



An
Bord
Pleanála

Inspector's Report PL61.247406

Development	Five storey block of managed student accommodation modifying/superseding previously permitted apartments under Ref 13/306.
Location	Fairgreen Road. Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	16/156
Applicant(s)	CWC Webworks Ltd
Type of Application	Permission.
Planning Authority Decision	To Grant Permission
Type of Appeal	Third Party
Appellant(s)	Brian Conway
Observer(s)	Margaret Mc Govern
Date of Site Inspection	17 th January 2017.
Inspector	Breda Gannon

1.0 Site Location and Description

- 1.1. The site is located on Fairgreen Road to the east of Galway city centre. It is bounded to the north by the Coach Station, to the south by the Castlehope building, to the east by 'The Elms' residential development and to the west by the public road. Further south there are the offices of the Revenue Commissioners, the Radisson Hotel and underground car park. The area displays a variety of uses ranging from offices, hotels, hostel accommodation, car parks, tourist information and coffee shops. The site is within walking distance of Eyre Square and the city centre and is located close to the transport hubs associated with Ceannt railway station and the adjacent bus station.
- 1.2. Development has commenced on the site, associated with the previous permission granted under Reg Ref No 13/306.

2.0 Proposed Development

- 2.1. The proposal as described in the public notices comprises the following;
 - managed student accommodation totalling 5731 sq.m gross floor space on a site measuring 0.1766 Ha.
 - The development would comprise a five-storey development over ground level (9.6 storeys in total). Floors 1-5 would comprise student accommodation. Floors 1 to 4 would each accommodate 1287 sq.m floor space of managed student accommodation with 400 sq.m on the fifth floor.
 - The student accommodation would consist of 46 no. units (ranging in size from 1 no. to 6 no. bed spaces), providing a total of 147 no. bed spaces, and associated management community facilities /services.
 - The ground level would comprise an extension of the existing Galway Coach Station and is to be constructed under planning permission Ref No 13/306 other than where modified to facilitate the student accommodation. The modifications would primarily consist of the provision of a ground floor entrance and waste collection area, a mezzanine level with cycle parking and storage area and a ground and mezzanine level escape corridor and stairs.

- The proposal would also include an internal/central landscaped courtyard, signage along Fairgreen Road, connection to services and utilities, necessary plant and equipment, including roof level solar panels and all associated site development works.

3.0 Further Information

Further information was requested on the application 28th July 2016 on a wide range of issues including the use of the units outside the academic term, wayleave consents, potential use of car park by students/staff, details of external finishes, plot ratio, means of fire escape, treatment of main pedestrian entrance to the building, provision of new set down area as required by Condition No 21 of 13/306, noise abatement measures, access to refuse containers, details and specifications of footpath, drop off area and crossing points on Fairgreen Road, details of solar panel and heights above any parapets and clarification whether it is intended that students would have access to the internal courtyard.

The response of August 22nd, 2016 was to the satisfaction of the planning authority.

On September 8th, 2016 the applicant submitted further unsolicited information on noise abatement, which elaborated on Item No 9 of the previously submitted response.

4.0 Planning Authority Decision

- 4.1. The planning authority decided to grant permission for the development subject to 19 no. conditions. Apart from standard type construction/engineering conditions, the decision includes the following conditions of note;

Condition No 7 – Landscape and amenity scheme for the courtyard to be submitted to and agreed in writing with the planning authority prior to commencement of the development.

Condition No 8 – Details of the materials to be used in the building elevations to be submitted to and agreed in writing with the planning authority prior to commencement of the development.

Condition No 10 – Prior to first occupation of the student accommodation, the 60 no. cycle parking spaces shall be provided as shown on revised plans submitted on 22nd August 2016,

Condition No 11 – Final details of specific management regime, including noise protocols and measures controlling access to the courtyard, reflecting the general parameters included in the details submitted, shall be agreed with the planning authority prior to occupation of the development.

Condition No 12 - The development shall be used for student accommodation only and no change of use shall occur without the benefit of planning permission.

Condition No 13 - Developer to enter into agreement in relation to payment of agreed financial contributions (Part V of Planning & Development Act, 2000, as amended).

Condition No 14 – Prior to commencement of the development, the developer shall submit full details of the full allocation of the car parking spaces associated with the previous residential development on the site (04/872) and (13/306). This shall include the dedication of a number of spaces associated with the student accommodation hereby approved with an allocation for disabled persons and shall ensure that the remaining spaces are used on a short stay basis to discourage commuter parking.

Condition No 17 - Financial contribution.

Condition No 18 – Signage to be agreed and shall be designed to accommodate use of the Irish language.

Conditions No 19 – Details of the proposed boundary treatment with ‘The Elms’ to be agreed.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The **Planning Officer's** report of 15th September, 2016 notes that the site has been partially developed as a bus station under Ref No 04/872 and is continuing to be finished out under Ref No 13/306. It is noted that the development approved in June 2005 has been partially completed under the planning permission granted. The two basement levels of car parking, the main coach station concourse and the Webworks office building have been completed and nine of the approved coach bays (under the Webworks building) have been provided. The approved coach exit onto Fairgreen Road/Bothar Ui Eithir has been constructed adjacent to the coach station/Webworks building. Elements of the superstructure for the residential element of the approved scheme on the subject site have also been constructed.

The proposed development will infill the gap in the streetscape between the Coach Station/Webworks building and the adjoining Castlehope building. The building is designed to provide sustainable modern student accommodation on an existing brownfield inner city site which has 'live' permission for apartments. The site is ideally located at the centre of a number of transport hubs, being over a bus station and close to the railway station and within walking distance of the city centre.

The site is located within the area zoned 'CC' and the proposed uses are compatible with, and contribute towards, the achievement of the zoning objective. Whilst the plot ratio exceeds the development plan standard, is the applicant's contention that the development will effectively close the existing unsightly gap in the street and that the height will not be out of keeping with the surrounding buildings in the streetscape.

The applicants make the case that the scale and massing and associated plot ratio of the development is entirely in accordance with the character of the area and the proper planning and sustainable development of the subject site. This is substantiated by a number of photomontages which demonstrates that the proposed development will integrate appropriately with the existing streetscape and the massing of the development is accepted.

It is considered that the buildings are well designed, with a strong modern finish and will integrate well with the surrounding buildings. A white brick finish is proposed for the majority of the external elevations and while this would not be a typical Galway finish, the applicants have made the case that it will wear well and be an attractive finish. It is noted that the nearby Radisson hotel is predominantly a beige finish.

Details of the cladding to be used on the fifth floor and of the composite timber to be used on various panels has been provided. The treatment of the main stairwell has been simplified by the removal of some glazing bars which is considered acceptable.

It is concluded that the proposed development is well designed for this City Centre site. The proposed modern buildings are of a high design quality to reflect the nature of the institutions and are designed to meet the needs of the students and the university, while minimising the impacts on surrounding residents. It is not considered that the proposal will undermine the objectives of the development plan, or would otherwise be contrary to the proper planning and sustainable development of the area.

4.2.2. Other Technical Reports

The **Recreation & Amenity Department** report of 14th September 2016 noted that the planning permission granted under Reg Ref No 13/306 contains Condition No's 14 & 15 which relate to the provision of an amenity scheme for persons occupying dwellings. The landscape amenity proposal conditioned under PL13/306 should be conditioned exactly as stated in Condition 14 and 15 with full unconditional access to all occupants.

