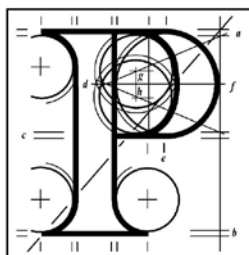


## An Bord Pleanála



### Inspector's Report

**An Bord Pleanála Ref.:** PL61.245993

**Development:** Permission for hotel extensions providing 12 hotel rooms and enlarged bar and restaurant, alterations to front façade and roof, new canopy, signage, new road access onto the Coolough Road and all associated external works including additional car parking and flagpoles.

**Location:** Menlo Park Hotel & Conference Centre, Ballinfoyle, Headford Road, Galway.

#### Planning Application

Planning Authority: Galway City Council

Planning Authority Reg. Ref.: 15/184

Applicant: John Francis

Type of Application: Permission

Planning Authority Decision: Permission

#### Planning Appeal

Appellant(s): Brian Conway

Type of Appeal: Third Party

Observers: None

Date of Site Inspection: 9<sup>th</sup> of March 2016

**Inspector:** Angela Brereton

## **1.0 SITE LOCATION AND DESCRIPTION**

The Menlo Park Hotel is located on a site to the northwest of the Kirwin roundabout to the west of the junction with the Headford Road (N84). The Hotel complex is proximate for access onto the Menlo Road, the Dublin Road (N6), Headford Road (N84 northbound and southbound into the City Centre) as well as access onto the Liosban road/Sandy road. There is a single access to provide ingress and egress to the hotel and apartment complex grounds from the Coolough Road.

The Hotel is three stories which includes the third floor dormer element. It consists of 68no. bedrooms together with ancillary bar, restaurant and conference facilities. There is a service yard area and external fire escape at the rear. The north western part of the site is occupied by 35no. self-catering apartments. The grounds of the hotel include a communal open space area adjacent to the Kirwan junction.

There is a wall and footpath on both sides of the Coolough Road and the housing estate Castledawn Heights is on the opposite side to the south of this. Tirellan Heights estate is to the north of the hotel complex. There is a bank planted with leylandi cypress to the north of the hotel building which provides some screening for these properties which are located at a higher level. Nos. 42/42A are single storey properties located proximate to the existing external fire escape i.e. the proposed extension to the north eastern (rear) elevation.

The primary use of the hotel grounds is for carparking and this is located to the east and west of the hotel and further to the west adjacent to the hotel complex self - catering apartments. Parking provision for the hotel and apartment uses is not segregated. A number of spaces have been marked out and the parking issue is discussed in the assessment below. There is currently a planted area along part of the site frontage with the Coolough Road. Two no. coach spaces are marked out, the larger one in front of this planted area close to the hotel frontage and the smaller one at the rear close to the service area.

There is currently a large sign advertising the hotel at the entrance and signage on the bar area of the hotel. The hotel carpark was noted to be well used and also that this is a heavily fast trafficked area. The Coolough Road is on a bus route into Galway and there are bus stops in front of the hotel. There is also a Medical Centre on the opposite side of the road.

## **2.0 PROPOSED DEVELOPMENT**

This proposal is for the following extensions and alterations to the Menlo Park Hotel & Conference Centre:

- a) The construction of a 3 storey extension to the North, East & South corners to the existing hotel including associated elevational changes, providing 12 hotel rooms and an enlarged bar/restaurant area.
- b) Alterations to the front façade of hotel and existing roof, including new canopy over hotel entrance.
- c) Signage to the front, side and entrance of hotel and
- d) New road access onto the Coolough Road and all associated external works including additional car parking and flag poles.

The planning application form provides that the area of the site is 1.377ha. The g.f.a of existing buildings is 6677sq.m and of proposed works is 645sq.m.

A letter from Sean Dockery & Associates has been submitted providing the rationale for the proposed development.

A Site Layout Plan, Floor Plans, Sections and Elevations have been submitted. The proposed extensions are shown highlighted. Perspective views of the Extension to the South East and South West and details of signage have also been submitted.

### 3.0 PLANNING HISTORY

The Planner's Report and subsequently the First Party Response to the Grounds of Appeal provide details of the extensive history (over the last 20 years) of the hotel complex on this site. The following is a description the most relevant recent permission granted subject to conditions by the Council:

- Reg.Ref.06/954 – Permission granted by the Council subject to conditions for the construction of (a) two storey underground structure providing a leisure/spa centre and swimming pool at the upper level and car parking and plant rooms at the lower level (b) single lane entrance/exit ramp to the lower level carpark (c) enclosed stairwell and lift shaft to side elevation of existing hotel incorporating access to the underground development (d) revised landscaping incorporating a fountain feature (e) all associated site works.

This permission is still live due to a time extension granted by the Council until the 4<sup>th</sup> of November 2017. A copy is included in the History Appendix to this Report.

### 4.0 PLANNING AUTHORITY APPLICATION

#### *Internal Reports*

#### **Planning and Transportation Report**

This recommends that F.I be submitted to include a Traffic and Transport Assessment, that additional parking spaces in accordance with standards be provided, and additional information regarding the new vehicular entrance from the Coolough Road. The applicant is requested to submit a revised layout without this access. In response to the F.I revised plans have been submitted showing the omission of this access. The Planning and Transportation Section then provide that they have no objection subject to a no. of conditions including that the proposed vehicular entrance onto the Coolough Road be omitted from the proposed development.

#### **Drainage Section**

They have no objections in relation to Surface Water Drainage.

The **Fire Service** has no objections subject to conditions including that no vehicular parking is allowed in the service yard directly under the new extension and note the need to apply for a Fire Safety Certificate for the above development.

The **Environmental Health Officer** while they do not object to the proposal has concerns that the proposed kitchen plan and wash area were lacking in detail and that there is no plan of equipment location, ventilation etc.

### **External Reports**

**Irish Water** has no objections subject to recommended conditions.

### **Submissions**

The subsequent Appellant provided that he wished to be kept informed of matters and the planning decision in relation to this planning application.

