



An
Bord
Pleanála

Inspector's Report

ABP-318614-23

Development

Permission for (i) retention of the change of design of dormer extension to dwelling and permission to complete the construction. (ii) retention of the change of design of alterations to the original dwelling house and permission to complete the construction (iii) retention of the change of design to the domestic garage and permission to complete the construction and (iv) retention of the change of location of the proprietary wastewater treatment system and associated percolation area to facilitate the garage structure.

Location

Treanlaur, Oranmore, Galway.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

23/60233

Applicant(s)

Joseph Howard

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal

Third Party v Grant

Appellant(s)

Clare O Brien

Observer(s)

None

Date of Site Inspection

10th day of May 2024

Inspector

Fergal Ó Bric

1.0 Site Location and Description

- 1.1. The appeal site comprises a dormer style dwelling on a plot size of 0.13 hectares within the townland of Treanlaur, approximately 3.8 kilometres south-west of Oranmore and overlooking Mweeloon Bay, south-east of Galway City. The site is accessed from a local county road, the L8106, which in turn is accessed off the N67 national secondary route, further east of the appeal site. The surrounding area is characterised by individual dwellings adjacent to the shoreline of Mweeloon Bay.
- 1.2. There is a recessed splayed vehicular gated entrance into the appeal site from the adjoining county road. The levels within the site rise towards the dwelling from the adjoining public road, Site levels at the site entrance are stated to be 96.96 metres AoD and 102.3 metres AoD in the rear garden area. The boundary treatment around the site comprises a natural stone wall along the southern (roadside) boundary, a low-level fence and, block wall and planting along the western (side) boundary and planting along the eastern and northern site boundaries. There are established single storey and dormer dwellings on generous plot sizes located further east and west of the appeal site.

2.0 Development

- 2.1. The development comprises the following:
 - Permission for retention of the change of design of dormer extension to dwelling and permission to complete the construction.
 - Permission for retention of the change of design of alterations to the original dwelling house and permission to complete the construction.
 - Permission for retention of the change of design to the domestic garage and,
 - Permission for retention of the change of location of the proprietary wastewater treatment system and associated percolation area to facilitate the garage structure.

- 2.2. The applicant submitted an inspection and maintenance agreement in relation to the proprietary wastewater treatment system and associated percolation area that have been installed on site.
- 2.3. An Appropriate Assessment (AA) preliminary examination was carried out by the Planning Authority. They concluded that by virtue of the nature and scale of the development located outside of any European site, the limited excavation works, emissions, transportation requirements and duration of construction, that the development by itself, or in combination with other plans and projects would not result in significant effects on European sites, their qualifying interests or conservation objectives and, therefore, no further assessment is required in this regard.
- 2.4. Further information was submitted by the applicant in relation to the following matters: Contiguous elevations showing the existing dwelling in context of the dwellings to each side (east and west) of the appeal site. Confirmation from the applicants' Consultant Engineer that the proprietary wastewater treatment system and associated percolation area have been installed and constructed in accordance with the manufacturers requirements and in accordance with the EPA Wastewater Treatment Manual for single dwellings in the Countryside, 2021; A landscape plan for the site prepared by landscape architects and a surface water management plan for the appeal site.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted by Galway County Council subject to seven standard conditions which included the following:

Condition number 4: Surface water management within the site

Condition number. 5: Construction/demolition hours.

Condition number 5: Wastewater treatment maintenance and management.

Condition number 7; Landscaping to be completed in accordance with particulars submitted to the Planning Authority.

3.2. **Planning Authority Reports**

3.3. Planning Reports

Initial Planning Report:

The initial report prepared by the Executive Planner, dated 4th day of May 2023 noted the following:

- The appeal site is located within a rural and unserviced area.
- The applicant previously had submitted a Section 47 (occupancy clause) agreement to the Planning Authority (PA) and, therefore, the principle of the proposal is acceptable in this instance.
- The Planning Officer noted the domestic garage is larger than that previously permitted on site and that the wastewater treatment system and percolation area had been relocated from those previously permitted on site under planning reference number 19/32.
- An increase in ridge height is proposed from approximately 6.4 metres to approximately 7 metres.
- There are two projecting gables are proposed on the front elevation, one being single-storey.
- The appeal site is located within a class 3 landscape, which requires, where necessary a landscape/visual impact assessment to be submitted to accompany proposals for significant development, having regard to the high landscape sensitivity in the area.
- DM standard 6 of the County Plan relates to development of domestic garages.
- Further information was recommended.

