



An
Bord
Pleanála

Inspector's Report ABP-300275-17

Development	Mixed Use Development including 4 no. Office Blocks and all ancillary works.
Location	Former Topaz Oil Storage Facility, Dock Road, Queen Street and Bóthar na Long, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	17/83
Applicant(s)	Bonham Dock Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant permission with conditions.
Type of Appeal	Third Party Appeals
Appellant(s)	VP Motors Ltd. Des and Thérèse Norton Brendan Mulligan Tom Conroy Derrick Hambleton An Taisce Galway Association.
Observer(s)	Dr Evelyn Mahon.

Mr Pierce Flannery.

Councillor Peter Kane, Galway City Council

Councillor Noel Larkin, Galway City Council

Mr Mike Hynes also on behalf of Professor Kevin M Leyden

Mr David Hickey on behalf of Galway Chamber of Commerce, Galway Technology Centre, West BIC, The Atlantic Corridor, Galway City Innovation District, Porter Shed.

Mr Maurice O Gorman

Mr Cormac McGuckian – Galway Business Association.

Date of Site Inspection

21st February and 14th May 2018.

Inspector

Brid Maxwell

Introduction

This case and pending appeal ABP300613-18¹ arise from the submission of several third party appeals against the decisions of Galway City Council to grant permission, subject to conditions, for a mixed-use office development and a student accommodation scheme proposed by Bonham Dock Ltd. The sites are located within the Inner Harbour Area of Galway City. An oral hearing held in relation to ABP300275-17 was requested, in the first instance, by one of the appellant parties - Mr Mulligan. An Bord Pleanála approved the holding of a hearing by direction order dated 13/3/2018. The oral hearing was held over three days at The Clayton Hotel, Galway during the period 15th, 16th and 17th May 2018. The proceedings of the hearing were recorded and are contained on memory stick attached to the report. A summary of the oral hearing is set out in Appendix A while significant points of clarification and elaboration presented at the oral hearing area set out in the relevant section in my report herein.

1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of 0.93 hectares comprises the former Topaz Oil Storage facility located within the inner harbour area of Galway City, approximately 300m south of Eyre Square and c 300m, south east of William Street and Shop Street. The site which previously accommodated an Oil Storage facility is bounded by Queen Street and Dock Road to the west and Bóthar na Long to the south. CIE lands adjoin to the northeast / east, of the site with an old rail line embankment forming the eastern boundary and Forthill Cemetery is to the east of this.

- 1.2. The site which is roughly rectangular in shape and comprises a largely vacant brownfield site, of expansive concrete impermeable surface except for a single storey commercial building and an ESB substation located on its western frontage to

¹ Concurrent appeal case on adjoining site. Application relates to permission for predominantly student accommodation scheme provided in two blocks consisting of a total of 345 no bedrooms.

Dock Road. Site levels are relatively flat with only slight changes in levels throughout. The site is somewhat of a landmark having previously incorporated 11 large oil tanks which rose to 20m in height. These tanks were decommissioned and removed from the site in 2009/2010 and the site was used as part of the Volvo Ocean Race to Galway 2009.

1.3 The site and vicinity is also culturally and historically significant with a number of protected structures and recorded monuments in the vicinity including

- The United Methodist Presbyterian Church (Protected Structure RPS Ref 8201 NIAH30314060)
- Old stable buildings (Protected Structure RPS Ref 8291)
- The Stores (RPS No 8202), a complex of building associated with a former gas works including stores / stables, a gate lodge, gateway and cobbled roadway.
- New Dock (RPS NO 8501) part of the historic waterways and docks of Galway City.
- 1-10 St Nicholas Street - Protected structures - two storey terraced houses. (RPS 9901-9910) St Nicholas street is described as “a terrace of 19th century artisan’s dwelling and is one of the few such groups of this extent and completeness which survive in the city and therefore merits preservation from a social and architectural interest.
- Forthill Cemetery and Mortuary (RPS No 4401 NIAH Ref 30319007) Forthill Cemetery is also site of a number of recorded monuments (GA094-099001 - Graveyard DA099099002 Bastioned Fort and GA094-099003 – Religious House (Agustinian Friars).
- The site is also partially within the Zone of Archaeological Potential (ZAP)