The **Drainage Section** raised no objection to the development.

Irish Water raised no object to the development subject to conditions.

5.0 Planning History

04/872 – Planning permission granted for the construction of a mixed use development, incorporating basement car park (148 spaces) with ramp to the access road to the Radisson SAS Hotel off Fairgreen Road; a coach station (14 bays) and associated and ancillary facilities on ground floor; a coach entrance from Foster Street and an exit onto Fairgreen Road, facilities ancillary to the coach station at mezzanine level; 4792 sq.m of office accommodation on first-third floor level; and 48 no. 2 bedroom apartments on first-fourth floor levels. The decision to grant was upheld by An Bord Pleanala (PL61.210830).

07/729 – Permission refused for alterations to previously approved plans for the ground, first, second, third and fourth floors and the western elevation of the mixed

use coach station, office and residential development approved under Ref No 04/872 and the construction of additional floor space on the fourth and fifth floor etc. The decision was upheld by An Bord Pleanala (PL61.226897). The reasons for refusal included visual obtrusiveness arising from the scale, mass and bulk of the development within the streetscape; impacts on residential amenities of properties to the east arising from overlooking, overbearance etc., and the unacceptable mix and size of the residential units.

13/306 – Planning permission granted on April 1st, 2014 for development consisting of the construction of 5 no. coach bays and 28 no. apartments on first, second, third, fourth and fifth floors and all other site development works above and below ground required to facilitate the completion of a mixed use development substantially granted planning permission under Ref No 04/872 (PL 61.210830) that amended the planning permission granted under Ref No 448/02, for a coach station and associated and ancillary facilities on ground floor; facilities associated with and ancillary to the coach station at mezzanine level, office accommodation and apartments at first, second and third floors; and a basement car park and access ramp to the access road to Radisson SAS Hotel from Fairgreen Road.

14/137 – Permission granted on October 8th, 2014 for development consisting of the change of permitted use at mezzanine level from restaurant associated with the Coach Station to public office use; minor amendments to main entrance door from Foster Street and new external signage to Foster Street and Fairgreen Road elevations.

6.0 Policy Context

Development Plan

The operative development plan is the Galway City Council Development Plan 2017-2023 which was adopted by the City Council on December 1st, 2016. The site is located in an area zoned CC- City Centre with the following objective;

‘To provide for city centre activities and particularly those, which preserve the city centre as the dominant commercial area of the city’

A wide range of uses, including residential and commercial are considered acceptable in this zoning category.

Under the Housing Strategy (Section 2.2) the plan supports the development of student accommodation both on campus and through private student accommodation schemes.

Development standards for the City Centre are set out in Section 11.4 of the Plan.

Specific Development Standards for Student Accommodation are set out in Section 11.29.

Relevant sections of the Plan are appended to the back of the report for the information of the Board.

The Higher Education Authority '*Report on Student Accommodation: Supply and Demand*' (2015) noted the unprecedented growth in participation in higher education in recent years, a trend which based on projections is set to continue. This places pressure on existing infrastructure including an increasing demand for student accommodation. With regard to supply and demand it is estimated that there is an unmet demand of about 25,000 bed spaces, which has a significant impact on the private rental sector. It noted that shortages of available accommodation are high in Galway.

The report acknowledges that it is not possible, or practical to develop accommodation on campus to fully meet student demand. It is recommended that relevant stakeholders work together to increase the supply of student accommodation in the coming years.

7.0 The Appeal

7.1. Grounds of Appeal

- The proposed residential development extends to 5731 sq.m on a site with a total area of 1766 sq.m. This equates to a plot ratio of 3.25:1. This exceeds the permissible plot ratio of 2:1 on CC zoned lands by 62.5%.
- The applicant has attempted to reduce the plot ratio to an apparent plot ratio of 2.47:1 by calculating the gross floor area of the existing Webworks/office

development, combining it with the gross floor area of the proposed development and assessing same relative to the overall site area.

- Whilst the Senior Executive Planner seeks to justify this increase in plot ratio, this is in stark contradiction of Section 11.4.2 of the development plan which permits consideration of a development in excess of a ratio of 2:1 on CC zoned lands in limited circumstances only.
- The proposed development does not contribute to '*urban regeneration*', not does it make a '*significant contribution to urban character*' to justify such an increase, as required by the plan. Furthermore, the plot ratio of 2.47:1 could not be interpreted as '*a proportional increase*'.
- Both the calculations based on the gross floor area of the proposed development as 5731 sq.m and the combined gross floor area of the existing on-site development, combined with the proposed development as 10,523 sq.m are significantly understated as they do not take in the entire ground floor commercial space.
- Including the ground floor commercial area (concourse 1507.1 sq. m) which has hitherto been excluded from the calculations, the proposed residential development together with the existing on site office/commercial developments constitute a plot ratio of 2.81:1. If the plot ratio calculations are based only on the section of land on which the proposed development is to be constructed, the plot ratio would be significantly higher than the 3.25:1 plot ratio, which takes into account the proposed residential development only.
- There were two previous attempts to increase the development density on the subject site. Under 04/872 the proposal constituted a plot ratio of 1.98:1 which was below the permitted 2:1 in a CC zone. Planning permission was granted by Galway City Council and the decision was appealed to An Bord Pleanala (PL61.210830). The Bord revised the proposal which resulted in a reduction in the height and a reduction in the plot ratio from 1.98:1 to 1.86:1.
- In a subsequent planning application (07/729) planning permission was sought for alterations to the development previously approved under 04/872 (PL 61.210830) and the construction of additional floor space on the fourth

and fifth floors. The proposal constituted a site development which equated to a plot ratio of 2.6:1 and also included an increase in the height of the building.

- The planning authority refused permission for the development and the reasons for refusal referred to exceedance of density standards. The decision was appealed and it was argued that it should be overturned on the basis of precedent i.e. four-storey hostel on a site to the east (PL 61.216098). Commenting on the issue of precedent the reporting Inspector (PL 07.226897) noted that each case must be considered on its merits and noted that the proposed development did not fall within the exceptions for plot ratio permitted under the plan.
- The plot ratio for the current proposal must be calculated on the undeveloped site only, on which it is to be constructed and must not be calculated as part of an overall development including the adjoining Webworks site. This is necessary for two reasons.
- The first is that these lands were being sold/are being sold by NAMA, with the entire lands (including the adjoining Webworks office development) comprising three separate folios. Ownership of the lands is awaiting completion. If the lands are acquired by two or more separate entities, which is not associated with current applicant, then clearly the applicant's agent was not entitled to 'revise his methodology' when he subsequently reassessed the plot ratio of the proposed development along with the existing Webworks office development on the combined lands. Clearly, if any of the three folios are owned by a separate entity, then the applicant is not entitled to include these lands in reassessing the plot ratio as he did in his 'revised methodology'.
- Secondly, in the event that the three folios which make up the entire combined lands are owned by the applicant, then due to the nature of the proposed development, its plot ratio must be confined to and exclusively based on the undeveloped section of the lands on which it is proposed to be constructed. This is because the proposed development is materially different to that which currently exists on the entire combined site. The existing development on the combined sites consists of Webworks office development

and coach station which are commercial entities. The proposed development is a residential development and as such will function as a separate stand along enterprise.