The subsequent Planning Report dated 10th day of November 2023 set out the following:

- The amendments for which permission for retention are sought do not represent a significant departure from the development previously approved on site under PA reference 19/32.
- The Planning Authority are satisfied that the Proprietary Wastewater Treatment System and percolation area have been installed and constructed in accordance with the manufacturers requirements and in accordance with EPA guidance for wastewater treatment manual for single houses in the Countryside 2021 and that a service and maintenance agreement for the system has also been submitted,
- That a landscaping plan prepared by landscape architects has been submitted.
- That robust surface water management proposals have been submitted.
- The Planning Officer recommended a grant of planning permission subject to conditions.

3.4 Internal Reports

None received.

3.5 Prescribed Bodies

3.3.1. None received.

3.4. Third Party Observations

3.4.1. One observation was received by the Planning Authority from a neighbouring resident. The issues raised within the observation are similar to those raised within the grounds of appeal, as set out within Section 6 of this report, and include the following:

Design and Layout:

- That the drawings submitted under planning reference 19/32 were mis-labelled.
- Overlooking of the appellants' property from the first floor rooflights

- Four larger rooflights have been installed by the applicant within 2.2 metres of the party boundary.
- The Development Plan requires first floor windows to be a minimum distance of 11 metres from a party boundary.
- The first-floor windows overlook their rear private amenity space. This has resulted in an invasion of privacy and devaluation of property and adversely impacted their residential amenity.
- The appellant has objected to any first-floor windows within the appeal site since as far back as planning reference 01/1837.
- The extension constructed is considerably larger than that permitted under planning reference 19/32 and results in a dominant, overbearing and inappropriate form of development which fails to appropriately integrate within this sensitive rural landscape.
- The first-floor front elevation windows directly overlook the appellants' front garden amenity space.
- If permitted, the proposals would establish an undesirable precedent for future similar development in this rural area and would be contrary to the proper planning and sustainable development of the area.
- The domestic garage is larger and taller than that permitted under planning reference 19/32.
- The increase in size of the domestic garage has necessitated the relocation of the effluent treatment system closer to the appellants' property.
- The development is grossly out of keeping with neighbouring properties.

Appropriate Assessment:

- The appeal site is in the vicinity located in proximity to a Special Area of Conservation (SAC), a Special Protection Area (SPA) and a Natural Heritage Area (NHA).

Other Issues:

- The applicant has chosen to develop the site in an unauthorised manner.
- An undesirable precedent would be established by permitting development retrospectively, instead of people building in accordance with their planning permission.

4.0 Planning History

- 4.1.1. The following is considered to be the relevant planning history pertaining to the appeal site:

On site:

Planning reference 19/32-Permission permission was granted in 2019 by Galway County Council for the construction of a dormer extension (138 square metres) to the front and side of an existing dwelling, conversion of the existing attic to habitable space, alterations to original dwelling, domestic garage (23 .8 square metres) and ancillary site works.

Planning reference 07/786-Permission permission was granted in 2007 by Galway County Council for the construction of a dwelling house (125.5 square metres) and Puraflo wastewater treatment system.

5.0 Policy Context

5.1. Galway County Development Plan 2022-2028

The Galway County Development Plan 2022 -2028 was adopted by the Planning Authority on 9th May 2022 and came into effect on the 20th day of June 2022. It has regard to national and regional policies in respect of domestic extensions and natural heritage. Chapters 4, 10 and 15 of the Plan refer.

Relevant policies objectives include:

Policy Objective RH 9 Rural Design Guidelines.

Policy Objective RD 3 Assimilation of Buildings

To ensure that all buildings are appropriately sited and sympathetic to their surroundings in terms of scale, design, materials, and colour. The grouping of buildings will be encouraged in the interests of visual amenity. In general, the removal of hedgerows to accommodate agricultural buildings will not be permitted.

Policy Objective NHB 1: Natural Heritage and Biodiversity of Designated Sites, Habitats and Species

Protect and where possible enhance the natural heritage sites designated under EU Legislation and National Legislation (Habitats Directive, Birds Directive, European Communities (Birds and Natural Habitats) Regulations 2011 and Wildlife Acts) and extend to any additions or alterations to sites that may occur during the lifetime of this plan.

Protect and where possible, enhance the plant and animal species and their habitats that have been identified under European legislation (Habitats and Birds Directive) and protected under national Legislation (European Communities (Birds and Natural Habitats) Regulations 2011 (SI 477 of 2011), Wildlife Acts 1976-2010 and the Flora Protection Order (SI 94 of 1999).