1.4 Lands to the east are in the control and operation of CIE and comprise a railway embankment which is elevated approximately 3m above the level of the site. Beyond this site is Forthill Cemetery, a site of some heritage significance, which

fronts onto and is accessed via the Lough Atalia Road. The Galway Harbour Hotel is located to the south east of the site on the opposite side of Bóthar na Long. This building forms an irregular triangle shaped urban block and presents as a 3-4 storey structure to Bóthar na Long. An open surface public car park is located to the south of the site on the opposite side of Bóthar na Long. This car park directly adjoins the harbour wall which defines the Inner Harbour Docks.

- 1.5 Located to the west of the junction between Bóthar na Long and Dock Road is the St Nicholas Street Architectural Conservation Area ACA. Buildings within the ACA are 2 storeys in height incorporating pitched roofs. To the south of the ACA buildings are gradually stepped from 2 to 4 storeys with a fifth and sixth storey setback. Located to the west of the appeal site and north of the St Nicholas Street ACA is a mixed use (office / residential / retail) scheme, Barr Taoide. The main block is five storeys in height with a setback sixth storey. At the corner of Queen Street and Forthill Street the building incorporates a tower element of 7 storeys whilst car parking is provided at basement level.

2.0 **Proposed Development**

- 2.1. The proposed development as revised further to a request for additional information from Galway City Council consists of a mixed use office development (c34.405 sq.m GIA) excluding basement, external terraces and open roof plant provided in 4 blocks over a single basement as follows:

Block A (c 9,915 sq,m) is an 8 storey building located in the north-west part of the site adjoining Dock Road / Queen street containing retail / restaurant / café use and ESB sub-station at ground level; office use at ground level to Level 07, plant at level 07, external terraces at levels 04 to 06 with a roof garden at Level 07; solar panels on the roof.

Block B (c4.790sq.m) is a 7 storey building with roof plant above, located in the south-west corner of the site adjoining Dock Road and Bóthar Na Long, containing

the basement access ramp; retail / restaurant / café use at ground level and mezzanine level; office use at ground level to level 06, external terraces at level 01 to 06 with external links with Block c, roof garden at level 07, solar panels on the roof. Bridge link at Level 04 between block A and B.

Block C (c8,140 sq.m) is an 8 storey building with roof plant above located on the southern part of the site adjoining Bothar na Long containing retail / restaurant / café use at ground floor level; office use at ground level to level 07, external terraces at levels 01 to 06 with external links to Block B and D, public accessible roof and event space at level 07, roof garden at level 08, solar panels on the roof.

Block D (c11,560 sq.m) is an 8 storey building with roof plant above located along the eastern boundary of the site adjoining Bóthar Na Long to the south, containing office use at ground level to level 07; multi-purpose pavilion at ground level, external terraces at Level 01 to Level 07 with external links to Block C, roof garden at level 08, solar panels on the roof. Pedestrian link is provided through block D at ground level in an east-west direction.

Basement level (c 7,060 sq.m) contains 131 no car spaces, 330 no cycle spaces, a commuter centre, office lobby areas, building facilities and plant. External amenity space is provided at ground level comprising a raised central plaza with basement ventilation areas. 52 surface cycle spaces and public realm improvements are provided to the north and west of the site. Vehicle access is from Dock Road with fire tender access from Dock Road / Queen Street and the proposed public realm to the north. Pedestrian access is from Dock Road, Bóthar na Long and the proposed public realm to the north.

- 2.2 The proposed development includes the demolition of existing structures on the site (c 274 sq.m) the removal of 9 no surface car spaces adjoining Dock Road and all associated site development, boundary treatments, landscaping, remediation, drainage and flood defence works.

