropriate. The applicant explains the site conditions and insists that the soil conditions are good. The applicant intends to use a polishing filter, and this will mitigate any impacts on groundwater.
- 7.4.2. The applicant submitted a site characterisation form that concludes that either a septic tank and filter system or packaged wastewater treatment system and polishing filter is required with discharge to ground water. It is recommended that a packaged wastewater treatment system (Puraflo PTS) and polishing filter with a capacity for 10 persons equivalent be installed. The planning authority are concerned that given the evidence on site, rushes and trial holes filled with water, that the wintertime water table would impact the efficacy of the proposed system. From my observations of the site in high summer, the field was covered in rushes at its lowest points and outcropping rock occurred elsewhere. Where the trial holes were located, they were dry on the day of my site visit. I note that the site characterisation results show a T-Value within a range of 5-50 (22.56) and P value of 28.14 that indicates an acceptable soil retention time. This would indicate the use of packaged wastewater treatment system and polishing filter would be acceptable. Based on the results of the test results for the site, Tricel Novo Package Plant and Tricel Sand Polishing Filter documentation has been submitted and details the system proposed. However, the site is located within an SAC and I am concerned no proper account has been

taken of the potential for impacts on a designated site. I note that a Natura Impact Statement has been prepared and this is considered at section 7.6 of my report.

7.4.3. With regard to the development of wastewater treatment system for the site, I am not convinced that a proper account has been given to the sensitivities of the site and its location within an SAC. Even with the submission of an NIS, I am not satisfied that the development wouldn't be prejudicial to public health or adequately protect the SAC in which it is situated. I also share the concerns expressed by the planning authority in relation to policy objective WW 6 and the effective operation of the system once in place given the ground conditions on site and variations in water table levels.

## 7.5. **Water Supply**

7.5.1. The planning authority refused permission because there was no letter of consent from Irish Water to connect to the water supply system. The applicant explains that the island has a Group Water Scheme and it is to this water supply system that they intend to connect. A letter from Irish Water is not therefore required, the applicant insists.

7.5.2. I have no information on the file that indicates that any consents either from Irish Water or the local Group Water Scheme have been provided to the applicant. In the absence of such material it is only reasonable to be cautious and reference DM Standard 37: *Group Water Scheme and Private Wells* of the current plan that states any planning application must be accompanied by a letter of consent to connection from the secretary of the scheme. No such letter was submitted with the application or the grounds of appeal, permission should be refused on the basis that the development could pose a serious risk to public health.

## 7.6. **Appropriate Assessment**

7.6.1. The site lies within the Inishbofin and Inishshark SAC (site code 000278) and in the immediate vicinity of the Inishbofin, Omey Island and Inishturbot SPA (site code 004231). The applicant has submitted an Appropriate Assessment / Natura Impact Statement (NIS), prepared by Corrib Environmental Services and dated July 2022. The NIS includes a Screening Stage 1.

### 7.6.2. **Screening**

- 7.6.3. Compliance with Article 6(3) of the Habitats Directive
- 7.6.4. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The applicant has submitted a Natura Impact Statement as part of the planning application. In addition, the applicant has prepared and submitted a Screening Report and a Construction Environmental Management Plan (CEMP) as Appendix 1 of the NIS. Having reviewed the documents and submissions on the case, in terms of screening I am satisfied that the information provides a reasonable basis for the examination and identification of potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- 7.6.5. **Screening for Appropriate Assessment**
- 7.6.6. The proposed development is directly connected with and necessary for the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects thereon.
- 7.6.7. Proposed development
- 7.6.8. The development and site are described in section 2.2 and 2.3 of the submitted Screening Report. The site is currently an agricultural field with rocky outcrops and marshy areas. Section 2.4 of the screening report outlines an ecological assessment of the site, a grassland habitat is identified and there is no evidence of invasive species on site. The report does not cross reference habitats or species that are qualifying interests for the subject Natura 2000 site.
- 7.6.9. I have described the proposed development in section 2.0 of this report and detailed descriptions of the development and construction methodology are contained in Construction Environmental Management Plan (CEMP) submitted with the application. The proposal comprises the construction of a house and the provision of a domestic effluent treatment system with outfall to groundwater.
- 7.6.10. 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 likely significant effects on European sites:



- Habitat disturbance / species disturbance (construction and / or operational).
- Operational surface water and wastewater emissions.
- Spread of invasive species.