### **Planning Report**

The Planner has regard to the locational context of the site, planning history and policy relevant to the site. Noting elevational changes to the hotel they provide there would be no objections to the details proposed and the applicant is seeking to modernise the appearance of the hotel which is of no architectural merit. They have regard to the impact of the proposed extensions on adjacent residential development and in particular the extension to the north eastern corner and recommend that a Shadow Profile be submitted. They have no objection to proposed hotel signage including the new road sign and flag poles. They recommend that the applicant clarify the parking including existing parking levels and note 22no. spaces should be provided. They also have regard to the Roads Section concerns relative to the functioning of the proposed new entrance. They requested F.I regarding the following:

- A Shadow Profile relative to the impact of the proposed extension on the north eastern corner.
- Clarification on the number and location of car parking spaces to be provided and used by the Apartment/hotel located to the north of the site.
- A revised plan to show that the size of parking spaces proposed complies with current standards in the Galway CDP 2011-2017.
- Revised proposals relative to concerns regarding the proposed new entrance onto the Coolough Road.

### Further Information response

Sean Dockry & Associates has submitted a response on behalf of the applicants and this includes the following:

- A Shadow Study which includes a comparison of the existing building and proposed alterations has been submitted.
- They provide details of existing and proposed carparking and note standards used as a benchmark from previous history file Reg.Ref.06/954. They also provide details of the apartment carparking and note the layout allows for two no. coach tour buses.
- The dimensions of carparking spaces comply with current standards.
- They want to pursue improved access arrangements, and this will require further discussions with the Council. They request that the potential of additional access be considered separately under a future application.

### **Planner's Response**

The Planner had regard to the F.I submitted and recommended that taking the issue of overshadowing into consideration some modifications to the proposed rear extension were necessary. They have regard to parking considerations for the development site and provide taking modifications into account that 202 spaces would be necessary and that a slight shortfall is considered acceptable in this case. They noted adequate parking space dimensions and that the Transportation Section

now had no objections to the proposed development with the omission of the additional access. They considered that the proposal is in accordance with planning policy and the proper planning and sustainable development of the area and recommended that permission be granted subject to conditions, including development contributions.

## **5.0 PLANNING AUTHORITY DECISION**

On the 2<sup>nd</sup> of December 2015 Galway City Council granted permission for the proposed development subject to 8no. conditions. These include the following:

- Condition no.1 - The development to be carried out in accordance with plans and particulars including revised plans submitted.
- Condition no.2 – Revised floor plans to be submitted showing reduced floor area i.e room 205 and the stairwell omitted.
- Condition no.3 – The proposed vehicular access to the Coolough Road to be omitted – revised plans to be submitted.
- Condition no.4 – Construction management issues.
- Condition no.5 – Need for agreement to be obtained from the Council regarding any alteration to public services etc.
- Condition no.6 – Surface water run-off not permitted to discharge to public road or footpath.
- Condition no.7 – Works to be carried out in accordance with standards.
- Condition no.8 – Development contributions.

## **6.0 GROUNDS OF APPEAL**

A Third Party Appeal has been submitted by Brian Conway of Tirellan Heights and his grounds of appeal include the following:

- Inaccurate information submitted by the applicant's agent and erroneously accepted by the PA in response to request for F.I.
- This relates in particular to F.I point no.2 regarding the accuracy of the carparking numbers. The applicant's response is confusing and lacking in clarity. They provide that there are not 199no. spaces, rather 160no. spaces, so the former figure is an over exaggeration.
- Incorrect assessment of required parking spaces for on-site residential units.
- They refer to 'unauthorised office' area relative to the self-catering apartments and have enclosed a copy of *Menlo Park Apartment Complex Brochure*.
- There should be parking facilities for this office to facilitate staff and customers.
- Parking available for the residential units not complying with the Galway City DP standards.
- The F.I response has grossly overestimated the parking availability on site, including incorrect calculations of Hotel parking provisions and requirements.
- The revised drawings submitted have not included coach/tour bus parking spaces and there is no space or turning area for such due to the proposed parking layout. There are disembarkation/circulation issues and concern that guests will have to disembark on the public road.
- Revised drawings should have been submitted to show how the tour bus parking would be accommodated.

- The Planning Authority should not have accepted inaccurate drawings and exaggerated parking numbers in what is already an excessively over-developed proposal.
- In view of the very serious and inevitable repercussions outlined, they request the Board to overturn the decision of the Council and refuse permission for the proposed excessive development.
- The current parking is already a serious contravention of the 'RA' objectives in the Galway CDP as a significant proportion of the lands are zoned '*National Heritage, Recreation and Amenity*'.
- The previous applications relative to the establishment of the hotel and various extensions have not been in compliance with and have been in material contravention of this objective.
- There are serious repercussions/ consequences of the PA's flawed decision to allow a commercial car park on these RA zoned lands and to re-submit new applications to more intensively develop such lands.
- They have regard to the contrast of extent and intensity of permissible developments before and after PA permitted commercial parking on RA zoned lands.
- The proposed parking is displacing mature shrubs and landscaping and encroaching onto the existing roadway.
- The proposed new entrance would have made it somewhat easier for vehicles to avail of the badly positioned parking.
- However they note the Council's concerns regarding the proposed new entrance. The proposed new parking facilities are now totally impractical, ineffectual and unworkable and request ABP refuse permission for the proposed development.
- The extent of existing on-site commercial/residential developments is in clear contravention of the RA land use zoning in the Galway CDP.
- Two current 'contradicting and conflicting' planning permissions now exist i.e. they note that permission for previous extensions including a leisure centre and underground parking granted in Reg.Ref 06/954 has been extended for a further period to expire on the 4<sup>th</sup> of November 2017. This permission is still live and current and would have implications particularly relative to the current proposed parking layout.
- The PA did not factor in this application or include its implications relative to scale of development or onsite parking/traffic. None of the Council's conditions in Reg.Ref. 15/184 refers to this development.
- In essence the granting of this application is placed in serious quandary while Reg.Ref.06/954 has not been extinguished and is still a 'live' permission.
- The existing developments on site are on a scale that is not compatible with the requirement to serve local need in the GCDP.
- The current and proposed developments are possible only because of the violation of the RA zoned lands on which parking spaces have been re-located in order to facilitate the excessive overdevelopment of the subject lands. Details are given in relation to previous planning history.
- Further excessive intensification of these lands which clearly exceeds the development capacity of the site due primarily to the unlawful use/development and violation of the adjoining RA zoned lands, will be a

serious retrograde step which will negatively impact on his family home and the homes of all residents residing in the locality.