2.3 The application is accompanied by an extensive suite of documents outlining the proposal in its detail including:

- Planning Application Report.
- Conservation Report
- Flood Risk Assessment,
- Soil and Groundwater Assessment
- Transport Assessment Report.
- Appropriate Assessment Stage 1 Screening
- Sunlight Daylight and Shadow Analysis.
- Construction Demolition Waste Management Plan
- Engineering Report
- Fire safety Report
- Visual Impact Statement
- Architectural Design Statement
- Public Realm Strategy
- Galway Inner Harbour Area Framework Plan²

3.0 Planning Authority Decision

3.1. Decision

3.1.1 Following a request for additional information and response thereto Galway City Council decided by Order dated 27th October 2017 to grant permission for the development and 38 conditions were attached including:

Condition 2. Permission duration 10 years.

Condition 3. Development Contribution of €947,687 in accordance with the Section 48 Development Contribution Scheme.

² The Galway Inner Harbour Area Framework Plan BDP was prepared as a precursor to planning applications 300275-17 and 300613-18 to demonstrate how the City Development Plan objectives will be applied to the urban design of the inner harbour area. The plan seeks to satisfy the stated development plan requirements for a master planning within the inner harbour regeneration area.

Condition 4. Contribution of €1,390,000 towards the provision of public transport facilities in accordance with the Galway Transport Strategy.

Condition 5. Phasing scheme to provide for sequencing of block construction, delivery of public realm, public art and facilitation works on public road networks.

Condition 6. Archaeological pre-development testing.

Condition 7. Archivist to be employed to provide a report recording the industrial heritage of the site.

Condition 8. Detailed specification to be submitted in accordance with the public realm strategy. Landscaping Scheme, Maintenance contract for soft landscaping. Specific details of hard landscaping. Implementation in entirety in accordance with phasing programme and in advance of commercial / office occupation.

Condition 9. Management and maintenance of the development by management company.

Condition 10. Developer to ensure public access to all areas at all times designated as open to the general public and includes the north plaza, the central square the Ceannt courtyard and the waterfront area. Exceptions for periods of maintenance / other where in limited in exception is agreed in advance with planning authority. This space to be made available for both impromptu and scheduled events.

Condition 11. Any future modification proposals shall ensure that the public realm space is not depreciated in scale, quality, functionality and extent of public access. No courtyard cover shall be erected without specific prior grant of planning permission.

Condition 12. Phasing construction programme.

Condition 13. Alterations to public services, public areas or utilities necessitated by the development to be carried out at developer's expense and subject to prior agreement.

Condition 14. Demolition excavation and construction hours.

Condition 15. Construction management plan.

Condition 16. Waste management

Condition 17. Details of external finishes to be agreed.

Condition 18. Plan for external signage. Bilingual signage.

Condition 19. Wayfinding and road marking strategy.

Condition 20. No internal or external security shutters.

Condition 21. Undergrounding of service cables.

Condition 22. Road opening license.

Condition 23. Car park management strategy.

Condition 24. Bicycle storage facilities.

Condition 25. Lighting scheme to be agreed.

Condition 26. Taxi facilities.

Condition 27. Design for pedestrian and cycleway fronting the site in context of City Centre Traffic Management Plan.

Condition 28. Lands within the development on the eastern side of block D located between Bóthar na Long to the south and the northern site boundary shall be dedicated to the provision of public access the nature and design determined prior to occupation of Block D.

Condition 29. Mobility management plan. Subject to agreement on timescale and review.

Condition 30. Prior to occupation of ground floor areas designated as restaurant / café /retail precise details of the nature and extent of the use submitted for written agreement.

Condition 31. Units on the ground floor designated as restaurant / café/ retail use shall be restricted to uses that have a significant public patronage and bring animation to the streetscape.

Condition 32. The development shall include for a minimum of 4 no professional pieces of artwork / features, which shall be located within an area accessible to the public and which shall be sponsored by the developer.

Condition 33. Prior to occupation of Block C the cultural use area and associated garden terrace shall be fully fitted out for the purpose so designated. The developer shall ensure that access to these areas shall be made available to local community / culture / art events on reasonable demand and at a not-for-profit cost. A legal agreement to be entered into.

Condition 34. Prior to occupation of Block D the multipurpose area and podium terrace shall be fully fitted out for the purpose so designed. The developer to ensure access to be made available to local community / culture / art events on reasonable demand at a not for profit cost. A legal agreement to be entered into.

Condition 35. All plant and machinery to be located within the buildings or basement.