#### 7.6.11. **Submissions and Observations**

7.6.12. The submissions and observations to the Planning Authority during the planning application process, from Prescribed Bodies, and other observers (though none received) are summarised in section 3 above. With reference to Nature Conservation, the Development Applications Unit (DAU) states that the NIS does not explicitly consider the impacts on Corncrake. In addition, the mitigation measures outlined in the CEMP should be implemented and works not carried out during nesting period. There are potential groundwater impacts that have not been explicitly considered in the NIS. The DAU conclude that because the site is within an SAC and proximate to an SPA, the Screening Report and NIS should fully consider these matters.

#### 7.6.13. **European Sites**

7.6.14. The development site is located within a European Site and adjacent to another. The sites are identified below.

- within the Inishbofin and Inishshark SAC (site code 000278)
- in the immediate vicinity of the Inishbofin, Omey Island and Inishturbot SPA (site code 004231)

There are likely to be hydrological connections between the application site and the Inishbofin and Inishshark SAC and Inishbofin, Omey Island and Inishturbot SPA via groundwater sources.

#### 7.6.15. **Inishbofin and Inishshark SAC (site code 000278)**

The site is a Special Area of Conservation (SAC) selected for the following habitats and/or species listed on Annex I / II of the E.U. Habitats Directive. The qualifying interests and conservation objectives are set out below:

- Coastal lagoons [1150] - To restore the favourable conservation condition of Coastal lagoons in Inishbofin and Inishshark SAC.
- Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) [3110] - To maintain the favourable conservation

condition of Oligotrophic waters containing very few minerals of sandy plains (*Littorelletalia uniflorae*) in Inishbofin and Inishshark SAC.

- Northern Atlantic wet heaths with *Erica tetralix* [4010] - To restore the favourable conservation condition of Northern Atlantic wet heaths with *Erica tetralix* in Inishbofin and Inishshark SAC.
- European dry heaths [4030] - To restore the favourable conservation condition of European dry heaths in Inishbofin and Inishshark SAC.
- *Halichoerus grypus* (Grey Seal) [1364] - To maintain the favourable conservation condition of Grey Seal in Inishbofin and Inishshark SAC.

#### 7.6.16. **Inishbofin, Omey Island and Inishturbot SPA (site code 004231)**

The site is a Special Protection Area (SPA) under the E.U. Birds Directive, of special conservation interest for the following species:

- Corncrake (*Crex crex*) [A122].

The Conservation Objective is to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Favourable conservation status of a habitat is achieved when:

- its natural range, and area it covers within that range, are stable or increasing, and
- the specific structure and functions which are necessary for its long-term maintenance exist and are likely to continue to exist for the foreseeable future, and
- the conservation status of its typical species is favourable.

The favourable conservation status of a species is achieved when:

- population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and
- the natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and

- there is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.

**7.6.17. Identification of likely effects**

7.6.18. Having regard to the Conservation Objectives of the SAC and SPA, factors potentially impacting on the sites arising from the proposed development are identified as:

- Habitat loss / modification
- Spread of invasive species.
- Disturbance of qualifying species of the SPA

7.6.19. The proposed development will result in the direct loss or modification of a habitat within a European site. Impacts on water quality may impact on the qualifying interests of the site. Construction activity has the potential to give rise to the discharge of silt, contaminants or other polluting material to local drainage channels or to groundwater.

7.6.20. The proposed development will connect to a proposed onsite domestic effluent treatment system that will discharge to groundwater. The system will operate within EPA guidelines for such facilities. The DAU note that the potential pathway to water sensitive habitats within the SAC have not been identified.

7.6.21. The Construction Environmental Management Plan describes procedures for construction activity outside of Corncrake nesting season. The DAU note that such measures are specific to the protection of Corncrake and if the development is permitted a condition should be attached.

7.6.22. There are very few other projects in train in the area and so I do not consider the likelihood of any in combination effects with other plans or projects.

7.6.23. In conclusion, potential significant effects on the European Sites are identified as impacts on Water Quality due to discharge to groundwater. Some measures with regard to Corncrake and identified in the CEMP, are designed or intended to avoid or reduce any harmful effects of the project on a European Site and have been relied upon in this screening exercise.

**7.6.24. Screening Determination**

7.6.25. 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 or projects) could have a significant effect on the Inishbofin and Inishshark SAC (site code 000278) and the Inishbofin, Omey Island and Inishturbot SPA (site code 004231), in view of the site's Conservation Objectives, an Appropriate Assessment (and submission of a NIS) is therefore required.