- There is a serious discrepancy on the application form regarding the applicant's legal ownership of these lands and they also have regard to details provided on relevant Folios.
- They contend that Folio details show the applicants are not the legal owners of a significant portion of the application lands.
- Considering all the extremely serious issues that have been raised, the negative impact the application will have on the residential amenities of the area and this excessive commercial overdevelopment located in the centre of an area zoned 'Residential' the Appellant requests that the Board refuse permission for this application for this already excessively overdeveloped structure.

## **7.0 RESPONSES**

**7.1** There has been no response from Galway City Council to the grounds of appeal.

### **7.2 First Party response**

James O'Donnell Planning Consultancy Services has submitted a First Party response on behalf of the Applicant. This provides details on the site location and context, the background to the hotel and planning history and relative to the proposed development. They also provide details of the planning policy context. Their response to the grounds of appeal includes the following:

#### Policy

- Having regard to planning policy, planning history and zoning objectives of the site, they note that the PA in giving its grant of permission for the proposed development, consider that an extension to the existing hotel is suitable relative to the land use zoning. They provide that the use of the site is in compliance with planning policy and note that the entirety of the site is within the 'Established Suburbs – Neighbourhood Areas' which has a major bearing on the car parking standards (Fig.2 relates).

#### Clarification of Car Parking Requirements

- A detailed survey of the hotel and grounds was carried out by reputable surveyors P.K Surveys Ltd (Drawing P-003 refers). Fig.3 provides an up to date aerial photo to show the accuracy of this.
- This survey indicates that the existing hotel complex is served by 165no. car parking spaces. Aerial photos for 2010, 2005, 2000 show that this provision has remained consistent for over 16 years.
- The uses and parking provision for the hotel are long established and have the benefit of planning permission.
- The PA's assessment of car parking (and the failure to acknowledge the long established car parking on site) in the subject application, is inconsistent with its assessment of other recent planning applications in the area. In this respect they refer to PL.Ref.No.14/307 relative to the Nox Hotel c.310m east of the application site.
- They provide a review of the parking that based on the current application only in Table 1 the proposal requires 17no. new spaces. The proposed site

layout plan shown on the revised plans proposes to provide 19no. spaces which is in excess of the CDP requirements.

- There is a high standard of pedestrian connectivity between the Hotel Complex and its immediate residential hinterland.
- Table 2 provides the car parking calculation for totality of existing and proposed uses (2016 standards) which shows that 190 spaces would be required. 184 spaces can be provided on site.
- The minor shortfall of 6no. spaces does not factor in the public transport corridor alongside. The site is proximate to a busy public transport corridor and is served by Bus Eireann bus no.407.
- They consider that carparking on the site is extensive and any further provision above the 184 spaces would be an uneconomical usage of serviced and zoned lands.
- The business model of the Hotel also reduces the demand for onsite car parking spaces.
- Coach parking would also eliminate need for additional parking vehicular parking.

#### Detailed Response to issues raised

- Table 3 provides a Summary of the issues raised and includes the Applicant's Response.
- The issue of the conversion of one of the apartments into an office is a minor infringement done over 14 years ago and has never been subject to enforcement proceedings and is not relevant to the current application.
- From an operational perspective they are not concerned about the absence of a dedicated coach parking space. They envisage that the parking can be managed to accommodate the arrival of coaches.
- If the Board considers it appropriate a condition to appropriately manage coach parking within the site frontage could be imposed and they provide details of this.
- They provide that the subject application and extant permission PL.Ref.06/954 are mutually exclusive of one another. The extent of the subject proposal would result in a very minor plot ratio increase.
- They provide details relative to the ownership of lands issue and include Folio nos. (Appendix 2 refers). They consider that issues raised about ownership issues are a civil matter and not a planning matter.

#### Other Matters

- They applicant did not appeal any of the 4no. conditions imposed by Galway City Council . On the assumption that the Board will assess the application 'de novo' they ask the Board to review the wording of Condition no.2.
- The Shadow Studies submitted demonstrate that the proposed development would not result in undue overshadowing of neighbouring properties.
- The wording of the condition could be misconstrued i.e it could mean that the entirety of the north-eastern element requires removal rather than room 205.
- The proposed development will not result in a traffic hazard. The existing junction onto the Coolough Road is operating well and Fig. 4 demonstrates that there is no record of collisions between 2005 and 2012.



- The proposed minor extensions would not endanger safety or capacity at this junction.
- Appendix 1 contains letters of support including relative to no parking issues with the hotel, from the local Residents Associations.
- Appendix 2 contains a letter from the applicant's solicitor relative to ownership and Folio nos.

### 7.3 Third Party Response to First Party

The Third Party Appellant, Brian Conway has included an Index detailing the various sections of his response submission. This detailed submission is read in conjunction with his grounds of appeal and includes the following:

- The First Party submission is flawed and appears to be erroneous/seriously misleading in part.
- The proposed development would lead to an excessive overdevelopment of this site to the detriment of the residential amenities of the area.
- The location of the proposed development will impact adversely on the homes of many of his family members and he provides details of this. The aerial photograph in Appendix 1 shows the proximity of the site to his family home.
- Contradictions regarding the status of this application relative to Reg.Ref.06/954, which is still current relative to the time extension.
- In relying on the additional underground parking that would have been provided for the leisure centre in the former application the agent stated that there are 199 spaces on this site.
- There are infact only 160 spaces to cater for the needs of the existing hotel and 36 residential units on site.
- They note that having regard to inaccuracies in over estimation of onsite parking that a second agent was appointed by the applicant to provide the First Party response submission to the grounds of appeal.
- Again they have overestimated the no. of spaces at 165, when there are 160 spaces at most to serve the hotel and apartment complex.
- A physical count of the no. of spaces on site does not appear to have been carried out. The appellant has included a physical count – sequentially numbered in the Site Layout drawing (P-003) enclosed with this response.
- A number of spaces located in front of the apartment block are substandard in size.
- The aerial photographs are not of sufficient clarity to provide a count of the carparking spaces.
- These photographs included in the First Party submission show a considerable violation by commercial parking of a significant section of the RA zoned lands. The current proposal will further exacerbate this – Appendix 2 refers.
- They note that in previous permissions encroachment on this land use zoning has occurred. In the RA land use zoning, parking should be the secondary use rather than the primary use which should be for outdoor recreation.
- The parking provision for the Nox Hotel referred to by the First Party relates to an entirely separate site with no connection to the subject site. There are real and material issues and fundamental differences between this site and the Nox Hotel (a detailed list/description of such are provided) and these would

not justify such a precedent. An aerial photograph is provided in Appendix 3 showing the distances between the subject site and the Nox Hotel.