Condition 36. SUDS details to be agreed.

Condition 37. Flood mitigation measures.

Condition 38. Water Connection. Agreement with Irish Water.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1.Planner's initial report notes third party submission including 23 letters of support and 9 letters of objection. In the context of master planning the report notes the significant challenge of appraising the proposed development which is located on only a portion of the inner harbour. Visual impact assessment and design statement substantially provide an acceptable level of information. The character of the city

from strategic views (excluding immediate harbour views) is not impacted greatly owing to the difference in ground levels and buildings in the foreground views. However, there is a deficit of assessment with regard to the view impact on the immediate area. Concern is expressed that the Public Realm may not ultimately have the capacity to perform as open spaces with public access. The area to the northeast of the site shows conflicted function given the potential for reinstatement of the former access road. Potential for coverage of this area to facilitate the campus to be used as a headquarters facility raises concern. Proposed development fails to achieve appropriate engagement with the waterfront and fails to coordinate with adjoining landowners to develop optimum solutions to public realm. Report recommends a request for additional information to include the following:

- Additional visual impact to include panoramic view in the Docks area, a viewpoint from Lough Atalia Road (to the southeast of Forthill Cemetery) and an unobstructed view from the Harbour Enterprise Park.
- Revisions required to Block D to improve public realm, permeability and impact on adjacent protected structures.
- Demonstration of engagement with the waterfront and provision for strong public realm, permeability.
- Provision for animation of the city street.
- 75 sq.m arts / cultural space considered inadequate and requirement for work of public art.
- Conservation report and archaeological report considered deficient.
- Applicant invited to address the submission of CIE regarding prejudice to development of the adjoining lands.
- Details of mechanism to secure and ensure the delivery of the residential element.
- Clarify need for 10-year permission and outline phasing arrangements and demonstration of delivery of public benefits.
- Report in accordance with DMURS and The National Cycle Manual on how the street network in the locality is to be adjusted in order to cater for the increase in pedestrians and cyclists.

- Clarify whether the existing wall on the northeast boundary can accommodate a pedestrian link through to Ceannt Station.
- Provision for entrance priority for pedestrians and cyclists. Optional entrance for scenario of two-way vehicular traffic on Dock Road. Inclusion of access road from the northeast corner of the site as far as Ceannt Station car park to be included in the overall site layout drawings. Provision for contra-flow cycling from Bóthar na Long and Dock Road as far as the access road to the basement. Increased and improved cycle park provision and ancillary shore facilities.
- Details of servicing provision.
- Travel Plan in accordance with City Development Plan Section 11

3.2.1.2 Planner's report following submission of further information asserts that in relation to the visual Impact the development will provide an acceptable visual transition from the existing urban grain. It is considered that the buildings will enhance the streetscape along Dock Road as well as creating a high quality streetscape elevation along Bóthar na Long and the waterfront facing the docks. Amendments to Block D address the need for improved animation address and permeability. Cycle and pedestrian provisions appropriate. Amendments to Block D improves the overall permeability of the proposed development. The new street has addressed the need for an important link to a potential future street with the CIE lands. The applicant has addressed the concern raised relating to the accessibility constraints of the original scheme and has improved the potential for active public engagement with the waterfront. Design amendments provide that the proposed elevation onto Dock Road accords with the principles of good design and provide for positive contribution to visual amenity while providing for suitable address to an active city street. Open space is considered quantitatively and qualitatively appropriate. Report concludes that the proposed development is considered to be in line with the core strategy and development strategy for the inner harbour area. The submission of the document "Galway Inner Framework Plan" addresses, as best as possible within the area of control of the applicant, issues raised as critical to addressing the overall master planning of the area. Concerns with regard to design scale and movement strategy,

the built heritage public realm and visual impact have been addressed. Proposal represents a scheme that responds to demand for Grade A office space in the city and represents a development that will enable Galway City to compete internationally as a regional city and driver of growth. Permission was recommended subject to 28 conditions.

3.2.2. **Other Technical Reports**

3.2.2.1 **Environment Report** indicates no objection subject to conditions regarding hours of construction, waste management.