### **Stage II Appropriate Assessment**

7.6.26. The application is accompanied by a Natura Impact Statement, as outlined above, that concludes the project is small in an area that is unlikely to impact on the qualifying interests of the conserved area. Mitigation measures are to be in place to minimise or negate any potential impact on the Natura sites as a result of the proposed development. The NIS states that the measures are there to protect the environment in the event of something going wrong.

### **7.6.27. Appropriate Assessment of implications of the proposed development**

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

### **7.6.29. European Sites**

7.6.30. The following sites are subject to Appropriate Assessment:

- Inishbofin and Inishshark SAC (site code 000278)
- Inishbofin, Omey Island and Inishturbot SPA (site code 004231)

7.6.31. The qualifying interests and conservation objectives for these sites are set out in section 7.6.15 and 7.6.16 above. The aspects of the proposed development that could adversely affect the conservation objectives of these European sites have

been identified as impacts to groundwater during the construction and operational stages of the development and impacts to Corncrake.

7.6.32. Assessment Table 1 of the NIS sets out the conservation objectives associated with each site and concludes that impacts to the SAC will be minimised by mitigation measures set out in the CEMP and that the site falls outside the SPA area for Corncrake. Table 2 of the NIS refers to environmental impacts in general. Table 4 of the NIS submitted by the applicant details the conservation objectives of the designated sites and whether the development has the potential to cause impacts. In each case it is concluded that there will be no impact. Section 4 of the NIS sets out the conclusions of the assessment process and all of the potential impacts identified will be avoided with the correct implementation of the proposed mitigation.

7.6.33. The Development Applications Unit of the DHLGH with reference to Nature Conservation are critical of the Natura Impact Statement. Firstly, the NIS does not explicitly consider the potential for indirect disturbance related impacts on Corncrake. It is noted that the CEMP details that construction work should be avoided during nesting season, a condition should require this if permission is granted. In addition, the NIS does not consider the potential groundwater impacts and whether there is a pathway to sensitive habitats within the SAC. The concerns raised at the planning application stage with reference to designated sites and qualifying interests are noted by the planning authority and permission was refused specifically in relation to the proposed discharge to groundwater.

7.6.34. In order to apply the integrity test, the following information should be included in the material submitted by the applicant, the NIS should include:

- the ecological requirements, conservation objectives and the current conservation status (if known) of the site's designated features that might be affected by the proposal
- each potential effect on the European site, including the risk of combined effects with other proposals, and how they might impact on the site's conservation objectives
- the scale, extent, timing, duration, reversibility and likelihood of the potential effects
- certainty of the effects occurring

- mitigation measures that have been proposed or conditions you can attach to avoid or limit the effects
- how confident you can be that mitigation measures will be effective over the whole lifetime of the proposal - for example, the effects of construction, operation and decommissioning

7.6.35. The NIS includes Table 4, an integrity of sites checklist, in all cases the NIS concludes no impact. I am not satisfied that the NIS can make such conclusions given the scarcity of scientific material presented. Specifically, the NIS and its appendices do not critically examine the potential for impact from the proposed domestic wastewater treatment system on groundwater. The NIS states that only treated water will discharge to groundwater, however, no consideration has been given to risks associated with mechanical or other failure of the system proposed. In addition, no examination of groundwater pathways to sensitive habitats within the SAC have been presented.

7.6.36. The CEMP details standard construction practices and techniques. The section on Biodiversity includes a concession to Corncrake and so construction activity will not occur during nesting season, the DAU require a condition to be attached. No complete survey of the Corncrake population has been referenced or surveyed in the production of the NIS, other than Table 5 that references Corncrake calling records. I note that the proposed development will entail the direct loss to an SAC. The NIS states that the area of loss does not contain any habitat that would support Corncrake. However, the proposed development will result in the net reduction of the entire SAC and this has not been considered in the NIS to any great detail.

7.6.37. I am satisfied that the Screening conclusion to include the Inishbofin and Inishshark SAC (site code 000278) and the Inishbofin, Omev Island and Inishturbot SPA (site code 004231) for further examination in the NIS is correct. However, I am not satisfied that enough information has been included in the NIS to allow for a full Appropriate Assessment. The DAU and planning authority have recognised this lack of information. I would expect to find at least a full survey of the Corncrake population and the extent of its range and reach, in order to be certain that nesting sites would not be disturbed. In addition, given that the proposed development intends to discharge treated effluent to groundwater, I would expect a complete hydrological analysis to determine groundwater pathways within the SAC. None of

this information or other supporting information has been presented in any detail. In short, I am not satisfied that the NIS is complete in order to allow AA and I cannot with confidence reach a conclusion in relation to AA.