- This appeal is based on very real and serious planning concerns regarding the very adverse impact the proposed development will inevitably have if this proposed is granted permission.
- Section 7.0 provides a detailed account relative to the seriously flawed and misleading parking calculations.
- There is a considerable underestimation of parking whether applying the current requirements of the Galway CDP or indeed the requirements that were in force at the time planning permission was granted for the 36 residential units. A copy of the carparking standards referred to Section 11.3.1(g) is included in Appendix 4.
- The parking requirement for the apartments has not been adequately taken into account.
- The suggestion that the site's location adjacent to a Bus Eireann corridor does not reduce the on-site parking requirements.
- Section 9.0 refers to the conversion of the self-catering apartment into an office and it is not considered that this unauthorised development is a minor infringement or reduces the need for parking onsite.
- Section 10.0 provides that the provision for two coach tour/buses is impractical and totally unworkable.
- They have regard to legal issues and Folio nos. and are concerned about ownership issues. Appendices 5, 6 and 7 refer to Folio nos. Any sale of the apartment block could have parking implications.
- In view of the shortcomings presented and the issues raised the Third Party requests the Board to refuse permission for the proposed development.

## 8.0 PLANNING POLICY

***Galway City Development Plan 2011-2017*** is the pertinent plan. This includes policies and objectives relative to the proposed development. The following are of note:

Section 2.2 refers to the *Neighbourhood Concept*. Table 2.1 and the Map shown in Fig. 2.1 shows the site lies within the *Established Suburbs*. Section/Policy 2.4 refers.

Chapter 11 refers to Land Use Zoning Objectives and Development Standards and Guidelines. Table 11.1 refers.

Section 11.2.2 refers to Natural Heritage, Recreation and Amenity RA Land Use Zoning Objectives: *To provide for and protect recreational uses, open space, amenity uses and natural heritage*. Fig. 11.2 Menlo Park Hotel provides a specific objective in relation to RA zoned lands in front of the Menlo Park Hotel adjacent to the Kirwan Roundabout.

Section 11.2.8 provides Residential R and LDR (low density residential) Land Use Zoning Objectives ie. R: *To provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods*.

This includes *Hotels* in the uses which may contribute to the zoning objective, dependent on the R and LDR location and scale of development.

Chapter 11 Part B provides the General Development Standards and Guidelines. Section 11.3.2 refers to the objectives relative to Residential for the *Established Suburbs*.

Section 11.6 refers to Advertisements.

Section 11.10.1/ Table 11.5 provides the Parking Standards/Requirements for developments including hotels. Section 11.10.2 refers to Cycle Parking. S.11.11 refers to Waste Management. S.11.23 refers to Development Contributions and S.11.24 to Access for All.

## **9.0 ASSESSMENT**

### **9.1 Principle of Development and Planning Policy**

The Menlo Park Hotel and apartments self-catering complex are located in two separate blocks on the subject site. The application site as shown in the red line boundaries submitted encompasses both blocks within the overall hotel complex and is located within two separate land use zonings i.e. the western part is in the Residential Land use zoning where the objectives are 'R' Residential: and the eastern part RA (Recreational and Amenity) i.e: *To provide for and protect recreational uses, open space, amenity uses and natural heritage*. The Third Party concerns relative to material contravention of the Galway City Development Plan relative to objectives of the land use zoning are noted below. However it must be noted that the principle of the hotel complex has been established on this site over the last 20 years and regard is had to the significant planning history below. This proposal is for extensions and alterations to the hotel on this established site and must now be considered in this context having regard to the impact on the proper planning and sustainable development of the area. The First Party contend that this application should be focused exclusively on the uses/floor areas that are the subject of this application i.e. the proposed extensions to the Hotel and Bar/Restaurant.

Issues have been raised by the Third Party about the impact of the current proposal on access and parking, under estimation of parking provision and implications for congestion and traffic safety and coach parking taking also into account cumulatively the previous developments on this site area. There are also concerns about overshadowing neighbouring residential properties and about overdevelopment of this site. Regard is had to these issues including the impact on residential amenities and the character of the area in this Assessment below.

### **9.2 Regard to Planning History.**

Details submitted by the First Party provide that the Menlo Park Hotel and Conference Centre is owned and operated by the local Francis family namely John Francis. It was originally developed on family land in the late 1990's by the applicant's late father Patrick Francis and has grown to be a successful hotel. It is located at a gateway location along the main arterial entrance to Galway City. The Planner's Report and the First Party response to the appeal provide a detailed history of hotel related applications on the site. The original permission for a hotel appears to be Reg.Ref.96/8 where permission was granted for residential and a 22 bedroomed hotel on these lands. There have been several subsequent permissions for extensions and alterations to this commercial development. The most recent being Reg.Ref.06/954, which due to a time extension is still current and has not to date been implemented. Therefore it is concluded that there has been a 20 year

planning history of a commercial hotel complex and this includes self-catering apartments in a separate block on this site.

Permission was granted in Reg.Ref.06/954 for a substantial extension (2327.4sq.m) to the hotel consisting of a two storey underground structure providing Leisure/Spa Centre and Swimming Pool at the upper level and car parking and plant rooms at lower level. This also included a single lane entrance/exit to the lower level carpark, enclosed stairwell and lift shaft to the side elevation of the existing hotel incorporating access to the underground development, revised landscaping and all associated site works. Condition nos.21 to 23 relate to provision of disabled car parking, the development and management of the underground carpark and entrance ramp. Condition no.28 provides for development contributions. On the 12<sup>th</sup> of March 2012 Galway City Council granted a time extension for a further five years to expire on 4<sup>th</sup> of November 2017.