3.2.2.2 **Recreation and Amenity Department**, Ambitions with regard to the quality of the public realm in terms of amenity space and interrelationship in a multi-plane environment is welcome. The proposals are at concept stage and detailed design is required as well as an aftercare package to ensure fruition and sustainability.

3.2.2.3 **Drainage Division** report indicates no objection to surface water drainage proposes subject to prior agreement in respect of the design of the proposed hydrocarbon interceptor. No objection on foul drainage.

3.2.2.4 **Irish Water** submission. No objection subject to standard conditions regarding connection agreement.

3.2.2.5 **Galway Fire Services**. No objection subject to provision of fixed sprinkler system in compliance with IS 128545:2015 in all round buildings and shared underground car park. Areas of phased evacuation and clear escape widths of both the internal protected stairs and external stairs to be agreed with fire authority. Fire protection to

be afforded to the external escape stairs. Fire separation and fire spread between four buildings and site boundary to comply with B3 requirements in technical Guidance Document B. Water supply and access for firefighting to be agreed with the fire authority.

3.2.2.6 Report of **Heritage Officer** notes that in relation to Forthill Graveyard many Irish graveyards were only walled in with new boundaries in the 19th century and it was common for these low enclosures not to enclose the full extent of burials. Therefore, it is vital that an exclusionary cordon be maintained outside the cemetery wall where it impinges on the development site. This area should be landscaped and left undeveloped. There may be subsurface archaeology. The site and many lands nearby including the docks and Merchant's Road began to be filled in during the early 19th century. The destruction of sections of the town wall started mainly in the 19th Century. May be archaeological materials and it is recommended that all sub surface works on the site are archaeologically monitored at all times. There is cartographic evidence for the gas works and associated buildings and the gasometer. The site also had an electric plant at a later date. There may be traces and features of this archaeological industrial complex that should be recorded and are worthy of preservation in themselves because they represent important milestones in the building industrial heritage of Galway City. Notable visual impact and light impact on adjacent protected structures in the vicinity. Report recommends that further information be sought regarding archaeological mitigation including a detail methodology to take account of potential human remains in the area and extending beyond the present 19th century walls. Assessment of the impact on protected structures in the vicinity. Hydrology report assessing the potential for underground streams which flow from Wellpark in the direction of the bay and long walk. The provision of truly accessible to all cultural space at ground floor level should be explored.

Heritage Officer notes the response to the further information request to be vague to inadequate. Seventh floor Block C arts cultural facility is miniscule and commitments are vague. Public art proposal is not known. Archaeological methodology insufficiently detailed.

3.2.2.7 Transport Department supports the principal of significant employment development at this location close to public transport networks. Proposal accords with the principles of the Galway Transport Strategy (2016-2035). A number of aspects of the development need to be improved in order to facilitate the high levels of commuting by sustainable modes. Report of how the street network in the locality will have to be adjusted in order to cater for the increase in pedestrians to be compiled. It is important that the site is linked as seamlessly as possible to Ceannt Station. Clarify whether the existing wall on the north-eastern boundary can accommodate a pedestrian link through it.

In light of GCCTMP which is considering preferred options for vehicular movement in the Inner Harbour Area the entrance layout for the development should provide an optional entrance for a scenario where two-way vehicular traffic on Dock Road that allows entry to the basement. Request liaison with city Council to ensure that building footprints do not constrain the ability to provide adequate street widths for future road network. Contra flow cycling should be accommodated from the junction of Bóthar na Long and Dock Road as far as the entrance to the basement and on Forthill Street to allow cyclists departing the site to access Eyre Square without travelling via the one way loop. Basement entrance needs to provide priority for pedestrians and cyclists. Special Development Contribution should be considered with regard to new transport networks and road improvements. A detailed further information request to address these issues was outlined.

3.2.2.8 Recreation and Amenity Department. Ambitions established with regard to the Quality of the Public Realm in terms of Amenity Space and their inter-relationship in a multi-plane environment is welcome. Proposals however are at concept stage and further detailed design processes are needed as well as aftercare package to ensure fruition and sustainability.