Support the protection, conservation and enhancement of natural heritage and biodiversity, including the protection of the integrity of European sites, that form part of the Natura 2000 network, the protection of Natural Heritage Areas, proposed Natural Heritage Areas, Ramsar Sites, Nature Reserves, Wild Fowl Sanctuaries (and other designated sites including any future designations) and the promotion of the development of a green/ ecological network.

Policy Objective NHB 3: Protection of European Sites

No plans, programmes, or projects etc. giving rise to significant cumulative, direct, indirect or secondary impacts on European sites arising from their size or scale, land take, proximity, resource requirements, emissions (disposal to land, water or air), transportation requirements, duration of construction, operation, decommissioning or from any other effects shall be permitted on the basis of this Plan (either individually or in combination with other plans, programmes, etc. or projects).

DM Standard 4: House extensions (Urban and Rural)

Proposed extensions shall:

- In general, be subordinate to the existing dwelling in its size, unless in exceptional cases, a larger extension compliments the existing dwelling in its design and massing.
- reflect the window proportions, detailing and finishes, texture, materials, and colour unless a high quality contemporary and innovatively designed extension is proposed.
- not have an adverse impact on the amenities of adjoining properties through undue overlooking, undue overshadowing and/or an over dominant visual impact; and
- carefully consider site coverage to avoid unacceptable loss of private open space.

DM Standard 6: Domestic Garages (Urban and Rural)

- The design, form and materials should be ancillary to, and consistent with the main dwelling on site.
- Structures may be detached or connected to the dwelling but should be visually subservient in terms of size, scale, and bulk.

- Storage facilities should be used solely for purposes incidental to the enjoyment of the dwelling and not for any commercial, manufacturing, industrial use, or habitable space in the absence of prior planning consent for such use.

5.2. Natural Heritage Designations

- 5.2.1. The appeal site is located approximately 5 metres north of the Galway Bay Complex SAC (site code 00268) and the Inner Galway Bay SPA (site code 004031).
- 5.2.2. The site is located approximately 5 metres north of the Galway Bay Complex pNHA (site code 00268).

5.3. Environmental Impact Assessment (EIA) Preliminary Screening

- 5.3.1 Having regard to the nature and modest scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the retention of the extensions and alterations to the dwelling, nor arising from the retention of the domestic garage nor the relocation of the proprietary effluent treatment system and percolation area. The need for environment 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 third party appeal has been submitted by a neighbouring resident of Treanlaur, Oranmore. The issues raised within the appeal can be summarised as follows:

Design and Layout:

- That the drawings submitted under planning reference 19/32 were mis-labelled.
- The design, scale, mass and height of the extension is substantially larger than that permitted under planning reference 19/32.
- Overlooking of the appellants' property has resulted from the first floor rooflights.

- Four larger rooflights have now been installed by the applicant within 2.2 metres of the party boundary and overlooking her property.
- The Development Plan requires first floor windows to be a minimum distance of 11 metres from a boundary.
- The first-floor windows on the front elevation overlook her front garden space. This has resulted in an invasion of privacy and devaluation of property and adversely impacted their residential amenity.
- They have objected to any first-floor windows within the appeal site since as far back as planning reference 01/1837.
- The extension constructed is considerably larger than that permitted under planning reference 19/32 and results in a dominant, overbearing and inappropriate form of development which fails to appropriately integrate within this sensitive rural landscape.
- If permitted, the proposals would establish an undesirable precedent for future similar development in this rural area and would be contrary to the proper planning and sustainable development of the area.
- The domestic garage is larger and taller than that permitted under planning reference 19/32.
- The increase in size of the domestic garage has necessitated the relocation of the effluent treatment system closer to the appellants' property.
- The development is grossly out of keeping with neighbouring properties.

Appropriate Assessment:

- The appeal site is in the vicinity located in proximity to a Special Area of Conservation (SAC), a Special Protection Area (SPA) and a Natural Heritage Area (NHA).

Other Issues:

- They have chosen to develop the site in an unauthorised manner.
- The applicants have installed a chimney, not included within the current plans, and bordering the appellants' property.
- Fumes from the chimney will be directed towards the property of the appellant.
- An undesirable precedent would be established, if permitted by permitting development retrospectively, instead of people building in accordance with their planning permission.
- Photographic images were submitted by the appellant in support of her appeal submission.

6.2 Planning Authority Response

No comments in relation to the appeal were received from the Planning Authority.