It is of note that Fig. 11.2 of the current Galway City Development Plan contains a specific Objective which would appear to be relative to this application for the leisure centre for the Menlo Park Hotel. It refers to that part of the site on the RA zoned lands in front of the Menlo Park Hotel adjacent to the Kirwan Roundabout i.e: *The Council will consider the development of a leisure centre and swimming pool, both located underground with minimal effect over ground, as part of the overall hotel development.*

The Third Party is concerned that having regard to the Council's grant of permission for the current proposal, two current 'contradicting and conflicting' planning permissions now exist. Therefore there is concern that the significant development permitted in Reg.Ref.06/954 due to the time extension, is still live and current and could also be implemented. They note that in order to construct the essential road/ramp to gain access to the underground development for which planning permission was granted under Reg.Ref.06/954, many of car parking spaces which are relied on and located in front of the hotel in Reg.Ref.15/184 must be permanently removed to facilitate the essential road/ramp which is required to gain access to the underground development.

The First Party response provides that this application and the current application are mutually exclusive of each other. They provide that notwithstanding this point the extent of the subject development i.e.645sq.m within a total site area of 13,370sq.m would result in a very minor plot ratio of 0.048 on site. They provide that as the applications are mutually exclusive, in the event that the Board were mindful to grant permission for the subject application, the applicant would have a choice of which permission to avail of. Therefore it appears that it is an either, or situation and the applications would not be both enacted or conflict with each other.

### **9.3 Land Ownership issues**

The Third Party is concerned that there is a serious discrepancy regarding ownership of lands. On checking the records on the land registry they noted that the application lands are made up of three different folios. Two of the folios show that the applicant is owner, however there is a discrepancy in that one of the folios is registered under another individual and not the applicant as the legal owner of these

lands. They note that the full ownership of lands was not stated on the application form and that a letter of consent from the owner has not been submitted.

The First Party response notes that this folio no. refers to the self-catering apartment block only. As no works are proposed to this separate block they consider the ownership issue is irrelevant to the assessment of this appeal. They provide that the applicant is adamant that he has sufficient legal interest over the entirety of lands outlined in red on the application and include a letter giving details from their solicitor in Appendix 2. The Third Party response is concerned that that sufficient detail has not been submitted to verify that the applicant has full ownership of the site. He is concerned that the sale of the apartment side of the site could result in the site becoming effectively landlocked and impact on the parking areas.

It is of note that the issue of ownership is a civil matter and I do not propose to adjudicate on this issue. I note here the provisions of S.34(13) of the Planning and Development Act 2000 as amended: "*A person shall not be entitled solely by reason of a permission under this section to carry out any development*". Under Chapter 5.13 'Issues relating to title of land' of the 'Development Management - Guidelines for Planning Authorities' (DoECLG June 2007) it states, inter alia, the following: "*The planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts...*"

#### **9.4 Material Contravention**

Section 34(6) of the Planning and Development Act 2000 as amended sets out the procedure under which a planning authority may decide to grant permission for such a development. Section 37(2) of the 2000 Act as amended provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to regional planning guidelines and policy for the area etc, where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.

The Land Use Zoning Map of the Galway City Development Plan 2011-2017 includes the subject site of the hotel complex is partly in the 'R' Residential and 'RA' Natural Heritage, Recreation and Amenity land use zonings i.e the site is not located within the commercial or mixed use zonings. The Third Party has concerns about this particularly relative to the extent of the carparking and encroachment onto 'RA' zoned lands and to the proposal being an overdevelopment of the site inappropriate for 'R' and 'RA' land use zonings and being in contravention of the Development Plan. It must be noted that Section 11.1 of the Development Plan provides: *Many legally established uses exist in locations where they do not conform to the designated land use zoning objective set out in the Plan. Extensions to or improvements of premises accommodating these non-conforming uses may be granted, where the proposed development would not be injurious to the amenities of the area and would not prejudice the proper planning and sustainable development of the area.*

Appendix 2 of the Appellants response to the grounds of appeal notes the extent of infringement of a significant section of RA zoned lands (outlined in red) with commercial parking. They provide that the parking has extended from the 'R' zoned lands onto the 'RA' zoned lands way in excess of capacity and that the current application now seeks to further exacerbate this situation.

While all of this is relevant the proposed extensions and alterations must now be considered in the context of the existing permitted development of a hotel complex being on this site for the last 20years. It is not proposed to further extend the existing parking area into the green area within the red line site boundaries, rather it is proposed to reconfigure the existing parking layout. Therefore it is considered that the current application must be seen in the context of the pattern of development in the area i.e. the existing permitted hotel complex and that the current application for extensions does not extend further than the boundaries of the existing hotel site. Therefore it is not considered in this case that a material contravention would occur.

## **9.5 Design and Layout**

This proposal presents a number of design implications for the layout and elevations of the hotel. This includes the construction of a 3 storey extension to the North, East and South corners of the existing hotel building, providing 12 hotel rooms and an enlarged bar and restaurant area. Drawing no.P-002 (Revision A) shows the footprint of the proposed extensions. The g.f.a of the proposed extensions is 645sq.m to be added to the existing 6677sq.m hotel area to give a total floor area of 7322sq.m. on this 1.377ha site. 160sq.m is to be provided at ground floor level, 255sq.m at first floor level and 230sq.m at second floor level.

As shown on the floor plans the extension to the bar/lounge which is at the south eastern corner of the hotel is 65sq.m. The extension to the restaurant at the north east corner is 28sq.m. Both extensions are at ground floor level. The external fire escape stairs is to be relocated, and two internal escape stairs are to be provided as part of the extensions to the north/rear of the site. The bin store area is also to be relocated and enclosed. The ground floor plans show that it is proposed to reduce the width of the entrance to the service yard area and build above at first floor level. Bedroom areas and the escape stairs are proposed at first and second floor levels. 8no. of the additional bedrooms are proposed on first and second floor levels in the extended 3 storey block at the north western corner. Two of the bedrooms are proposed at the north eastern corner, the other two are proposed at the south eastern elevation of the site facing the road frontage.

As shown on the elevations it is also proposed to provide external alterations to the front façade of the hotel and existing roof, including new canopy over hotel signage. The additional signage is proposed to the front, side and over the entrance to the hotel. There is also a sign proposed proximate to the southern site boundary with the Coolough Road. This is shown above the wall at c.3m in height lit by a down lighter. There is already one large free standing for the hotel at the existing entrance. It is considered that the signage proposed is acceptable and it is recommended that if the Board decide to permit that a condition be included that none of the signage be internally illuminated. The location of the proposed flag poles in front of the south eastern elevation is considered to be acceptable.