- It is likely that the residential units will be sold off as a single block consistent with the normal business model. This will result in a development with a true plot ratio well in excess of 3.25:1. In assessing permissible plot ratio calculations relating to any future planning applications to be made on the adjoining Webworks office development site, after the adjoining residential development has been sold to new ownership, the planning authority will be restricted to considering the plot ratio of the remaining site of the existing Webworks development. This will have a two prong negative effect.
- Firstly, the plot ratio calculations will show that the existing development on the Webworks site constitutes a plot ratio of 1.86:1 as the calculations will not be taking account of the adjoining development under new ownership which previously availed of any permissible surplus plot ratio allowances available to the site. This will be likely to result in further excessive development. Secondly, it is likely that any future development on the adjoining Webworks site will attempt to justify development well in excess of the maximum 2:1 plot ratio permitted on the CC zoned site by citing as a precedent, the plot ratio of 3.25:1 on the adjoining residential development.
- The current proposal proposes to build student accommodation (ranging in size from 1 no. to 6 no. bed spaces. The individual living quarters for college students in excess of 3 no. bedroom spaces creates cramped conditions which are not conducive to a healthy atmosphere and an adequate standard of living conditions.
- Planning permission exists on the site for 33 no. apartments. The scheme was designed to ensure that the residents were orientated towards the internal open space and did not overlook the Elms estate. The current proposal with the residential units entirely to the rear will overlook the adjoining estate.
- The current proposal includes a significant extension to the existing coach station. The set down area serving the station is totally inadequate resulting in

everyday double parking leading to traffic jams. The proposed extension to the bus station will exacerbate this. The entire development should be redesigned such that the existing residential element is significantly reduced and the front section of the bus station should be redesigned and reconfigured to facilitate proper and sufficient off-street set down areas on the development land itself, to facilitate its own paying customers and alleviate congestion caused by the bus station.

7.2. Applicant's Response

A response on behalf of the applicant was submitted by Tom Philips & Associates. It notes that the appeal raises concerns primarily associated with plot ratio, overlooking, parking and congestion issues.

Plot ratio – The plot ratio should be considered on the basis of the planning unit not on the basis of the building. Whilst it is argued by the appellant that the plot ratio should be calculated on the footprint of the current application, a smaller site area of 0.116 ha rather the larger area of 0.4279 ha (which includes the entire site), doing so neglects the context of the existing built form. The development plan clearly states in relation to the issue that existing buildings should be considered when calculating plot ratio; *In the case of a group of buildings with a common curtilage the floor area will be aggregated.*

The purpose of plot ratio is to control the mass and scaling of the built form. As such the proposed development should be considered in the context of the existing built form i.e. the Coach station and the existing offices. The proposed development will therefore complete the planning unit and the built form on this site. The appellant considers that the plot ratio should be calculated on the basis of the proposed development in isolation from the overall landholding and not the previous permission under which it was permitted (04/872). This would result in a higher plot ratio and is entirely inappropriate.

The Board has previously accepted the methodology used by the applicant to calculate the plot ratio. (PL 61.210830). The proposed development will maintain the building line and is in context with the surrounding building heights. The existing stairs and lift shafts of the Coach building and the Castlehope building exceeds the

height of the proposed development. The sixth floor set back will reduce the visual impact of the proposed development. The development is of a high quality design and finish that integrates into the streetscape.

There is a precedent in relation to a higher plot ratio which is comparable to the proposed development as it represents a contemporary development integrated into a typical Galway City streetscape. The scheme (Hynes Building on Augustine Street) achieved a plot ratio of 2:8 and was thoroughly assessed and considered acceptable by An Bord Pleanála (PL 61. 219516).

The proposed development will not detract from the character of the street by reason of plot ratio. The building will complete a void in the existing streetscape and improve the existing streetscape.

Quality of the Residential Space – Each apartment is in excess of the minimum space requirements as detailed in the Guidelines on Developments for Third Level Students (1999). An Bord Pleanála has recently permitted similarly arranged units in Galway City (PL61.246079). The type of accommodation is entirely appropriate and has been established as such by the Board.

Overlooking of 'The Elms' – The design of the proposed development has incorporated measures to minimise adverse impacts on neighbouring properties. The number of living areas along the rear façade has been minimised as far as possible. Where living areas are provided on the rear elevations they are angled away from 'The Elms' and the windows themselves are high level which will restrict overlooking.

The proposed rear elevation has less visual impact on 'The Elms' than the development previously permitted under 13/803. There will be a significant reduction in the height of the building when viewed from The Elms and improvements to the overall façade. Boundary trees are also retained which results in improved views from the homes (Fig 4.4-4.5 of response).

Existing parking and congestion - The proposed development does not affect the existing arrangements on Fairgreen Road as the proposed development occurs above street level. Any development on the ground floor is to be completed as permitted under Ref No 13/306. On 13th June 2016, the applicant submitted detailed 'compliance arrangements' to provide a set down area, which was considered acceptable by Galway City Council's planner. No report or objection was received

from the Transport Department of Galway City Council and accordingly the issues raised in this regard as without foundation.

Conclusion – The response addresses and rebuts each of the issues raised and highlights that the proposed development is appropriate. The proposed development is in the interest of the proper planning and sustainable development of the area and is consistent with the Galway City Development Plan objectives and development standards for the site and the surrounding area.

The development should not be assessed on the basis of plot ratio alone.

Considered against other relevant criteria the development is in compliance with acceptable standards. The location is well suited to a high density scheme and is of high quality design. It represents an improvement from previously permitted designs. It will be consistent with the finishes of the existing Coach station and the permitted floor levels. It completes an existing void in the streetscape and addresses what is now an eyesore. In addition, it addresses a well documented lack of student accommodation in Galway.

7.3. Planning Authority Response

Galway City Council is concerned with regard to the nature and format of this objection to the development. The original submission merely stated that Mr Conway wished to be kept informed of matters and of the planning authority's decision. It did not embody any of the issues now raised and did not afford the planning authority any opportunity to assess what reservations were held by the third party.

The main focus of the appeal revolves around overdevelopment on the basis that the proposed development exceeds the normal 2.0:1 plot ratio permitted. The issue of density was considered carefully as part of the assessment of the proposal, both in terms of the original application (04/872) and the application for the revised scheme of apartments which was granted on April 1st, 2014 (13/306).

Following a further information request to clarify the density, requesting that this be based both on the historical and normal form of calculation, a revised plot ratio calculation was received. The applicant's architects reviewed the specific plot ratio methodology applicable, following the approach of previous proposals on the site (e.g. 13/306) . This is based on the combined site area of 4279 sq.m and an overall

development of 8913 sq.m which equates to a plot ratio of 2.08: 1. This argument was accepted by the City Council in particular given the history of applications on the site and the linkages to the rest of the scheme e.g. the housing sitting above the bus bays, bus exit and other shared elements.

The plan submitted on 2nd June, 2016 showed the red-lined application site but also the remainder of the bus station outlined in blue and within the applicant's ownership/control.

