Inspector's Addendum Report ABP-316594-23

Type of Appeal	Planning permission for veterinary clinic and yard, sewage treatment system and percolation area, internal road and car parking, realignment of access junction onto R341 to include local road widening and new footpath and all ancillary site works and services. .
Location	Ardbear, Clifden, Co. Galway
Applicant	Western Veterinary
Planning Authority	Galway County Council.
Planning Authority Ref	22/60906
Appellant(s)	Third party(s) 1) Mr & Mrs M Sullivan v Decision 2) Sandra & Lisa Glynn v Decision
Planning Authority Decision	Grant of Planning Permission.

Observer(s)	None
Inspector	Fergal Ó Bric.

1.0 Preliminary

1.1. This report has been prepared pursuant to a Board request (Board Direction number BD-018304-24) which seeks the preparation of a supplementary report**.** The Board decided that the file should be referred back to the Inspector for the preparation of a supplementary report which considers the merits of the additional information submitted by the applicants in relation to effluent disposal on the site and consistency with the guidance set out within the Environmental Protection Agency, Code of Practice, 2021.

2.0 Further responses

2.1. The Board circulated the Section 132 Notice to the applicants on the 24th day of September 2024 and a response was received on the 10th day of October 2024. The applicants 'response was circulated to the third parties. One response was received from Mr & Mrs Michael Sullivan. They raised the following issues in relation to the applicants' response.

- That the results and information contained within the revised Site Characterisation Report (SCR) as submitted to the Board on the 10th day of October 2024 contains, conflicting, incomplete and misleading information.
- The separation distance between the watertable and the base of the infiltration trench has not been detailed.
- The perforations within the percolation pipes are illustrated facing downwards and should be facing upwards.
- No provision for an impermeable membrane has been made for the proposed above ground polishing filter.
- The type of soil to be used within the soil polishing filter has been submitted.

- The watertable was recorded at a depth of between 0.85 and 0.95 metres below ground level, however this is not recorded within Section 3.2 of the SCR. rendering the SCR incomplete and inadequate.
- The watertable level is not documented within Table 3.2 of the SCR.
- The presence or rock should have been noted within the trial hle log in Section 3.2 of the SCR at 1.3 metres below ground level.
- The groundwater response detail was R2(2) and should have been R2 (1).
- The applicants response references that vegetation (Bracken and gorse) can be used as a drainage indicator for soil types within the site. This is contrary to Section 5.4 of the EPA, Code of Practice 2021 which sets out that 'vegetation should not be taken as conclusive evidence that a site is suitable for wa wastewater treatment system.
- There is a serious and significant absence of information, along with conflicting and inaccurate details, regarding the layout and design of the proposed wastewater treatment system and the content of the updated SCR.
- This amounts to scientific uncertainty regarding the capacity of the site to treat the foul effluent generated and therefore, there is potential for negative impacts upon the local received environment and surrounding Natura 2000 sites.
- Section 2.0 of the Office of the Planning Regulators' (OPR) Practice note sets out that 'where there is any scientific certainty a to the absence of significant effects, the project must be screened in for appropriate assessment…and 'the precautionary principle means that where the most reliable information available leaves obvious doubt as to the absence of significant effects, the project cannot be screened out and an appropriate assessment must be carried out'.

3.0 Assessment

3.1. Introduction

3.1.1. In this, my supplementary report, I have confined myself to the matters set out within the Boad direction, namely further consideration of the updated effluent disposal treatment proposals, including an updated Site Characterisation Report and supporting covering letter completed by their Site Suitability Assessor. The issue of Appropriate Assessment will also be considered.

3.2. **Wastewater Disposal**

3.2.1 The applicants are proposing to install a secondary wastewater treatment system and soil polishing filter as part of their proposals. A revised Site Characterisation Report (SCR) was submitted to the Board on the 14th day of October 2024 by the applicants in support of their wastewater proposals. The applicants had previously submitted photographic images of the trial hoes as part of their further information response. A cover letter was also submitted setting out the rationale adopted in terms of the details provided within the revised SCR.

3.2.2 The SCR sets out that bedrock was encountered within the trial hole at 1.3 metres. I refer specifically to the photographic images submitted as part of the further information response to the Planning Authority illustrate that water was observed within the trial holes (in November 2022) at a depth of 0.95 metres. The soil conditions found in the trial holes were stated as comprising clayey silt sand, pebbles, cobbles and boulders to a depth of 0.6 metres and sand with clay silt pebbles and cobbles from a depth of 0.6 metres to 1.3 metres. Percolation test holes were dug and pre-soaked. A T value of 12.33 was recorded.

3.2.3 Section 3.3 of the revised SCR sets out that the pre-soaking of the percolation holes was conducted on the 15th day of July 2022. However, the percolation tests are stated to have been conducted on the 2nd day of June 2022**.** I refer to Appendix D within the Environmental Protection Agency, Code of Practice, 2021 regarding percolation test procedures. Step 2 specifically sets out that trial holes should be pre-soaked twice from four and twenty hours before the start of the percolation test.