## 9.6 Impact on the Character and Amenities of the area.

It is provided that the approach in this proposal is to optimise the accommodation, without a major extension, towards meeting an existing demand for coach tour group accommodation. The application involves a more contemporary character expression with the introduction of cut stone, render finishes and vertical expression of elements, and the reduction or elimination of the original Mansard roof design. The drawings set out the target for this development. It is intended that the works be phased over a five year period to minimise disruption and maintain maximum use of the premises. The proposed new extensions will add a more modern look altering the appearance of the hotel. The South East/West elevations show the change to the more contemporary design and external finishes. However I would be concerned about the 3 storey block form of the proposed changes to form a more bland northern (rear) elevation and about the impact of this elevation on the hotel service yard area and proximate residential properties to the north and north east in Tirellan Heights. There is concern that the cumulative impact of these extensions would lead to an overdevelopment of the site, having regard to parking and circulation issues. These issues and the impact on the character and amenities of the area need to be considered.

It is provided that the communal open space area adjacent to the Kirwin junction forms an amenity function for users of the Hotel and apartments. This appears little used relative to the distance from the location of the apartments and the busy road junction. It also does not appear as an attractive open space relative to the proximity to these busy roads.

In view of the set back from the public roads it is not considered that visually the design of the proposed extensions and alterations will impact adversely on the character and amenities of the area. However I would consider that the proposed contemporary design will not particularly add to the overall character of the existing building. As noted above I also would have concerns about the bland appearance of the north eastern corner which can be seen in the streetscape from this part of Tirellan Heights.

## 9.7 Regard to Council's Conditions

The First Party has not appealed any of the Council's conditions relative to the current application. However their response provides that on the assumption that the Board will assess the application 'de novo' they would ask for a review of the wording of condition no.2. This states that in the interests of protecting the residential amenity of the area: *Prior to the commencement of development a revised floor plan and elevations shall be submitted for the written agreement of the Planning Authority in which the second floor, north eastern element containing Room 205 and the stairwell shall be omitted.* They are concerned that the wording of the condition could be misconstrued i.e it could mean that the entirety of the north-eastern element requires removal. They provide that the removal of Room 205 and/or the entirety of the north-eastern elevation element would adversely affect the symmetry and urban design attributes of the proposed new front elevation.

In relation to the matter of overshadowing the design of schemes should be guided by the principles of good site planning to allow for access to daylight and sunlight for the proposed development and also neighbouring residential properties. As part of

the F.I response a Shadow Study was submitted. This shows the differences in overshadowing being existing and proposed. It shows that there will be a significant impact on overshadowing of the properties to the north east of the site at 11.00 in March/September and to the north and north east at 14.00 and 16.00 during these months. There will also be increase in overshadowing for single storey nos.42/42A at 14.00 and 16.00 in June and to the rear of properties to the north of the hotel in Tirellan Heights at 11.00 in December. A longitudinal-section of the site extending to the lands to the north east is also included. The First Party provide that because of the extent of the existing building, the naturally higher land of the residential properties immediately adjacent, the 'C' shape profile and orientation facing south/east, the shadows arising from the proposed alterations are of low significance. However in view of the results of this analysis I would not concur with the First Party that the proposed development would not result in undue overshadowing of neighbouring properties to the north and particularly the single storey properties adjacent to the north east of the site.

It is of note that Nos. 42/42A Tirellan Heights are a single storey pair of properties located proximate to the existing external fire escape i.e. the proposed extension to the north eastern (rear) elevation and these are the most affected by the overshadowing. If the Board decides to permit there is a need to retain the Council's condition no.2 in this respect as a three storey element would appear overbearing for these properties. In view of the increase in overshadowing to the rear gardens of the adjoining properties to the north of the hotel it also needs to be considered as to whether totality of the proposed rear extension should be reduced to 2 storey to the rear of Tirellan Heights. While these properties are located on a higher level and some is screening is provided by leylandi along the raised bank, the shadow analysis clearly shows that there will be an impact on their rear garden areas.

## **9.8 Proposed Vehicular Access**

In the application as originally submitted the applicant was proposing a new vehicular access shown on the drawings 'In Only' from the Coolough Road. The Council's Planning and Transportation Section was concerned that the proposed new access would be located in close proximity to two existing vehicular entrances serving residential developments. It is of note that the existing vehicular entrance to the hotel complex has a dedicated right turn lane. They were concerned that the road geometry at the proposed vehicular entrance will not permit a dedicated right turn stacking lane. It was considered that opening up the new access as an additional access as originally proposed would lead to traffic hazard on this busy stretch of road proximate to the Kirwin roundabout. The Transportation Section was concerned that the proposed new vehicular entrance would give rise to traffic queues on the Coolough Road and would adversely impact on traffic flow and safety of the public road network. They requested that the applicant submit a revised Site Layout Plan showing the omission of the proposed new access.

The Council's F.I requested that a revised proposal be submitted. In response the applicants provided that while they do want to pursue improved access they consider that further consultations with the Roads Engineers in the Council are required and that this will require a longer-term interaction. They therefore propose that this element of the application is not included particularly taking into account the proposed roundabout changes under consideration. They provide that this potential



additional access will be considered separately under a future application. In response the Planning & Transportation Section of the Council provide that they have no objection to the application subject to a number of recommended conditions, including that the proposed new entrance onto the Coolough Road be omitted from the proposed development.

In this regard it is of note that Condition no.3 of the Council's permission provides in the interests of traffic safety: *The proposed vehicular access onto the Coolough Road shall be omitted, a revised site layout plan shall be submitted to the PA for written agreement.*

In the interests of traffic safety if the Board decide to permit it is recommended that a similar type condition be included.

In response to the Third Party concerns about overdevelopment and traffic hazard, the First Party point out that the existing junction onto the Coolough Road has sufficient width/turning radii and sightlines onto a stretch of road with excellent vertical and horizontal alignment. This junction also has a dedicated right hand turning lane and has proven safe. They refer in Fig. 4 to an extract from the RSA website which demonstrates that there has been no record of collisions between 2005-2012. They consider that the minor extensions proposed would not endanger public safety or the capacity of this junction. While this maybe the case the Third Party concerns regarding the impact of the proposal on the parking layout, circulation route and coach parking are noted below.