6.3 Applicant response to third party appeal submission.

- The only warning letter received from the Planning Authority was issued in January 2023, following revisions to the permission granted under planning reference 19/32.
- Under the current proposals, the projection on the front elevation was pulled back and the extension on the rear elevation was elongated in order to move further away from the neighbours' front door and living quarters.
- The first floor rooflights are set out of reach and above eye level as illustrated in the photographic images submitted).

- Similarly, the double rooflights in the bathroom are set over a bathtub and out of reach and above the eye line.
- The extension and dwelling design are orientated towards the south west and out over Kilcaimin Bay and not towards the appellants' property.
- The garage will not be used for habitable purposes, the windows in the garage are for light and aesthetic purposes only.
- The first-floor level in the garage is to be used for domestic storage purposes and the first-floor window within the garage provides light within the storage area.

7.0 **Assessment**

7.1 The key issues raised within the third-party appeal are considered to include the following:

- Principle of development
- Design and layout.
- Wastewater/Water Supply/Surface Water
- Residential Amenity
- Other Issues
- Appropriate Assessment

7.2 **Principle of Development**

7.2.1 The appeal site is located within a rural area and the lands are unzoned as per the provisions of the current Galway County Development Plan 2022-28.

7.2.2 The appeal site comprises an established and permitted dwelling house, with the first-floor area converted to habitable use and a dormer extension constructed to the east of

the main dwelling, permitted under planning reference 19/32. The applicant has stated that during the course of the construction of the extension and alterations to the dwelling, he increased the size of the two-storey side extension from 138 square metres (sq. m) to 166 sq. m. and is seeking retention permission for the alterations under the current proposals. The applicant has set out that the increase in floor area comprises of approximately 28 square metres over the ground and first floor levels. The ridge height of the extension has also increased from c. 6.41 metres to c. 6.81 metres as constructed, an increase of approximately 0.4 metres. Various modifications to the fenestration detailing have also occurred. The Treanlaur area is characterised by a pattern of established residential development, overlooking Mweeloon Bay. There is no particular dwelling type that prevails in the area, The dwelling typology varies from single-storey cottage type structures to bungalow dwellings, to larger dormer dwellings. This is evident from the contiguous elevation plan as submitted by the applicant as part of his further information response.

7.2.3 The applicant is seeking to retain modifications and alterations to the dwelling carried out on foot of the development permitted under reference number 19/32. The eastern two storey extension has been made larger and it has been moved further back (north) within the site as well as a number of modifications to the fenestration detailing and the insertion of additional rooflights within the front and side (eastern) roof slopes. It is also proposed to retain a larger domestic garage and for the relocation of the proprietary wastewater treatment system, all permitted under the 19/32 permission. Policy Objective RD 3 in the Development Plan pertains to the assimilation of buildings and DM Standard 4 pertains to domestic extensions and sets out that extensions should be subordinate to the main dwelling, that window detailing be consistent with the existing dwelling and that the amenities of neighbouring dwellings be respected. These are matters that will be considered later within this assessment.

7.2.4 In conclusion, I consider that the principle of the extensions and alterations as being acceptable in this instance, given that a similar scale of extension was permitted under planning reference 19/32. However, the acceptability in principle is subject to the design

and layout being acceptable and that neighbouring amenities are respected. These will be specifically addressed later within my assessment. I note that a number of domestic extensions have been completed in the Treanlaur area to date, including within dwellings immediately adjacent to the appeal site.

7.3 Design and layout.

- 7.3.1 The domestic extension has been constructed adjoining the eastern gable of the dwelling and the attic space within the main dwelling on site has been converted to habitable accommodation. The original dwelling on site had a floor area of approximately 177 square metres (sq. m.). The domestic extensions and alterations have a stated floor area of 166 sq. m. The house maintains the established building line of dwellings immediately east and west of the appeal site. The dwellings in the Treanlaur area are all elevated above the level of the adjoining public road, and they all have a southerly orientation overlooking Mweeloon Bay.
- 7.3.2 Due to the orientation of the dwelling on site, which is angled in a south-westerly direction, overlooking Mweeloon Bay and the location of the development set well back from the public road and within a building line of similar scaled dwellings, the existence of mature screening around the perimeter of the appeal site, and with the additional landscaping proposals to be implemented, I am of the opinion that the development will not be overly prominent from the public domain. The ridge height of the domestic extension on the eastern elevation has been increased from 6.41 metres to 6.81 metres and the footprint has moved further north, towards the rear (north) of the site as well as increasing in floor area from 138 to 166 square metres. The fenestration detailing has altered providing for an apex feature within the front elevation with the glazing reaching the tip of the apex and a more traditional vertical style fenestration within the larger two storey front elevation projection/extension, providing for a greater level of consistency within the fenestration detailing within the front elevation. Additional rooflights have been provided within the front (south) and side (eastern) roof slopes. These are not

considered to detract from the design of the proposal and are stated to be for increased light within the upper floor accommodation.