It is clear from the revised information submitted, namely the updated SCR, that this requirement has not been met.

3.2.4 The dates and times of the initial pre-soaks and the second pre-soaks within percolation holes 2 and 3 have been documented within the revised SCR. I note that the water within the three trial holes dropped at an accelerated rate. This would indicate the possibility that the soils within this part of the appeal site are free draining. The Site Assessor states in his cover letter (dated 9th day of October 2024) 'that the tests were conducted in a dry section of the site where there is mineral soil that support bracken and gorse indicating that it is dry'. The Site Assessor in his cover letter sets out that the appeal site overlies a local aquifer, however Section 2 of the SCR identifies that the aquifer is poorly productive and no indication of its local or regional importance. The SCR within Section 2.0 acknowledges that the bedrock vulnerability is classified as "Extreme". The aquifer is classified as being poorly productive and a Groundwater Protection Response of R2 (2) is noted by the applicant. However, as per Appendix E of the EPA Code of Practice 2021, the lowest level of Groundwater Protection response that can be recorded for a poorly productive aquifer is R2 (1).

3.2.5 The Geological Survey of Ireland (GSI) website classifies the vulnerability of the aquifer as extreme with rock at or near the surface. Rock outcrops were evident throughout the appeal site. The SCR trial holes record that bedrock was encountered at a depth of 1.3 metres. The photographic images of the trial holes as included as part of the original SCR submitted to the Planning Authority (dated July 2022) and the images included as part of the further information response (dated November 2022) included some angled/fractured rock at levels above the 1.3 metre depth. The cover letter from the Site Assessor (dated 9th day of October 2024) sets out that the 'angular rock in the test holes is as a result of weathering of the bedrock over the Millenia'. I refer to the data available within the GSI website, specifically in relation to lands at Ardbear, Clifden which clearly identifies bedrock within the bounds of the appeal site at or near the surface.

3.2.6 Given the existence of bedrock within the subsoils and the fact that the appeal site overlies an aquifer where groundwater vulnerability is classified as "extreme", I

consider that that there is potential for untreated or partially treated waste to percolate through the free draining soils at an excessive speed and to adversely impact water quality within the underlying aquifer. I am not fully satisfied based on the original information and the revised information submitted to the Board on the 10th day of October 2024, that the wastewater treatment proposals would not adversely impact upon groundwater, and, in turn, could adversely impact the extremely vulnerable aquifer that underlies the appeal site.

3.2.7 Cumulatively, I note that there are a number (approximately six) other individual septic tanks/wastewater treatment systems immediately south and south-east of the appeal site. The cumulative impact of the current proposals in addition to the existing neighbouring treatment systems could further adversely impact groundwater quality. Notwithstanding that the development may come within the density of individual treatment systems permissible within a particular hectare of land as defined within the EPA Code of Practice, I would note the potential cumulative impact of the foul waste generated by the current proposal in tandem with the foul waste generated by the concentration of neighbouring individual treatment systems could adversely impact upon groundwater quality. No groundwater qualitative analysis has been submitted in this instance to assess any potential cumulative impacts. Therefore, on balance, I am not satisfied that the applicants have demonstrated that the wastewater proposals would not have the potential to adversely impact water quality within the extremely vulnerable aquifer which underlies the site.

3.2.8 There is a surface water drain located in the south-western corner of the appeal site adjacent to the current field gate access. Rushes were noted on this lower (southern) part of the appeal site. These site features/characteristics are referenced within the SCR submitted by the applicants**.** I note that in Section 3.1 in relation to slope, the Site Assessor sets out that the appeal site is relatively flat with a gradient of < !:20 and the supporting comment is a ’slight slope to south’. I am of the opinion that this is also somewhat misleading, and I consider the slope on site would at least fall within the shallow category 1:5-1:20.

3.2.9 In conclusion, notwithstanding the positive tests results recorded within the revised SCR, having regard to the classification of the underlying aquifer as having extreme

vulnerability, the classification of the appeal site as having the highest vulnerability, the identification of bedrock at or near the surface within the GSI mapping, the existence of bedrock partially above ground level within the appeal site, the anomalies in terms of the pre-soaking and testing dates, I am not satisfied that the applicants have demonstrated that the wastewater proposals would not have the potential to adversely impact the groundwater and the extremely vulnerable aquifer that underlies the site. I am also not satisfied that the applicants have demonstrated compliance with the provisions of the EPA, Code of Practice 2021, specifically Appendices D & E in relation to the dates and times of the pre-soaking of the test holes and the Groundwater Protection Response Therefore, on balance, on the basis of the information submitted. I consider the wastewater proposals could potentially result in an adverse impact upon groundwater and public health and, therefore, would be contrary to the proper planning and sustainable development of the area**.**

4.0 Appropriate Assessment

4.1 The nearest Natura 2000 sites to the appeal site are the Galway Bogs Complex SAC (site code 002034) which is located approximately 320 metres south of the appeal site and the Twelve Bens/Garraun Complex SAC (site code 002031) which is located approximately 430 metres north of the appeal site.