## **9.9 Parking issues**

The Third Party is very concerned that there are significant parking issues and that current parking shortfall is in contravention of the Galway CDP. The proposed development will exacerbate the existing situation and have a serious impact on parking shortfall and internal circulation which they consider will lead to problems with workability of the layout, possible congestion and traffic hazard. The Appellant is concerned that there has been erroneous parking provision and requirements calculations as opposed to correct parking provision and requirements calculations for both the hotel and apartment uses as provided in the current Galway City Development Plan. 160 spaces have been provided not 199 or 202 as referred to. In accordance with CDP standards 66no.of the 160spaces are needed for the 36no. apartments there are only 94spaces available for the entire needs of hotel. They provide that a total of 220 carparking spaces are required to satisfy the current parking demands of the on-site residential development and the hotel, together with the additional parking requirements of the proposed development. Considering there are only 160 spaces on currently on site, they are concerned that this leaves a massive shortfall of 60 spaces.

The details submitted with the application provide that the proposed extension and alterations will require the addition of 20 new car parking spaces. The existing layout has been revised to accommodate these additional spaces and provide ease of access for users. It is provided that the adjusted layout has remained within the existing car park boundary and does not compromise the existing amenity zone to the front of the Hotel.

The F.I response in relation to parking refers to information provided with Reg.Ref.06/954 which they provide they are using as a benchmark. While these proposals were not implemented, they note that the entire site, hotel and apartments had an allocation of 199no. carparking spaces, made up of 72no. for bedrooms (1 per room) and the remaining 47no. for bar/restaurant and ancillary hotel spaces. They are currently proposing 12 no. for the 12 bedrooms and 10 additional spaces for additional bar/restaurant facilities (8/bar and 2/restaurant). This would bring the hotel requirement to 141no. spaces. The Planner's Report at that time noted that the carparking requirement for the leisure centre could not be facilitated at ground level. The plans then submitted show the lower basement car park was to provide 47no. spaces. They also show that the proposed ramp to the car park would remove a number of surface spaces located to the east of the hotel. Condition nos.21 to 23 of that permission are of note relative to parking provision, which included the underground parking (a copy of this permission is included in the History Appendix).

It is noted that the current CDP has reduced the requirement for apartments to 1 space per unit, and one per three units were grouped for visitor parking. This amounts to 47no. spaces based on 35no. apartments. They also provide that one apartment was changed to management office and storage a number of years ago. Since 2006 the no. of hotel bedrooms has been reduced to 68no. this includes the conversion of the disabled rooms to management offices. They provide that the scheme originally lodged with this file indicated 185no. spaces and that this is now shown as 184no. spaces. They consider that the increased nos. of spaces coupled with the overall reduction in bedroom spaces and discretionary interpretation of the new DP renders the proposed numbers adequate relative to requirements. They consider that the layout also allows for 2no. coach/bus spaces and note that in view of coach tours some of the visitors will not have cars. They also provide that all parking spaces will comply with standard dimensions.

In response to the F.I the Planner's Report noted that there are 199no. car parking spaces within the site, if one bedroom were removed as per their recommended modifications then one less space would be required. They note that the total no. of bedrooms has been reduced to 68, while there are 35no. apartments, this generates 132 car parking spaces. Therefore the parking requirement would be 202 in total i.e  
Function Room @ 1 space per 10sq.m/342sqm =34 spaces,  
Bar & Lounge 1 space per 8sq.m/234sq.m = 29spaces  
Restaurant @ 1 space per 15sq.m/106sq.m = 7spaces  
They considered that taking the coach tour buses into account a shortfall of 2 spaces is considered acceptable.

The Third Party refers to car parking standards relative to S.11.3.1(g) of the Galway CDP, this refers to the *Outer Suburbs*. The First Party response notes that the entirety of the subject site is located within the *'Established Suburbs – Neighbourhood Areas'* which has a bearing on car parking requirement with regard to the existing residential element on site as the provisions of Section 11.3.2(c) of the CDP i.e. Car Parking standards for established suburbs i.e. one space per dwelling and one visitor space per three dwellings, or one space per dwelling if grouped. However it is of note that both of these sections refer specifically to Residential development and therefore it is considered that the general parking standards (outside of the City Centre) would be more applicable to the hotel. Table 11.5 of the

Galway City Council DP 2011-2017 provides for the 22no. spaces relative to parking requirements for the proposed development i.e.:

*Hotel Bedrooms @ 1 space per bedroom x12 = 12 spaces*

*Bar & Lounge @ 1 space per 8sq.m/65sq.m = 8 spaces*

*Restaurant @ 1 space per 15sq.m/28sq/m = 2 spaces*

The applicant was asked to clarify the existing level of carparking demand generated by the existing hotel uses. Having regard to the current application the First Party response to the appeal includes Table 1 which provides that the proposal requires 17 new spaces and Table 2 is review of carparking requirement provides that 190 spaces would be required to serve the existing and proposed development uses based on 2016 parking standards. They provide that the proposed layout shows that 184 spaces can be accommodated on site i.e an increase from 165 spaces. They consider that this does not factor in coach or public transport corridor alongside. They also contend that the CDP car parking requirements for hotel parking are ambiguous in that they do not provide for dual usage e.g. the residents of the self-catering apartments can avail of the bar and restaurant facilities on site.

The Third Party response includes an A1 copy of drawing no. P-003 which, shows 155 spaces on site in the existing layout. While on my site visit I counted the carparking spaces and noted c.160 spaces on site i.e slightly less than the 165 shown on Drawing no. P-003. It appears there maybe a few more spaces than this but some of the spaces appear substandard in width. There is not a subdivision of parking spaces/areas between the apartments and the hotel. However spaces for the 35no. apartments are more likely to be in the vicinity of the block. These apartments are in use as student accommodation during the academic year and in use as holiday self-catering apartments in the summer. One of them i.e no.36 is in use as an office ancillary to the apartment use. No additional parking has been provided for the office use. Therefore there is a disparity relative to the exact number of spaces currently available on site. It must also be said that on my site visit the car parking areas were not fully parked up. However this may change during busy periods.

#### **9.10 Reference to Precedent cases**

The First Party response refers to PL.Ref.No.14/307 relative to the Nox Hotel c.310m east of the application site. Permission was granted by the Council for the provision of extensions and alterations to include a reconfiguration of existing accommodation to provide 2no. additional bedrooms, to give a total of 102no. bedrooms in this former IBIS Hotel (a copy of this permission is included in the History Appendix to this Report). In this case they note that the P.A accepted the previously permitted car parking provision on this site (1995) and chose not to retrospectively require 2016 car parking standards for the existing hotel or to the ancillary facilities such as the bar and restaurant. In the interests of equity and fairness they request that the assessment of car parking should be focused exclusively on the proposed extensions applied for as has been the case with the Nox Hotel.