- 7.3.3 Having regard to the provisions of the Development Plan and specifically policy objective RD3 and DM Standard 4 in relation to domestic extensions, I consider that the principle of a domestic extension and alterations to the dwelling had already been accepted on site under planning reference 19/32. I acknowledge that the applicants constructed a larger and modified extension to that originally permitted. However, the increase in scale of approximately 28 square metres, between the ground and first floor level accommodation is considered modest and the alterations in fenestration detailing have simplified the design and introduced greater consistency in fenestration detailing within the dwelling and extension. I consider the increase in ridge height of 0.4 metres as modest, in the context of the development on site. I am satisfied that the extension and alterations to the dwelling are subordinate to the main dwelling and integrate appropriately. I am satisfied that the issue of consistency of fenestration detailing has been achieved within the development works as per the requirements of DM Standard 4 within the Development Plan. The issue of impact upon neighbouring residential amenities will be addressed later within this report.
- 7.3.4 The footprint and ridge height of the domestic garage has also been increased. The floor area is now stated to be 37 square metres and the ridge height 5.1 metres, again representing modest increases of approximately 13 square metres in area and 0.3 metres in height. I note that the applicant states that the first-floor area, accessible via an internal stairs staircase, would be used for domestic storage purposes. A planning condition to this effect can be included, in the event that a grant of planning permission is being recommended. The domestic garage is located in the north-west portion of the appeal site, and away from the appellants' property. The scale, design and layout of the domestic garage is considered acceptable.
- 7.3.5 The ridge height of the existing dwelling on site is 6.81 metres at its ridge. The domestic extension is attached to the main dwelling as originally permitted under planning reference 19/32. The external finishes (nap plaster) of the extension are consistent with those of the dwelling and domestic garage. I am satisfied that the extension integrates

appropriately with the dwelling in terms of scale, height and external finishes and accords with the RD POL 3 objective in terms of extension being subordinate to the dwelling.

- 7.3.6 The appellant references the requirement for an 11-metre separation distance between opposing first floor windows. This reference is taken from the Development Management Standards within Chapter 15 of the current Galway County Development Plan. However, in relation a two-metre separation, this is a requirement for side boundaries and a twenty-two-metre separation relates to back-to-back development, eleven metres for each property. The 2-metre side separation distance is not achieved along the full extent of the eastern gable boundary, the separation distance along the eastern gable varies between 2.57 metres at the front and narrows to 1.825 metres at the rear. I am satisfied that with the retention and augmentation of the mature hedgerow boundary along the eastern party boundary, that residential amenities of the neighbouring property are adequately protected. This matter will be addressed in detail within Section 7.5 of this report. The 22-metre back-to-back separation distance is not applicable in this instance, as there are no dwellings backing onto the appeal site.
- 7.3.7 In conclusion, I am satisfied that the extensions and alterations proposed integrate appropriately with the existing dwelling on site in terms of scale, proportion and external finishes and are acceptable. They would accord with the policy objectives as set out within the current Development Pan, specifically policy objective RD 3 and DM standards 4 and 6 in relation to extensions integrating with existing structures on site and using external finishes appropriate to an area and achieving consistency in fenestration detailing.

7.4 Wastewater/Water Supply/Surface water

Wastewater

- 7.4.1 The appellants set out that the on-site wastewater treatment system, as permitted under planning reference 19/32 was relocated in order to provide for the larger domestic garage footprint and for a revised turning and parking area to serve the dwelling. As

part of the further information response, the applicants' Consultant Engineer submitted correspondence confirming that the relocated wastewater treatment system has been constructed and installed in accordance with the requirements of the manufacturers and in accordance with the EPA wastewater treatment manual for single houses in the countryside 2021. A copy of the service and maintenance agreement has also been submitted. Based on the information submitted, I am satisfied that the relocated wastewater treatment system will not adversely impact upon the local environment.

7.4.2 In conclusion, I consider that it would be unlikely that the relocated wastewater treatment system would result in adverse impacts on the local groundwater system having regard to the high standard of site specific wastewater treatment proposed on site, installed, constructed and maintained in accordance with current EPA Code of Practice for domestic wastewater treatment systems 2021, guidance standards. The issue of potential impact upon groundwater and connectivity to European sites will be addressed in greater detail within the Appropriate Assessment section of my assessment.