3.2.2.9 Transport Recreation Amenity Corporate Services report asserts that should permission be granted, a condition regarding pedestrian and cycle linkages between the development and Eyre Square and Ceannt Station to be detailed designed and agreed with Galway City Council. A Special Development Contribution to apply for the cost of providing such infrastructure or the cost of such provision to be covered by general car parking contribution. Lands to the east side of Block D to be dedicated to the provision of link road between Bóthar na Long to the south and site boundary to the north. Travel plan to be agreed. Lighting scheme to be agreed.

3.3. Prescribed Bodies

3.3.1 **Health and Safety Authority** notes that the application is covered by Regulation 24(2) of SI No 209 of 2015. On the basis of information provided the authority does not advise against permission in the context of Major Accident Hazards. Future development around COMAH establishments has the potential to impact on the expansion of those establishments.

3.3.2 **An Taisce Galway Association** submission outlines support for the appropriate and sustainable strategies and initiatives for future development in key regeneration areas of the Inner Harbour and Ceannt Station. Proposal is in direct material contravention of the Galway City Development Plan 2017-2023 specifically in regard to the required minimum residential content of 30%. The proposed development is premature pending the proposed Galway Harbour Extension. Configuration of the proposal should be amended to provide increased cultural activities and expansion of the southern waterfront facing public realm area. Central podium area is isolated and has an air of exclusivity. Height reduction in line with the surrounding inner harbour urban grain. Plot density ratio should be reduced in accordance with the City Development Plan objectives of 2:1 from the proposed 3.75:11. Due to the historical industrial use of the site and the high levels of hydrocarbon contamination in the soil, of which 39,000 tonnes is proposed to be excavated, and in light of the surrounding residential areas and protected environmental areas there is apprehension that due

diligence may not be implemented. Assurances regarding rigorous and methodical contaminated soil remediation required. Archaeological mitigation considered inadequate.

Following submission of further information Galway Association of An Taisce considers no substantive changes or amendment to reduce site intensification or address concerns raised. Proposal reflects developer led and market led interests rather than plan led as stipulated in the Galway City Development Plan 2017-2023. An Taisce supports balanced and organic development principles associated appropriate planning policies which are environmentally, economically and culturally sustainable and which benefit Galway City, its inhabitants and visitors alike and which are progressive and innovative and above all in the best interest of generations to come.

3.3.3 Department of Arts Heritage, Regional Rural and Gaeltacht Affairs.

Recommends archaeological monitoring condition to apply in the event of permission. In relation to architecture, overall the Department considers that this proposed development will not directly impact on protected structures in the area but it will have a strong visual impact given the scale of the proposal on the setting of a number of sites on the record of protected structures. This is particularly the case for Forthill cemetery and New Dock and on St Nicholas Street an ACA with 10 protected structures and a streetscape characterised by terraces of two storey nineteenth century houses that will be dwarfed by the scale and volume of the proposed development. It is considered that the architectural conservation report prepared for this proposal does not adequately address the visual impact that this development would have on these adjacent sites. Further information on how these concerns will be mitigated should be requested.

3.3.4 Office of Public Works notes flood risk maps for Galway city and the proposed flood risk management options related to the site involved in the planning application.

3.3.5 **Health Service Executive** submission notes that under Schedule 5 of the Planning and Development Regulations 2001 as amended an EIA is required for infrastructural projects for example a shopping centre with a gross floor space exceeding 10.000 square metres. Proposal is significant 34,765 sq. m GFA excluding basement. Site is brownfield and may have legacy issues. There is a large and substantial development of the dockland being proposed separately. On this basis a full EIS should be prepared.

3.4. **Third Party Observations**

3.4.1 A number of submissions in relation to the proposal from third parties including the appellants raised the following objections:

- Building too big.
- Cultural space allocation contravenes the spirit of the City Development Plan.
- Absence of masterplan, local area plan renders the proposal premature.
- Application is premature pending decision on Harbour extension proposal.
- Contravention of 30% residential component.
- Proposal falls significantly short of potential of this setting.
- Scale massing and height is inappropriate.
- Significant overbearing visual impact.
- Failure to relate to the historic rhythm of the area. Design is not fluent
- Lack of residential mix, absence of meaningful public or cultural benefits.
- Failure to engage with the city or harbour. Internationalist style central business district placed out of context in a historic and sensitive environment.
- Overshadowing visual intrusion and overlooking of Barr Taoide apartments in Queen Street. Proposal will turn Queen Street into a dark, shaded canyon open to wind tunnel effects.
- No justification for the enormous excess over normal density standards.
- Development fails to achieve the vision of the city development plan.
- Significant traffic generation.