The Third Party response refutes this in that the Nox Hotel relates to an entirely separate site within the Commercial/Industrial land use zoning and would not justify application of such a precedent. They include a detailed list of differences relative to

the planning circumstances of both sites. In this regard it is considered that each case should be assessed on its merits and that the issue of precedent is relative and having regard to the particular circumstances and issues raised in the current application does not occur.

### **9.11 Coach Parking and Servicing issues**

The Third Party provide that the proposed new additional parking is impracticable and unworkable considering the proposed parking facilities are located on and displacing existing shrubs/landscaping, encroaching on the existing roadway (which would interfere with traffic flow) and constructed in a manner which makes the parking facilities totally impracticable, ineffectual and unworkable. They are concerned that the revised plans show that there is nowhere on the application site where a coach tour/bus could park without obstructing the movement of traffic and blocking significant sections of the existing and proposed parking. Regard is had to the impact for circulation and coach parking of the proposed parking in lieu of landscaping to provide additional parking for the proposed development. There is an ambiguity as to where hotel guests arriving by coach tour/bus will disembark within the site. There is concern that the coaches will not be able to be parked on site and will have to be parked on the road or in one of the neighbouring housing estates.

It is noted that there is currently a coach bay in front of the hotel adjacent to the landscaped parking area where the diagonal parking is now proposed. There is also a smaller coach area to the rear adjacent to the north western elevation. If the rear extension takes place there may be some interference with this. It was also noted that access to the service yard and bin storage area is from the north western corner of the site and access to this may pose a difficulty if the rear hotel accommodation is built. A recycling truck was noted adjacent to the service yard area at the time of my site visit. It was noted that there was not adequate room available for this to turn into the existing service yard area at the rear. There is concern that if the proposed extension to the north western corner is built it will result in a reduced width and height into the service yard area. This in turn will limit/restrict the availability of the service yard area at the rear of the hotel. This will lead to further congestion with service vehicles having to park in the parking area to the north west of the hotel.

The First Party response provides that from an operational perspective they are not concerned with the absence of dedicated coach parking on site. They envisage that when coaches are expected to arrive, a number of the 'diagonal' spaces will be reserved to allow for coaches to park parallel to the Menlo Hotel/Coolough Road. They provide that there is adequate turning area available within the carparking area to the south east of the hotel. Also, they envisage that this provision can be controlled by way of internal management, of the Hotel Complex area. They provide that if the Board considers it appropriate a condition could be imposed to dedicate 1-2 coach parking spaces (parallel to the hotel entrance) in lieu of the proposed diagonal carparking spaces. It must be noted that this would in turn result in the loss of the 17no. diagonal parking proposed along the frontage as additional parking for the proposed extensions. The Third Party response is concerned about the practicality and workability of this internal management system, also having regard to the impact on the circulation system of the parking layout.

It is also of note that there are bus stops for the 407 bus eireann bus which travels into Galway City Centre (approx. every 30mins) along the Coolough Road proximate to the site. While the ready availability of public transport is an advantage it is not considered that it obviates the need for additional parking for the proposed development on this site which is outside of the city centre area.

### **9.12 Other issues**

The Third Party has referred to the conversion of one of the apartments into an office, i.e there are now 35 rather than 36 apartments and are concerned about the implications for parking. The First Party response includes that the issue of the conversion of the self-catering apartment into an office was done over 14years ago in 2002 and that this minor infringement was never subject to enforcement proceedings. They consider that it has no bearing on the current application. The Third Party response considers that this should have been taken into account relative to the underestimation of onsite parking provision. This office is currently in use relative to the self-catering units in Menlo Park Apartment Complex. Any issue concerning an unauthorised change of use i.e from apartment to office, is an issue for the Council's Enforcement Section and would not be within the remit of the Board.

### **9.13 Appropriate Assessment**

Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely a suburban and fully serviced location, no appropriate assessment issues arise.

## **10.0 CONCLUSION AND RECOMMENDATION**

While extensions to a commercial hotel are generally to be welcomed, there have been a number of pertinent issues raised relative to the current application that need to be addressed. These have been discussed in this assessment above, relative to design and layout and impact on overshadowing of properties to the north and north east, the reduction of the usability of the service yard area, the issues regarding parking, coach parking and circulation issues. In view of all these issues it is considered that the current proposal would represent an overdevelopment of the site. There is a need to provide underground parking to cater for the needs of further development of this site. This might be better addressed by way of a new application. It is also noted that Reg.Ref. 06/954 is still a current permission and that this provides for the leisure centre which would comply with the Specific Objective relative to the Menlo Park Hotel as given in Fig. 11.2 of the Galway CDP 2011-2017. This permission also included the underground parking.

If the Board should decide to grant it is recommended that it be conditioned that a revised parking layout be submitted to include the total no. of spaces in accordance with standards/guidelines and provide circulation/traffic management details relative to the 2 coach parking spaces. Details relative to servicing arrangements and access and usage of the service area need to be submitted. It is also recommended that it be conditioned that the rear extensions be reduced to 2 stories.

However on balance in view of all the issues raised it is considered that better and more workable options maybe available and it is recommended that permission for the current application be refused for the reasons and considerations detailed below.

## 11.0 REASONS AND CONSIDERATIONS

1. The proposed extensions and alterations to the Menlo Park Hotel would lead to overshadowing of adjoining properties to the north and north east of the site and would lead to problems with servicing and access to the existing service yard area at the rear of the hotel. The proposed layout, would also provide for an inadequate parking layout, that has not made sufficient allowance for coach parking and would lead to circulation issues/congestion and would have implications for traffic safety and lead to an overdevelopment of the site. This would not be in accordance with the proper planning and sustainable development of the area.
2. The proposed development would not comply with the Specific Objective relative to the provision of a leisure centre and swimming pool for the Menlo Park Hotel as provided in Fig.11.2, Section 11.2.2 of the Galway City Development Plan 2011-2017. It would also lead to the non-implementation of the current permission for such works including the provision of underground parking i.e. Reg.Ref. 06/954.

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Angela Brereton,  
Inspector,  
7<sup>th</sup> of April 2016.