Water Supply:

7.4.3 The dwelling on site is connected to the public water mains system. Therefore, I am satisfied that the works proposed would not adversely impact upon the water supply to the dwelling within the appeal site nor to any of the neighbouring dwellings.

7.4.4 Surface Water:

The planning application form sets out that surface water is to discharge to soakpits. The applicant submitted a surface water management plan as part of his further information response. A drainage channel is to be provided at the site entrance to prevent surface water from entering into the public road. Two soak pits are also

proposed, one on the front garden area and another in the rear garden area. The Site drainage drawing number 23/518-03 identifies the location of two new storm/surface water soakpits to the north-east and south-west of the dwelling within the front and rear garden areas as well as the location of a surface water drainage channel at the entrance point. I am satisfied that the applicant has made adequate provision to cater for storm and surface water generated on site for the development. Final details of the surface water management system on site can be conditioned to be submitted to the Planning Authority.

7.5 Residential Amenity

7.5.1 The appellant has raised concerns regarding the potential for adversely impacting her residential amenity by virtue of overlooking of her front and rear garden spaces, by virtue of the proximity of the proposals to the party boundary. In terms of overlooking, the first-floor fenestration in the front elevation has been decreased in size and the first floor rear fenestration detailing has altered little from that permitted under planning reference 19/32. The introduction of the additional rooflights in the side (eastern) roof slope does not afford any potential for overlooking as the rooflights are set at a level above that of the human eye and are for illumination purposes only. The orientation of the dwelling is south facing, over Mweeloon Bay. Therefore, I am satisfied that the development does not afford opportunities for overlooking of the appellants property, to such an extent that her residential amenities would be adversely impacted upon. I note that there is mature planting and fencing along the party boundary which also limits the potential for overlooking.

7.5.2 In terms of the separation distance between the extension and the party boundary, it is presently 1.825 metres and was permitted at 2.2 metres under planning reference 19/32. From the Site Layout plan submitted by the applicant as part of their further information response to the Planning Authority on the 21st day of October 2023, it is apparent that the dwellings immediately east and west of the appeal site appear to have developed on or in very close proximity to their party boundaries'. I consider that the

applicants have maintained a 1.825 metre separation from their eastern party boundary, and this is considered sufficient to respect the amenities of the neighbouring residents, especially in light of the mature hedgerow that exists along the party boundary is retained and augmented.

7.6 Other Issues

- 7.6.1 The appellant raised the issue of the flue installed by the applicant within the eastern roofslope. This flue serves a wood burning stove within their downstairs sitting room area. I refer to Schedule 2, Part 1, Class 2(a) of the Planning and Development Regulations 2001, as amended which sets out that a flue that is provided as part of a heating system of a house is exempted development. Therefore, I am satisfied that planning permission is not required for the flue as referenced by the appellant.

7.7 Appropriate Assessment Screening

- 7.7.1 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.
- 7.7.2 This section of the report considers the potential for likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. No Appropriate Assessment screening (Stage 1) nor Stage 2 AA was submitted by the applicant as part of the planning documentation. However, I note that an AA screening document was submitted by the applicant as part of his proposals submitted under planning reference 19/32 and I have referenced this document. The AA screening submitted under planning reference 19/32 concluded that no significant effects would arise from the development in terms of adversely impacting the qualifying interests of Conservation Objectives of European sites considered in that assessment (Galway Bay SAC and Inner Galway Bay SPA). I have conducted my own Appropriate Assessment screening in order to determine if there is potential for the development to result in likely significant effects on the relevant European sites.

- 7.7.3 The characteristics of the existing local environment including the habitats and/or fauna identified within the appeal site include Improved Agricultural Grassland (GA1), stone walls and other stonework (BL1), Treeline (WL2) and Hedgerow (WL1). There are no watercourses within or adjacent to the appeal site, and none of the habitats within or adjacent to the works area correspond to those listed in Annex 1 of the EU Habitats Directive.

The Project and Its Characteristics

- 7.7.4 See the detailed description of the proposed development in section 2.0 above.

The European Sites Likely to be Affected.