The application was also considered to be very similar in size and scale to the development proposed under 13/306. The proposed development is an infill site and will effectively close the existing unsightly gap in the street. The proposal by virtue of its design, form, structure and finish will result in a good standard of development. It represents a good architectural treatment of this significant city centre streetscape, which will integrate well with existing building and most significantly it will result in a good use that will contribute to a sustainable, vibrant living city. The density is acceptable, but in any assessment it would not be appropriate to hinge a decision exclusively on this narrow focus.

Regarding the appellant's concerns about ownership, matters pertaining to title of property including rights of way are not for the planning authority to determine.

With regard to Condition No 13 which requires the payment of a sum in relation to the provisions of Part V, the City Council would have no objection to this condition being omitted. This in having regard to the status of the emerging Draft Galway City Development Plan 2017-2023 which specifically excludes the application of Part V to student Housing. The exemption of student housing from Part V is requested to be considered should An Bord Pleanála consider a grant. It accords with a similar approach taken on recent decisions on campus site at NUIG (PL 61.246079) and at Bohermore (PL61.246807).

7.4. Observer

- The observer supports the matters raised in the appeal.
- The plot ratio should be considered relative to the vacant site on which the development is to be constructed and should not be calculated with reference

to the adjoining Webworks office buildings and the site on which it is constructed.

- The true plot ratio calculations are clearly significantly higher than the plot ratio calculation submitted by the appellant, which are in themselves significantly higher than the calculations submitted by the applicant and those permitted under the provisions of the development plan. On this very serious and hugely significant discrepancy alone, the Board should overturn the decision of Galway City Council and refuse permission for the proposed development.
- The appellant correctly notes that the area identified by the applicant as a concourse consists of a substantial commercial development incorporating a coffee dock, vending units, paying locker units, ticket pay station toilets etc. and should have been included in the overall calculations determining the plot ratio for the proposed development. Contrary to what is stated by the appellant, these facilities are not for the exclusive use of the customers availing of the services of the coach station.
- The 'Concourse' area consists of an area of 1507.1 m² and was excluded from the plot ratio calculations in the original application 04/472.m This area should not have been excluded from these calculations and should now be included in the current application.
- In light of the very significant underestimation of the plot ratio calculations (omission by the applicant of this entire ground floor commercial area), the application should be refused planning permission. If the applicant wishes to develop the site, a revised proposal with bona fide plot ratio calculations based on the undeveloped section of the site on which the proposal is based and including the entire ground floor section relating to the extension of the coach station itself.
- The enclosed /indoor Bus Bays section of the development should also be included in the plot ratio calculations as they are for the exclusive use of private commercial bus operators and are enclosed indoors in the development. The coach/bus bays are not parking spaces but are an integral

part of the commercial coach/bus service, which could not operate without them.

- Issues regarding parking and congestion and the inadequacy of the set down area are raised in the appeal. The parking infringements and congestion is not only caused by genuine set-down traffic but also by non-travelling customers who visit the site to avail of other commercial on-site services, in particular the bakery/café/shop, which supplies both site down and take away food and beverages. During the processing of a previous application (13/306) on the site, the planning officer indicated that the applicants were willing to work with the City Council to investigate the feasibility of providing an additional set down area on applicants own land. The planning authority were satisfied with the assurance given and proceeded to grant permission for the development which included a condition regarding a new set down area (Condition No 21).
- Despite the former owners undertaking to work with the City Council to dedicate lands for the construction of a proper set down area, the new owners and current applicant's disregard this requirement. It is also seeking to significantly encroach on the main road which will be to the detriment of all road users. It will also negatively impact on the City Council's plans to provide a pedestrian crossing and could result in the City Council having to abandon the cycle lanes it intends developing on the Fairgreen Road.
- The current proposal incorporates a significant change to the design of the development granted under 13/306 for the coach/bus station, to the extent that both these planning applications are materially different and mutually exclusive. It should be noted that on 7th June 2016, five days after the current application was lodged with the City Council, a letter was submitted by Brendan Slevin & Associates with regard to compliance with conditions relating to 13/306. With regard to Condition No 21 and the set down area, two options were proposed, with Option B being recommended by applicant's agent. The assertion that the 'control points' are the existing columns is absurd and is clearly a ploy by the applicant to avoid constructing the necessary set down area on its own lands so that it can instead construct the substantial ground floor section of its proposed student accommodation, which is not alone set on the ground behind these columns but is also constructed on at

least one of the coach bays for which planning permission was granted under 13/306.

- In this regard the applicant is reducing the number of coach bays from 14 to 13 which is very material and significant particularly in light of the fact that Galway City Development Plan has specifically earmarked this site for the development of the coach station which should not be sacrificed for the excessive development now proposed by the applicants.
- The construction of the set down area is of paramount importance for the success and optimum operation of the coach station. The suggestion that it cannot be accommodated behind the columns on applicant's own land is absurd. The construction of the set down area behind the columns would make the on-site set-down area much safer and significantly easier to control. It would eradicate the illegal parking and congestion that currently exists.
- The applicants' assertion that the proposed set down area encroaches on the existing carriageway by approximately 1.5m is a gross underestimation. There is a huge discrepancy between the drawings submitted in support of the current application and that submitted in support of Ref No. 13/306. It is evident in comparing the two drawings that the actual reduction in the width of the road necessary to accommodate the proposed set-down area proposed by the applicants is between 3.55m and 2.103m. This would suggest that the set down area will encroach into the main public carriageway by 3.15m at the midpoint which is more than double that suggested by the applicants'. This would be seriously detrimental to road users and it is incumbent on the Board to overturn the decision of Galway City Council.
- On June 13th, 2016 a letter was submitted to Galway City Council by the applicant of the current application notifying the planning authority of its intention to complete Phase 1 of the development granted under Ref No 13/306. The applicants' agent made no reference to the fact that it intended to materially change the development from that granted under 13/306, by commandeering one of the Bus Bays in order to build a substantial second entrance with stores/services etc., to service the proposed upper floor student accommodation. It also referred to Condition No 21, noting that the set down

area would be provided by narrowing the existing Fairgreen Road carriageway lanes from the existing 4.5/4.55 meter widths to 3.85m widths. It also presented a second option which provides a less satisfactory pedestrian path, if the reduction in carriageway width was considered unacceptable.

- Serious concerns were expressed by the Planning & Transportation Department on the basis that it would seriously impacts on Galway City Councils plans for the carriageway regarding pedestrian crossing of Fairgreen Road and the planned provision of cycle lanes.
- The planning authority granted planning permission for the current proposal with a requirement that 60 no cycle parking spaces be provided. If the current planning application is allowed to proceed with the proposed set down area being constructed on the main carriageway, as opposed to being constructed on the applicants own site, the planned cycle lanes will not be developed creating hazard for students cycling to/from the university.
- Galway City Council are facilitating unauthorised development on the site. Even though the entire ground floor of the proposed development is materially different to that for which planning permission was granted (13/306), the applicant has notified the planning authority of its intension to complete the ground floor of the coach station whilst the current planning application is being considered. Both these planning applications are significantly and materially different, yet the planning authority has authorised CWC Webworks to proceed with the purported completion of the coach station in accordance with the terms granted under 13/306.
- It appears that the applicants commenced work on the proposed new development under the guise that it was completing the coach station as per planning permission granted under 13/306. Substantial works have been carried out and the configuration of the first floor conforms with the design, dimensions and configuration of that for which planning permission is currently being sought. Galway City Council have facilitated this unauthorised development allowing the applicants to take over an entire traffic lane causing immense disruption to the city.