4.2 The applicants submitted an Appropriate Assessment screening report, prepared by an ecologist as part of their planning documentation. This screening report concludes that no significant effects are likely to arise upon any European site as a result of the development. The Planning Authority also conducted an Appropriate Assessment screening exercise and similarly concluded that the development would not significantly impact upon a European site(s), by reason of the absence of a surface water hydrological connectivity between the appeal site and the nearest European site(s).

4.3 Section 3.2 of the screening report identifies that the appeal site as undulating with higher ground towards the north with some rock outcrop within this part of the site and wetter ground and some rushes to the south of the site. There is a field drain in the south-western corner of the site which travels under the R341 in a westerly direction.

There were rushes noted within this southern part of the appeal site adjacent to the field drain and field access area. The applicants state that there is no hydrological connectivity between the appeal site and the nearest SAC (as per the information tabulated within Table 3). Groundwater flow as the GSI mapping database is in a southerly direction from the appeal site towards the Connemara Bogs Complex SAC. This is not specifically identified within the AA screening report. The Conservation objective for this SAC is: To maintain or restore the favourable conservation status of habitats and species associated with the Connemara Bog Complex.

4.4 The applicants have addressed the issue of potential direct and indirect impacts associated with the development within Table 2 of their Screening Report. No direct impacts are identified by the applicants. Similarly, no indirect impacts were identified by the applicants due to the separation distance between the appeal site and the nearest European sites, and the fact that wastewater would be managed by an on-site wastewater treatment system. A Nutrient Management Plan was submitted outlining proposals for the management of animal waste generated on site. The applicants have identified the qualifying interests of the Connemara Bogs SAC within Table 3 of the screening report. I note that a number of the qualifying interest are specifically water related, in the form of coastal lagoons and oligotrophic waters. Map number 3 of the conservation objectives (www.npws.ie) specifically identifies coastal lagoons within this part of the SAC. Table 2 of the AA screening report sets out that there would be no reduction in conserved habitat as a modern high standard wastewater treatment system will protect water quality. However, this statement is based on the assumption that all of the information contained within the SCR stands up to scrutiny, is fully accurate and accords with EPA best practice guidance.

4.5 I refer to Section 3.2 of my report above regarding wastewater disposal from the development. The Site Characterisation Report (SCR) submitted includes a number of shortcomings. The AA Screening Report refers (Section 3.9-conclusion) specifically to the wastewater treatment proposals and that they are in compliance with the EPA Code of Practice Standards 2021. This assertion is based on the information included within the SCR submitted. Table 2 within the AA Screening Report states that the modern high standard wastewater proposals will protect water. However, I am not satisfied, based on the information included within the revised and updated SCR, that the applicants have

demonstrated that groundwater would be fully protected due to the underlying bedrock features that exist within the site at or near the surface and having regard to the southerly flow of the groundwater in the direction of the Connemara Bogs SAC.

4.6 In conclusion, having regard to the nature and scale of the proposed development, and the proximity to the nearest European site(s), I am not satisfied that the applicants' have demonstrated that their proposals to install a secondary wastewater treatment system and soiled polishing filter accords with the standards as set out within the EPA Code of Practice 2021. Based on the information submitted, I am not satisfied that outfall from the wastewater treatment system would be of a high quality and may have the potential to adversely impact the Connemara Bog Complex SAC and its conservation objective, which seeks to maintain or restore the favourable conservation status of habitats and species associated with the European site and its qualifying interests, through the groundwater system. Therefore, it is considered that the proposed development has the potential to have a significant effect, individually, or in combination with other plans or projects, on the conservation objective of a European site(s). and would be contrary to policy objective NHB 3 of the Development Plan, regarding the protection of European sites.

Screening Determination

4.7 In accordance with Section 177U of the Planning and Development Act 2000 (as amended, and on the basis of the objective information provided by the applicants. I conclude that the proposed development could result in significant effects on the Connemara Bogs Complex SAC in view of the conservation objective and a number of the qualifying interest features of this site.

4.8 It is therefore determined that Appropriate Assessment (Stage 2), under Section 177V of the Planning and Development Act 2000 (as amended) of the proposed development is required.

5.0 **Recommendation**

Having regard to the above and to the content of my original report, I recommend that planning permission be refused for the following reasons.

6.0 **Reasons**

1 Having regard to the soil conditions and the existence of bedrock at and/or near the surface within the appeal site and high water table, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the development can be satisfactorily treated and/or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health, contrary to the provisions s of the EPA Code of Practice 2021, and contrary to policy objective NHB 3 of the Galway County Development Plan 2022-28, regarding protection of European sites.

2 On the basis of the information submitted with the application and appeal, with particular regard to a potential deterioration in groundwater quality as a result of the wastewater treatment proposals and the existence of bedrock within the site at or near the surface, as well as potential disturbance to habitats and species as a result of the potential groundwater connectivity, and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Connemara Bogs Complex SAC (site code 002034), or any other European site, in view of the site's conservation objectives. 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.

Fergal Ó Bric

Planning Inspectorate

19th day of December 2024