- Inner Harbour lands present a once in a century opportunity to develop an exemplary 21st century vibrant, living and liveable sustainable city centre where people are can work and live happy and fulfilled lives.
- Development is not plan led and there was no public consultation on the Inner Harbour Framework plan.
- Market driven proposal with no regard for societal needs.
- Submission by Ford and Associates Solicitors on behalf of VP Motors Ltd. Queen Street owners of adjoining property. Area shown as a right of way encroaches into property owned by VP Motors and right of way is disputed. Cycleway and footpath encroaches on VP Motors property.

3.4.2 A number of submissions in support of the application raise common issues summarised as follows:

- Clear need for additional office space in Galway City. Recurring issue of lack of fit for purpose office space for incoming companies.
- Proposal will provide Grade I office accommodation to support FDI in the city.
- Proposal provides significant opportunity to drive employment in the region.
- Proposal will provide sustainable and long-term employment
- Proposal will enable Galway to achieve critical mass and density of population in order that light rail can be viable.
- Building is iconic in design. Carbon neutral footprint.
- Significant driver for foreign direct investment and employment driver for the region.
- Provision of over 500 jobs in construction and subsequent 2,600 permanent posts eagerly awaited.
- Proposal will enrich the heart of the city and enhance the continuing development and improvement of the city. Designation as European Capital of Culture 2020 this type of development will solidify commitment to continuous improvement and place the city on a higher plane nationally and internationally.
- Build investment and confidence in the heart of the city.

- Proposal will provide much needed stimulus for a significant amount of job creation in the IT high tech and financial services sectors. It will make Galway a real alternative to locating jobs in Dublin and the East Coast. Associated student accommodation will free up residential letting.
- Supports evolution of the Harbour Village which will emerge following relocation of the existing docks operation to the planned port extension.
- Córas Iompar Éireann broadly in favour of site development however concerns regarding initial proposal and proximity to CIE property boundary. Potential prohibition of development on the CIE property between the site and Forthill cemetery. Question the indicative phasing regarding CIEs lands as contained within the Galway Inner Harbour Area Framework Plan particularly regarding any linking of this to the relocation of the present Seveso III facility.³

³ I note subsequent submission of letter from CIE by the applicant at the oral hearing indicating support for the application and contention that issues raised regarding the initial proposal have been addressed to their satisfaction.

4.0 Planning History

- **300613-18 17/121** Concurrent appeal currently before the Board. By order dated 7/12/2017 Galway City Council decided to grant permission for the development at site approximately 0.3ha. generally bounded by Queen Street to the west, United Methodist Presbyterian Church (Protected Structure – RPS 8201) to the north, old stable buildings (protected structure Ref 8202) to the east and former Topaz oil facility to the south. The proposed development consists of a predominantly student accommodation scheme (c 10,747 sq.m GIA) provided in 2 blocks sitting over a common ground floor level (consisting of a total of 345 no bedrooms). Details submitted with the application and as outlined at the oral hearing indicate that it is envisaged that the site for the proposed student residential scheme will be acquired and developed by Summix. Evidence presented at the oral hearing made reference to an agreement with Summix Ltd, the terms of which ensure that the site be developed for residential purposes. Bonham Dock Ltd and Summix Ltd are incentivised to work in partnership.
- **PL61PA0033** SID application currently before the Board. Galway Harbour Extension. In September 2015 An Bord Pleanála requested the Galway Harbour Company to develop initial proposals with regard to compensatory measures with respect to the impact of the proposed development on the Galway Bay Special Area of Conservation in the context of the Habitats Directive. In August 2017 the applicant submitted initial proposals.
- **97/705** Permission to convert existing access at Dock Road, Galway for use as a vehicular access to their oil depot and to construct an access road together with boundary walls, drainage and ancillary works.
- **PL61.127041 01/388** Permission granted following first party appeal to erect pay and display vending unit and retention for a stand for the vending unit and retention of a sign on existing pole.
- **01/140** Permission to erect a pay and display parking vending unit and sign on an existing pole. Refused 10/5/2001
- **02/72** Permission granted for marina to include 26 no berths on floating pontoons, breakwater, security fencing and associated site services.