- With regard to the accommodation to be provided, is in agreement with the appellant that it is substandard. Individual accommodation units should not exceed three bedroom spaces. Notes that there is one single common room which functions as a kitchen/sitting room/living room for the 6 no. bedroom space units.
- The proposal is designed with all of the residential quarters overlooking neighbouring residential units at 'The Elms'.

7.5. Further Responses

7.5.1. First Party response to observer submission

Considers that the observation brings no additional arguments of merit but repeats the arguments made by the appellant. The issues raised are considered to be unfounded, incorrect and should be disregarded by the Board.

The Observer stated that the true plot ratios are higher than those calculated by the appellant, which are in themselves higher than those calculations submitted by the applicant. As noted in the response to the grounds of appeal, the methodology used was accepted by the planning authority and is the same approach used to assess the previous application on the site under Reg Ref No 13/306. Galway City Council have accepted the plot ratio calculation and the overall acceptability of the scheme. The Board has also accepted the methodology used by the applicant to calculate the plot ratio (PL 61.210830).

The ownership status of the proposed development is irrelevant to plot ratio calculations. Planning permission is associated with the land and not its ownership. The plot ratio has been correctly calculated on the same basis as the original permission for the site (04/872). The commercial nature of the site is irrelevant to plot ratio and this observation should be dismissed by the Board. Similarly, the contention that the plot ratio calculations should extend to enclosed /indoor bus bays should be dismissed as plot ratio considerations are confined to gross floor area and do not include parking.

The applicant is providing a set down area in accordance with a condition attached to Reg Ref No. 13/306. The current proposal does not affect this set down area as it is outside the development boundary. Details of compliance have been submitted in

relation to the permitted development, dated 13th June 2016. The Transport Department accepted this as is evident from a letter from Mr Theo Mc Loughlin to Ms Norann Keane dated 20th July 2016, subject to minor modifications to be agreed prior to construction (see Appendix A). The Planner's report dated 15th September also accepted this. All observations regarding the set down area should be disregarded as they are irrelevant to the current application. The Observer selectively quotes a letter dated July 25th in order to mislead. Compliance has been fully accepted by the City Council.

The applicant has outlined that the coach station layout, parking bays and associated works will be completed as per planning permission Reg Ref No 13/306, except where modified by this planning application. The drawing entitled 'Proposed Ground Floor Plans' (Dwg.No P-0-108) submitted with the application outlines clearly where this is the case. Modifications at ground floor level to the previous permission include an entrance to Fairgreen Road and a waste collection area, which are clearly detailed on this drawing. This resulted in the loss of 1 No. coach parking bay. The modifications are made in the interests of safety and to allow access to the student accommodation to the front of the development.

It is contended by the Observer that the use of the existing columns as control points is a 'ploy by the applicant to avoid constructing the necessary set-down area on its own lands'. These control points (columns) are evident in Figure 2.1 and show that the claim is entirely false. The suggestion that the set down area can be accommodated behind the existing columns is clearly not feasible, due to the presence of existing structures and space constraints. The façade and building line have not moved from the previous permission and are currently under construction. This is clearly evident in Fig 2.1 and Fig 2.2.

The Observers claim that traffic congestion on Fairgreen Road is created by people availing of the onsite commercial services has no basis and is irrelevant to this planning application as the application will have no impact on the ground floor except in relation to the new entrance way proposed.

The suggestion that unauthorised development is taking place is false. No Warning Letters have been received by the applicants. The development that is taking place is entirely in accordance with the permission granted under Reg Ref No 13/306.

The observer presents no evidence or basis for the claim that the living conditions of students are unacceptable. The development has been designed with the needs and requirements of students in mind. A detailed Design Statement accompanied the original application and outlines the high quality design and amenities provided.

Each apartment is in excess of the minimum floor space requirements as detailed in the Guidelines on Developments for Third Level Students (1999). The Board has permitted similarly arranged units in May 2016 on the NUIG Campus. The type of accommodation to be provided is therefore entirely appropriate and in accordance with the Guidelines.

The development is fully in accordance with the proper planning and sustainable development of the area and is consistent with the Galway City Development Plan objectives and development standards for the site and the surrounding area. The Observers has no reasonable basis or interest for this objection and its legitimacy is questioned.

7.5.2. Planning Authority submission on applicant's response

The planning authority supports the comments by Tom Phillips & Associates on behalf of the applicant that the proposed development is a well designed student facility in the centre of Galway city, which will satisfy a proven need for this type of accommodation and free up other traditional housing stock. A recent report by the Higher Education Authority on Student Accommodation found that there is an unmet demand for approximately 2779 spaces by 2019 and 3022 by 2024.

With regard to plot ratio, the City Council supports the contention that basing the planning unit on an area of only 0.116 ha, rather than the larger 0.4279 ha for the overall site, is misleading and does not have regard to the context of how the site was developed.

An Bord Pleanála has previously accepted the City Council's methodology in this regard. Whilst Section 11.4.2 of the development plan outlines that in general the plot ratio for new development is 2.0:1, it facilitates development proposals in excess of the normally permitted plot ratio where proposals would contribute to urban regeneration or make a significant contribution to urban character. Plot ratio is only one element and the development is considered to fit in with the established pattern of development and the street scene.

The recently adopted plan supports the development of student accommodation. The proposal also accords with the approach taken on the recent decisions on NUIG campus (PL 61.246807) and at Bohermore (PL 61.246807).

7.5.3. Planning authority submission on observer's submission

The City Council supports the provision of high quality, professionally managed, purpose built student accommodation on/off campus, at appropriate locations in terms of access to sustainable and public transport nodes and third level institutes, in a manner that respects the residential amenities of the surrounding area.

Irrespective of the arguments made regarding plot ratio, the Board has discretion to deviate from the development plan policy. With regard to the observer's argument that the plot ratio calculations should have excluded the uses in the concourse as these facilities are not for the exclusive use of the bus station, the facilities are primarily for users of the bus station. Having regard to the availability of other similar facilities in the immediate locality and the nature of the location of the facilities in a concourse waiting area, it is not anticipated nor observed that they attract non travelling members of the public.

The Council's Road Section is satisfied with the proposed set down areas subject to the conditions that have been imposed in the planning decision. The provision of cycle parking facilities does not necessarily require the provision of cycle lanes in the city centre. City bikes are located in numerous locations around the city that are not conjoined to bike lanes. Bike lanes are not a pre-requisite to activate or promote cycling. The discussions regarding a set down area to the front of the development, which was part of a joint delivery with Galway City Council may now be replaced in order to accommodate a cycle lane plan which is currently begin considered to tie in with the Dublin-Galway greenway. Should this emerge it will add to the cycling facilities available in the vicinity. This is independent of this application and subject to design capacity.