Stage 1 Screening

- 7.7.5 In determining a zone of influence, I had regard to the scale and nature of the project and to the EPA Appropriate Assessment Mapping Tool¹. I consider that the only SAC that would be within the zone of influence would be the Galway Bay Complex SAC, which is located approximately 5 metres to the south of the appeal site. The only SPA within the zone of influence is the Inner Galway Bay SPA (004031) which is a distance of approximately 5 metres south of the appeal site.
- 7.7.6 I consider that the zone of influence of the project comprises the two nearest Natura 2000 sites noted above, namely the Galway Bay Complex SAC and the Inner Galway Bay SPA. Other sites are not hydrologically or ecologically connected to the appeal site or are such a distance from the appeal site, that there would not be any likely significant effects on them as a result of habitat loss and/or fragmentation, impacts to habitat structure, disturbance to species of conservation interest, mortality to species, noise pollution, emissions to air and emissions to water.
- 7.7.7 The two relevant European sites and their Qualifying Interests/Species of Conservation Interest are listed below:

Table 1:

¹ www.epa.ie accessed 15/10/2024

| European Site | Qualifying Interests | Distance from Appeal Site | Potential Connections (source-pathway-receptor) | Further Consideration in Screening |
|-------------------------------|---|--|---|---|
| Galway Bay Complex SAC 000268 | <p>Qualifying Interests:</p> <p>Mudflats and sandflats not covered by seawater at low tide.</p> <p>Coastal lagoons.</p> <p>Large shallow inlets and bays.</p> <p>Reefs.</p> <p>Perennial vegetation of stony banks.</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts.</p> <p>Salicornia and other annuals colonising mud and sand.</p> <p>Atlantic salt meadows.</p> <p>Mediterranean salt meadows.</p> <p>Turloughs.</p> <p>Formations on heaths or calcareous grasslands.</p> <p>Semi-natural dry grasslands and scrubland facies on</p> | Approximately 5 metres south of the appeal site. | <p>Yes. Requires further assessment due to there being potential hydrological connectivity between the appeal site and the SAC via groundwater.</p> <p>Development works in the form of building excavations and wastewater treatment relocation works have the potential to cause deterioration in water quality by reason of increased sediment generation during construction works and to potentially result in significant impacts on habitats/species within the SAC. There is also the potential for hydrocarbons to enter groundwater from machinery used during the construction phase of development.</p> | Yes. |

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|-----------------------------|--|--|---|------|
| | calcareous substrates. Calcareous fens with Cladium mariscus and species of the Caricion davallianae. Alkaline fens. Limestone pavements. Otter Harbour Seal | | | |
| Inner Galway Bay SPA 004031 | Black-throated Diver (Gavia arctica) [A002] Great Northern Diver Cormorant. Grey Heron. Light-bellied Brent Goose. Wigeon. Teal. Red-breasted Merganser. Ringed Plover. Golden Plover. Lapwing. Dunlin. Bar-tailed Godwit. Curlew. Redshank. Turnstone. Black-headed Gull. Common Gull. | Approximately 5 metres south of the appeal site. | Yes. Requires further assessment due to there being potential hydrological connectivity between the appeal site and the SPA via groundwater. Development works in the form of building excavations and wastewater treatment relocation works have the potential to cause deterioration in water quality by reason of increased sediment generation during construction works and to potentially adversely impact bird species within the SPA. There is also the potential for hydrocarbons to enter groundwater from | Yes. |

| | | | | |
|--|--|--|---|--|
| | Sandwich Tern. Common Tern. Wetland and Waterbirds. | | machinery used during the construction phase. of development. | |
|--|--|--|---|--|

I do not consider that any other European Sites fall within the zone of influence of the project, based on a combination of factors including, the absence of suitable habitat for qualifying interests and the lack of hydrological or other connections between the appeal site and the adjacent European sites. No reliance on avoidance measures or any form of mitigation is required in reaching this conclusion.

Identification of Likely Significant Effects

7.7.8 Given the location, nature and scale of the proposed project, it is apparent that a number of qualifying interests have the potential to be impacted upon within the following European sites:

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

7.7.9 In relation to Galway Bay Complex SAC (000268), I note that this European site is located approximately 5 metres south of the appeal site at the closest point. The Conservation Objective pertaining to this site is to maintain or restore the favourable conservation condition of the Habitats and Species associated with Galway Bay. Given the location of the site in a limestone karst area, there is increased potential for a pathway by way of groundwater which could have a likely significant effect on the water based habitats and species associated with this European site. Information on the NPWS website states that maintenance of groundwater, surface water flows and water table levels within natural ranges is essential to maintain the integrity of the wetland habitats in Galway Bay. While surface water provides another potential pathway to the site, given the greenfield nature of the site where surface water would percolate to ground. I note that a surface water management plan, including site specific surface water management proposal are submitted as part of the proposals and will be

conditioned to be completed. On balance, given the relatively modest extent of the development works proposed, the shallow nature of the excavation works and the existence of an on-site wastewater treatment system and percolation area which are stated to have been constructed and installed in accordance with current EPA best practice standards and also subject of a service and maintenance agreement, as submitted by the applicant as part of his further information response, as well as the surface water management proposals designed to contain surface water within the boundaries of the appeal site, I consider that the works are unlikely to have had a significant impact upon the water dependent qualifying interests of the Galway Bay SAC, having regard to its conservation objectives and qualifying interests.