7.6.38. The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it has been concluded that the project may have a significant effect on the Inishbofin and Inishshark SAC (site code 000278) and the Inishbofin, Omev Island and Inishturbot SPA (site code 004231). Due to the lack of full and complete information, an Appropriate Assessment of the implications of the project on the qualifying features of those sites in light of their conservation objectives could not therefore be undertaken.

7.6.39. It could not be ascertained with certainty that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Inishbofin and Inishshark SAC (site code 000278) and the Inishbofin, Omev Island and Inishturbot SPA (site code 004231), or any other European site, in view of the site's Conservation Objectives. On the basis of the information provided with the application, including the submitted Natura Impact Statement, the content and level of analysis in the submitted Natura Impact Statement, and the potential impacts on domestic effluent treatment system design and groundwater pathways, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European sites Inishbofin and Inishshark SAC (site code 000278) and the Inishbofin, Omev Island and Inishturbot SPA (site code 004231), in view of the site's Conservation Objectives. The Board is, therefore, precluded from granting planning permission for the proposed development.

## 8.0 Recommendation

8.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

1. Having regard to Policy Objective RC 2 Rural Housing in the Countryside of the Galway County Development Plan 2022-2028 that seeks to manage the development of rural housing in the open countryside by requiring applicants to demonstrate compliance with Rural Housing Policy Objectives and specifically policy objective RH 4 that sets out qualifying criteria for those with a genuine rural generated housing need seeking to construct a dwelling house within the Rural Housing Zone 4, it is considered that the applicant has not sufficiently demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with policies and objectives of the Development Plan. The proposed development would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would contravene the provisions of the Development Plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development is located within an open and exposed designated Class 3 landscape with sensitivity rating of special and high sensitivity to change. Noting the sensitivities of this Class 3 landscape and the site context and in the absence of a visual impact assessment, the development as proposed including the proposed dwelling and associated office and equipment store, access road and surface treatment, and in the absence of a landscaping proposal would not assimilate effectively into this sensitive rural landscape. The proposal would therefore contravene Policy Objectives LCM 1 and LCM 2, RH9 and DM Standards 8, 11, 29 and 46 contained in the Galway County Development Plan, 2022-2028. The proposed development would interfere with the character of the landscape, would detract from the visual amenity of the area, would militate against the preservation of the rural environment, would contravene development plan policy objectives and development management standards contained in the current county



development plan, and therefore would be contrary to the proposed planning and sustainable development of the area.

3. Having regard to the on site vegetation indicators such as rushes/reeds, the Board is not satisfied that the safe disposal of domestic effluent on site can be guaranteed in strict accordance with the EPA Code of Practice Manual 2021 for Wastewater Treatment and Disposal Systems Serving Single Houses (PE  $\leq$ 10), particularly in the context of the observed high winter watertable, notwithstanding the proposed use of a packaged wastewater treatment system. Accordingly, to grant the proposed development would be prejudicial to public health, would be contrary to Objective WW6 and DM Standard 38 of the Galway County Development Plan 2022-2028, would pose an unacceptable risk to surface water and be contrary to the proper planning and sustainable development of the area.

4. In the absence of satisfactory details submitted on file relating to the consent from Irish Water or the Secretary of the Group Water Scheme to connect to the water mains to serve the proposed development, it is considered that the development if permitted as proposed would pose a serious risk to the public health of persons occupying this dwelling house, would be contrary to Development Management Standard 36 and 37 of the Galway County Development Plan, 2022-2028 and therefore, would be contrary to the proper planning and sustainable development of the area.

5. Having regard to the location of the subject site within the Inishbofin and Inishshark SAC (site code 000278) and proximate to the Inishbofin, Omey Island and Inishturbot SPA (site code 004231), and having regard to the information provided with the application, including the content and level of analysis with reference to Corncrake in the submitted Natura Impact Statement and the absence of an assessment of the potential impacts of the domestic effluent treatment system design on groundwater pathways, the Board cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of Inishbofin

and Inishshark SAC (site code 000278) and the Inishbofin, Omey Island and Inishturbot SPA (site code 004231), in view of the site's conservation objectives and qualifying interests. In such circumstances the Board is precluded from granting planning permission for the proposed development.

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.

---

Stephen Rhys Thomas  
Senior Planning Inspector

31 July 2023