The City Council does not support the argument that the proposed development would result in 'unacceptable cramped conditions for students'. They are specifically designed student residences and conform to prevailing patters and sizes of units promoted by NUIG. The request to confine the units to three bed spaces only is unnecessary and possibly unsustainable for such a use in a centre city site. The

development has all the standard support facilities and a requirement to have access to the open space amenity area in addition to the very attractive communal area at roof level will greatly compliment the offer for student accommodation at such a desirable city centre location adjoining all public transport facilities.

Specific precaution was exercised to ensure that the residential amenity of 'The Elms' was protected. The units are design to overlook the public roads rather than 'The Elms'. The elevation was required to have an animated and good quality finish to complement the aspect from the residential development. This is more desirable than an unrelenting extremely large blank façade which would also be exposed from views along College Road.

With regard to issues regarding ownership, the provisions of Section 34(13) of the Planning and Development Act 2000, as amended are noted.

7.5.4. Appellants' submission on Applicant's response and observer's submission.

The applicant states that the proposed development will 'complete and existing void in the streetscape and address what is now an eyesore'. The revised planning permission granted under planning reference No. 13/306 for 28 no. apartments is consistent with the height, mass etc., of the existing development and is a much more appropriate development to complete the existing void in the streetscape. The current application, as with a number of previous failed applications is an attempt to circumvent the requirements previously set down by Galway City Council and An Bord Pleanala.

The proposed development is located 1.4 km from the nearest entrance to NUIG and 3.5 km from GMIT and not 1.1 km and 2.6 km respectively, as suggested by the applicant. The location of the proposed development is not appropriately or conveniently located to serve the needs of third level students where their respective third level institutions area a considerable distance form the subject site. Whilst the requirements for student accommodation are noted by the applicants, there is a significantly greater demand for social housing. It is suggested that in the interests of proper planning and social and moral justice that social housing is provided rather than the proposed inappropriately located student accommodation. If the current application is refused it will pave the way for the current live application to be developed (13/306), which will satisfy all the essential requirements.

The applicant seeks to justify the excessive plot ratio by reference to section 11.4.2 of the Plan. The proposed development is significantly higher than the existing buildings on each side and therefore the height, mass and scale of this proposal conflicts with the spirit, principle and objective of Section 11.4.2 of the Plan.

Under the heading of 'Planning Unit' the applicant's agent provides a counter argument to the claim that the plot ratio calculations should be based on the footprint of the proposed development, suggesting instead that it should be based on the overall development. As already noted the overall development still significantly exceeds the permissible plot ratio for CC zoned lands.

It has been demonstrated that the gross floor area of the entire development is significantly understated. It does not include the Concourse Area of 1507.1 m², which were erroneously omitted from the calculations under Reg Ref No 04/872 and is again omitted in the current application. Despite the omission of this significant area of the Concourse, the remaining area of the Concourse to be completed with a given area of 415.8 m² is included in the plot ratio calculations provided in Table 4.1 of Tom Phillips & Associates response.

The observer also highlighted a very serious and material fact whereby under Reg Ref No 14/137 planning permission was obtained to further intensify the commercial use of the ground floor concourse area when permission was granted to relocate the restaurant from the mezzanine level comprising an area of 390m² to the concourse area. This was done so that the area vacated by the restaurant could be utilised as office accommodation. It is also noted that Reg Ref No 14/137 gave a gross floor area of the existing Webworks Office Development (excluding the concourse area) which is 537 m² larger than the figures submitted by the applicant in the current application. This shows the huge discrepancies and contradictions associated with the current application which underestimates the true plot ratio calculations, which are significantly in excess of the 2:1 permitted. No attempt is made by the applicant to explain why the concourse is excluded from the overall plot ratio calculations.

The applicant's response refers to nearby precedent in relation to plot ratio where it alleges achieved a plot ratio of 2.8:1. This refers to the Hynes Building, (PL 61 219516), which is located approximately a half a mile from the subject site. As part of the appeal, reference was made to a development which was refused planning

permission by the City Council (07/729) and refused on appeal by An Bord Pleanála (PL 61.216098). In this case the Inspector rejected the argument that permission should be granted for a development consisting of a plot ratio of 2.6:1 by virtue of a precedent relating to a development immediately adjoining the subject site. The grounds put forward by the applicant that planning permission should be granted for an even larger development on the same subject site by virtue of a precedent relating to a development a half a mile away must also be rejected.

The applicants have carried out construction works on the site in accordance with the design and specification of the current planning application. The entire first floor of the proposed development has been constructed in reinforced concrete to the specific design specifications of the current application (Photo A). The significant recessed opening which is clearly visible is to accommodate the proposed new ground floor entrance which is to be constructed on one of the Bus-Bays thus reducing the number of bays from 14 to 13. Photograph B shows that the rising walls enclosing the proposed new student entrance to the proposed development is currently under construction. The applicant is completing the coach station in accordance with the design and specifications of the revised proposal which is the subject of appeal and is therefore in breach of planning regulations.

The Observer contends that the ground floor coach/bus bays should be included in the plot ratio calculations. Photo C shows that entire coach station is completely indoors completely surrounded by concrete walls beneath a concrete ceiling with restricted access and should therefore be included in the plot ratio calculations.

8.0 **Assessment**

8.1. The main issues that arise for assessment by the Board in relation to this appeal relate to the following matters;

- Principle of the development in this location.
- Plot Ratio.
- Impacts on visual amenity.
- Impacts on residential .
- Standard of accommodation.

- Parking and congestion.
- Other matters.

Principle of the development

The proposed development is acceptable in principle in the CC zoned area which encourages a wide mix of uses that support the city centre as the dominant commercial area of the city. The development will introduce a new residential development into the heart of the city, supporting existing facilities and services which will improve the overall vibrancy and vitality of the city centre.

The proposed student accommodation is ideally located adjacent to the city centre and proximate to major transport nodes. Whilst it is at a remove from the third level institutions it is intended to serve, it is within reasonable walking distance of NUIG and there is a frequent bus service to both campuses from Eyre Square. The proposal is consistent with the provisions of the development plan, which supports the provision of high quality professionally managed purpose built student accommodation both on and off campus at appropriate locations (Section .11.29). The proposal will address an identified need for additional student accommodation in the city as documented in the HEA report and is therefore considered acceptable in principle in this location.

Plot ratio

The substantive issue for consideration in the appeal relates to the plot ratio of the proposed development. Both the appellant and the observer consider that the plot ratio has been calculated incorrectly and that it should be based on the subject site and not in association with the adjoining coach station/office development. This would result in a plot ratio of 3.25:1 (site area of 1776 sq.m and a proposed floor area of 5731 sq.m). It is also contended that the provisions of the development plan do not facilitate an exceedance of the permissible plot ratio in this case, and that the ownership and use of the site are matters for consideration.

The cover letter submitted in support of the planning application stated that the plot ratio associated with the proposed development would be 2.47:1. This was calculated on the basis of the overall site area of 0.4279 ha (to include coach station site) and a total floor area of 10,590 sq.m (i.e. replacing the residential development

permitted under 13/306 with the proposed development). The planning authority at further information stage requested that the applicant justify the density proposed in light of the significant exceedance of the normally permitted plot ratio for this centre city location.