- 7.7.10 In relation to Inner Galway Bay SPA (004031), I note that this is located approximately 5 metres south of the appeal site, at the closest point. Given the location of the site in a limestone karst area, there is increased potential for a pathway by way of groundwater which could have a potential significant impact on the qualifying interests (bird species). The conservation objective for this site is to maintain or restore the favourable conservation condition of the bird species and habitat associated with the site. On balance, given the, the relatively modest extent of the development works proposed, the shallow nature of the excavation works and the proposals to install a new site specific on site wastewater treatment system and percolation area which are subject to a service agreement(copy submitted a spart of further information response), as well as the surface water management proposals designed to contain surface water within the boundaries of the appeal site, I consider that the works are unlikely to have had a significant effect upon the water dependent qualifying interests of the Galway Bay SPA, having regard to its conservation objectives. It is not considered that the habitat on site would be particularly suitable to serve the protected bird species for foraging purposes. It is unlikely the protected birds would use the appeal site for foraging purposes as these protected birds prefer more secluded sites where there is little or no human habitation/interaction.

7.7.11 In conclusion. having regard to the location of the development on a brownfield site outside of the boundaries of any European sites, the relatively modest scale of the extensions and alterations, the wastewater treatment system on site which was installed in accordance with the EPA code of Practice of domestic wastewater treatment systems 2021, the inclusion of a service and maintenance agreement for the proprietary system, the inclusion of surface water management soakpits and a surface water channel interceptor within the appeal site boundaries, the existence of the local public roadway separating the appeal site from the European sites, the lack of suitable habitat within the appeal site boundary and unlikelihood of ecological/hydrological connectivity to any European site via surface or groundwater. I consider that the proposed development either alone, or, in combination with other plans or projects, would not be likely to have significant effects on a European site, in view of the sites' conservation objectives and, therefore, a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement, is not required in this instance.

8.0 Recommendation

I recommend that planning permission be granted.

9.0 Reasons and Considerations

Having regard to the location of the site within a rural area to the compliance with the policies and objectives of the Galway County Development Plan 2022-2028, specifically policy objective RD3 and DM Standards 4 and 6 in relation to domestic extensions and garages, to the previous planning permission that pertained to the site under planning reference 19/32, the appropriate scale and design of the extensions and alteration's, and to the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or property in the vicinity nor adversely impact upon the integrity of any European sites. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

- 1 The development shall be retained and completed in accordance with the plans and particulars lodged with the application on the 11th day of March 2023 as amended by further plans and particulars submitted to the Planning Authority on the 21st day of October 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 The domestic garage shall be used for domestic storage purposes only and shall not be used for human habitation or commercial purposes. The shed shall not be sold, let or other transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the property in the interest of residential amenity.

- 3 (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
(b) Surface water within the appeal site shall be managed in accordance with the surface water management plan and details as submitted to the Planning Authority on the 21st day of October 2023.

(c) Water supply and drainage arrangements, including attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of proper planning and sustainable development.

- 4 The mature hedgerows, walled boundaries and fencing along the appeal site boundaries shall be maintained in situ.

Reason: In the interest of visual amenity.

- 5 (a) The proposed effluent treatment and disposal system and percolation area shall be maintained in accordance with the details submitted to the Planning Authority on the 21st day of October 2023. and in accordance with the requirements of the document entitled: Code of Practice - Wastewater Treatment and Disposal Systems Serving Rural Dwellings (p.e .≤ 10) – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to and agreed in writing with the Planning Authority prior to the commencement of development.

(b) Within three months of the occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the raised percolation area is constructed in accordance with the standards set out in the EPA document.

c) The existing wastewater treatment system and soak holes shall be removed off-site, and the area shall be chemically sterilised.

Reason: In the interest of public health.

- 6 The landscaping plan as submitted to the Planning Authority on the 11th day of March 2023 shall be implemented in full within the first planting season Following completion of the works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.occupation of the dwelling.

Reason: In the interest of visual and residential amenity.

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

24th day of October 2024.