Following the response to the request for further information it was clarified that the plot ratio equated to 2.08: 1, which is 4 % above that normally permitted (2:1) in CC zoned areas. This was based on a total area of 8914 sq.m and a site area of 0.4279 ha. The Schedule of Accommodation submitted in response to the further information request detailed the floor areas included/excluded for the purposes of plot ratio calculation. It excluded a large area of the concourse and wc's the coach bays and parts of the office development (presumably stairwells, plant etc.). I note that this is consistent with the approach adopted in previous applications on the overall (Reg Ref No's 04/872 and 13/306). Whilst it is not entirely clear why the concourse area which is roofed and enclosed by the external walls was not included in its entirety, I note that no issues in this regard were raised by either the planning authority or the Board at appeal stage (PL 61. 210830). The inclusion of the excluded concourse area (968sq.m) in the calculations would result in a plot ratio of 2.3:1. Whilst issues were raised regarding the exclusion of the bus bays and arguments have been made that they are enclosed areas, they essentially comprise parking areas for the coaches which are external to the main building and it is reasonable that they are excluded from the calculations.

The Board will note from the planning history that the site, which is the subject of the current appeal has established links with the adjoining coach station site. The parent permission granted under Reg Ref No 04/872 and subsequent alterations permitted under 13/306 relate to the entirety of the site. The appeal site shares a common curtilage and various elements of the of the coach station site including coach bays, parking areas, exit arrangements etc. In such circumstances, I do not accept the arguments presented in the appeal that the plot ratio should be calculated on the basis of the proposed development in isolation from overall site and the previous permission under which it was permitted. It is entirely appropriate in my view that the floor areas of the buildings are aggregated for the purposes of the plot ratio calculations. I accept that the ownership of the site(s) or the use whether it be for

residential or commercial purposes is not a material consideration in the determination of plot ratio.

I would point out to the Board that regardless of whether the concourse is included or excluded in the calculations, the proposed development will result in a plot ratio which exceeds the permitted maximum. Whilst a number of exceptions are identified in Section 11.4.2 of the Development Plan, where increased plot ratio in excess of standards will be permitted, I do not consider that the proposed development falls within these categories.

Plot ratio standards are designed as indicators of the maximum development considered appropriate to different parts of the city. They are adopted to help prevent the adverse effects of overdevelopment. However, plot ratio on its own cannot define built form, and as such needs to be used in conjunction with effective planning standards to determine the overall impact of the development on the visual and residential amenities of the area. The question that arises for determination by the Board is whether the proposed development would give rise to an inappropriate form of development which would be contrary to the proper planning and sustainable development of the area. This is discussed in more detail below.

Impact on the visual amenities of the area

The proposed development will result in the development of a gap site between the existing coach station to the north and the Castlehope building to the site. Issues have been raised in the appeal regarding the height of the proposed building relative to its neighbours. Reference is also made to previous decisions by the Board relating to the appeal site and the adjacent coach station site. The Board required that the penthouse level be omitted from the development of the coach station in order to reduce the overall height of the building (PL61.210830). In a more recent decision, the overall height and scale of the building proposed on the subject site was cited in the reasons for refusal by the Board (PL 61. 226897).

The proposed development is higher than that permitted by the Board on the coach station site and is lower than that refused by the Board under PL.61.226897. It is also marginally lower than the more recent development permitted by Galway City Council under Reg Ref N0 13/306. It would, if permitted, project above the height of the adjoining buildings on both sides. However, it has the advantage that it will be

visually contained within, and will not extend above the stair/lift shafts associated with the adjacent buildings that define both sides of the site.

I draw the attention of the Board to the Design Statement submitted in support of the application. It together with the series of photomontages submitted in response to further information shows that the building can be effectively integrated and will make a positive contribution to the streetscape. I concur with the opinion of the planning authority that it is a well designed building which provides an appropriate architectural response to this city centre site.

I consider that notwithstanding its height relative to the adjacent buildings, it has been effectively demonstrated that there will be no significant adverse impacts on the visual amenities of the area. I accept that the proposed development will be highly visible from the residential development to the east which is considered in more detail below.

Impacts on residential amenity

The observer raised issues regarding the impacts of the development on 'The Elms' located to the rear of the appeal site. 'The Elms' consists of a compact development of three-storey blocks of residential accommodation, which is accessed off Foster Street.

I draw the attention of the Board to a previous decision on the subject site (PL 61.226897) where the Board cited in its second reason for refusal issues regarding overlooking and impacts on the residential amenities of 'The Elms'. The development proposed alterations to the previously approved development (04/872) including a 6m increase in height, the provision of additional floor space at fourth and fifth level and windows to habitable rooms and balconies facing towards 'The Elms'.

In contrast to the previous application, the proposed development will be built up tight against the rear boundary. At the closest point the proposed development will be positioned 15.3m from the gable wall of the nearest block of residences.

The rear elevation of the proposed development will contain four floors of student accommodation with windows serving bedrooms and shared living space orientated to face the residential development. The penthouse level is set back such that it will not result in significant overlooking. The layout of 'The Elms' is such that there is only one block of residences (Units 1-17A), with the potential to be directly impacted by

the development. This block is orientated such that a gable wall faces the proposed development. The gable contains a total of three small windows, one on each level. The windows are fitted with opaque glass, suggesting that they serve bathrooms/ensuites.

Any potential for overlooking that will arise from the proposed student accommodation will not be significant. I note that the shared living spaces, where students are likely to spend the majority of their time are fitted with high level and angled windows to reduce the potential for overlooking. Any overlooking that does occur will be over public areas associated with roads and communal areas within 'The Elms'. There are no rear garden private amenity spaces associated with these houses and the small areas to the front of the houses are overlooked by the roads/footpaths abutting the properties.

In terms of visual impacts, the rear elevation of the proposed development will face 'The Elms'. Whilst none of the houses face directly towards the site, I consider that the development of the site will provide a positive outlook from public areas within the estate which will enhance the visual and residential amenities of the area. The proposed development will replace a previously undeveloped site with a modern well designed building, which is effectively integrated with the buildings on each side. I also note that the design of the building is a significant improvement to that originally approved under the previous application (07/729 & PL 61.226897). It would appear that the solar panels will not be visible above the parapet level and will not be visible from 'The Elms' (Dwg No 2089-SK-06 submitted in response to further information).

I consider that it is reasonable to conclude that there will be no significant adverse impacts on the residential amenity of the adjacent properties arising from the proposed development.

Standard of accommodation

Both the appellant and the observer raise issues regarding the standard of residential accommodation that will be provided. It is contended that the provision of living units in excess of 3 no. bedroom spaces will result in substandard living conditions. It is also asserted that a single common room which functions as a kitchen/sitting room/living room for the 6 no. bedroom space units is inadequate.

Guidelines on Student Residential Developments were published by the Department of Education and Science in 1999. The guidelines were intended to assist developers and designers in formulating proposals for student residential development. The guidelines encourage 'house' units up to a maximum of 8 bed spaces, with no suggestion that units should be restricted to 3 no bedspaces, as contended by the observer.

Guidance is provided in relation to floor areas associated with bedrooms and shared living spaces etc. The bedroom floor areas proposed as part of the development are all in compliance with the guideline minimum of 8 sq. m or 12 sq. m where an en-suite is provided. Similarly, the shared living areas satisfy the requirement of 4 sq. m per bedspace in each unit. Additional communal areas are provided on the fifth floor including laundry facilities, kitchen, quiet study room, gym etc all of which contribute towards the quality of accommodation to be provided and which adheres to the guidance provided.

I accept that the proposed purpose built development, which complies with relevant guidance will provide an adequate and appropriate level of accommodation for students.

Parking and congestion

Issues have been raised regarding traffic congestion associated with the coach station and the inadequacy of the set down areas. It is also contended that the current applicant totally disregards a previous commitment (by former owner) to develop a set down area on its own lands and instead have submitted an alternative proposal which encroaches onto the main road. It is argued that this proposal is likely to result in the City Council having to abandon its proposals to provide cycle lanes on the Fairgreen Road and will prejudice the provision of a pedestrian crossing.

The substantive part of the current proposal is associated with development above ground floor level, with only minor modifications to the ground floor from that originally permitted under Reg Ref No 13/306. The modifications proposed include the provision of a ground floor entrance to the student accommodation and waste collection area, a mezzanine level to accommodate cycle parking and a store, and a ground and mezzanine level escape corridor and stairs (Dwg No P-M-108 & P-M 109

refer). The remainder of the ground floor is to be completed as per Reg Ref No 13/306.

Condition No 21 of the No 13/306 required that details to facilitate the provision of a new set down area fronting Fairgreen Road, which included a portion of City Council land ownership be provided prior to commencement of development. The developer submitted proposals to show compliance with this condition and whilst it may be that they are not as previously envisaged, they have been accepted in principle by Galway City Council. I did observe that a set down exists along the site frontage.

The proposed set down area was required in association with the extension of the coach park and any issues that may arise regarding non-compliance are a matter for the planning authority under the conditions of the extant permission. Whilst the current proposal includes minor modifications to the ground floor area, I accept that it has no material implications for the current proposal and requires no further consideration by the Board. Any issues that may arise regarding potential implications for the provision of pedestrian crossing points and cycle lanes are therefore a matter for Galway City Council.

Other matters

It is alleged that unauthorised development is taking place on the site and that work is progressing on foot of the application which is currently the subject of this appeal. Any issues regarding unauthorised development are entirely a matter for the planning authority. The Board has no role in this regard.

Issues regarding ownership of the site and adjoining lands are raised in the appeal. Matters pertaining to title are not for the Board to determine. In this regard it may wish to rely on the provisions of Section 34(13) of the Planning and Development Act, 2000, as amended.

The Board will note that in accordance with the provisions of Section 2.2 of the recently adopted development plan for the city, student accommodation is exempt from the provisions of Part V of the Planning and Development Act, 2000, as amended. Accordingly, should the Board be minded to grant permission for the development, there is no requirement to attach a condition requiring the application of Part V.

9.0 Conclusion

The proposed development is acceptable in principle in this location. It will address an identified need for additional student accommodation in the city on a site close to the city centre and existing transport infrastructure. It will complete an existing void in the streetscape with a well designed building which will make a positive contribution to the area and provide an appropriate level of accommodation in accordance with established guidance.

Whilst the proposed development will exceed normally permitted density standards, it is considered that the development can be accommodated on the site with significant adverse impacts on the visual or residential amenities of the area. It is considered that the proposal complies with the provisions of the development plan and would not be contrary to the proper planning and sustainable development of the area.

10.0 Appropriate Assessment

The nearest Natura 2000 sites are Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031). Having regard to the location of the development within a built up area, the nature and scale of the development and the separation distance from the Natura 2000 sites, I consider that the proposed development, either alone or in combination with other plans or projects, does not have the potential to impact adversely on the qualifying interests of any Natura 2000 site. Stage 2 Appropriate Assessment is not therefore required.

11.0 Recommendation

- 11.1. Having considered the contents of the planning application, the decision of the planning authority, the provisions of the development plan, the grounds of appeal and the responses thereto, my inspection of the site and my assessment of the planning issues, I recommend that permission be granted for the development for the reasons and considerations set out below.

12.0 Reasons and Considerations

Having regard to the city centre location of the development, the pattern of development in the area, the layout and design of the proposed development and the nature of the development providing for student accommodation, it is considered that the proposed development would not result in an excessive density of development on the centre city site and that subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of adjoining property, would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 22nd August, 2016, and the 8th September 2016, 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 development hereby permitted shall be used solely for student accommodation as indicated on the submitted application

Reason: In the interests of clarity.

3. Details of the materials, colours and textures of all the external finishes to be proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Prior to commencement of the development full details of the proposed rear boundary treatment shall be submitted for agreement with the planning authority.

Reason: In the interests of visual amenity.

5. Details of the sign (to include to include details of materials, size of lettering size of lettering) to be erected on the front façade of the building shall be submitted to and agreed in writing prior to commencement of the development. The sign may be backlit but shall not be internally illuminated. Signage shall be designed to accommodate use of the Irish language.

Reason: In the interests of visual amenity.

6. No additional advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the building or within the curtilage of the site unless authorised by a further grant of permission.

Reason: In the interests of visual amenity

7. Prior to the commencement of the development the developer shall submit a detailed landscaping plan for the courtyard area for written agreement with the planning authority. The plan shall be prepared by a suitably qualified person and shall include a plan to a scale of not less than 1:500 showing the following details:

(a) The species, variety, number, size and location of all proposed planting, which shall comprise predominantly native species,

(b) Hard landscaping works, specifying surfacing materials, furniture and finished levels

On completion of the landscaping scheme, the developer shall submit to the planning authority a certificate of completion confirming that the landscaping works have been satisfactorily carried out in accordance with the landscaping scheme. The landscaping scheme shall be completed prior to the occupation of the building.

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 shall be replaced within the next

planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

8. Prior to commencement of the development, the developer shall submit for written agreement with the planning authority details of the allocation of car parking spaces associated with previous residential development permitted on the site which shall include the dedication of a number of spaces associated with the student accommodation and with an allocation for disabled persons.

Reason: To ensure off-street carriageway parking is available to serve the proposed development.

9. Prior to the occupation of the accommodation, the 60 no cycle spaces shall be provided and retained in situ for the duration of the student accommodation on the site.

Reason: In order to promote cycling as a sustainable mode of transport

10. Access to the roof shall be confined to use for repair and maintenance purposes only.

Reason: To protect the amenity of adjoining residential development.

11. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunications aerials, antennas or equipment.

Reason: In the interest of visual amenity.

12. Water supply and drainage arrangement including proposals for the disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development and to prevent pollution.

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development and shall

include proposals for traffic management, noise management and off-site disposal of construction and demolition waste.

Reason: In the interests of public safety and residential amenity.

14. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1300 on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

15. The management and maintenance of the proposed development following completion shall be the responsibility of the developer. A management scheme, providing adequate measures for the future management of the development including noise protocols and access to the courtyard and the future maintenance of the development, including the external fabric of the building, internal common areas, cycle park, landscaping, lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority prior to commencement of the development.

Reason: To provide for future maintenance and orderly development in the interests of clarity.

16. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to and agreed in writing with the planning authority prior to commencement of the development.

Reason: In the interest of residential amenity and proper waste management.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such

phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Breda Gannon
Inspector
January 21st, 2017