- **03/825** Refusal of permission confirmed on appeal for the erection of 180metres of decorative galvanised railings.
- **PL246108 15/002** Dock Road and Dock Street, Galway. Permission granted for retention of security gates and safety railings associated with the commercial dock. (RPS 8501) Development includes design modifications to the safety railings. 5-year permission.
- **16/29** Permission granted on 25/11/2016 for 2 no security roller gates, 1m in height with a 6 metre wide opening located at the eastern and western ends of Mulvoy Quay. Gates to be located between Dock Road and the commercial dock. Protected structure. 5-year permission.

5.0 Policy Context

5.1 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.
- Section 8.7. Urban Design. Principles of Good Urban Design. Building Height:

“In the context of the city which is predominantly low rise with its sensitive historic core and unique natural amenity setting, there is little capacity for dramatic increases in height, However, it is recognised that modest increases at appropriate locations, can help use land efficiently and provide for sustainable high densities.

Any development proposals for buildings above the prevailing benchmark height will be required to be accompanied by a design statement outlining the rationale for the proposal and an assessment of its impact on the immediate and surrounding environment including buildings, open space, public realm and any views.”

- 11.2.7 City Centre CC Land Use Zoning Objectives. Specific Objective for CC lands at Inner Harbour *“The Council will consider the development of these lands for mixed use commercial development including for commercial offices, recreation, retail and residential (equivalent to 30% of the total likely proposed floor area) in accordance with the requirements set out under Section 10.2.2.*
- 10.2.2 Inner Harbour Area

The Council will consider the redevelopment of these lands where it can be demonstrated that a number of requirements can be satisfied. *“In advance of specific proposals for development, a masterplan will be prepared for the overall site which will address the critical issues that will contribute to making this area a successful place. The plan will address critical issues including sustainability, protection of adjoining European Sites, access, urban design context, maximum building heights, massing appropriate use mixes. High quality public realm, industrial heritage, climate adaptation measures and likely phasing of construction. The preparation of this plan shall be the responsibility of the applicant in consultation with the local authority, adjoining landowners and stakeholders. This will build on the acknowledged co-operation existing between the harbour landowners and Ceannt Station landowners., which includes for a common objective to have a co-ordinated and integrated approach embedded into future proposals.”*

The use mix should provide for a minimum residential content on the site equivalent to 30% of the proposed gross floor area in order to achieve a significant level of residential presence and a critical mass to create a new community. As with Ceannt Station lands, in certain limited cases, where a residential content would not

represent the optimum use for a specific site within the overall plan area or where a specific development proposed might not in terms of urban design have a more beneficial use mix, the equivalent 30% requirement may be provided for at a more appropriate location within the overall site or as part of a different development.”

- Section 11.2.7 Flood Risk Management

(Relevant Extracts from the development plan above appended to report)

5.2 Natural Heritage Designations

The following Natura 2000 sites are within a 15km radius of the site.

Galway Bay Complex cSAC (Site Code 000268) 220m east.

Lough Corrib cSAC (Site Code 000297) 410m west.

Lough Fingal Complex cSAC (Site Code 000606) 13.5km south east.

Ross Lake and Woods cSAC (Site Code 001312) 14.4km north west.

East Burren Complex cSAC (Site Code 001926) 13.2km south

Connemara Bog Complex SAC (Site Code 002034) 13.2km northwest.

Inner Galway Bay SPA (Site Code 004031) 220m east.

Lough Corrib SPA (Site 004042) 3.7km north

Creganna Marsh SPA (Site Code 04142) 7.7km southeast.

6.0 The Appeals

6.1. Grounds of Appeal

- 6.1.1 There are six third party appeals. The appeals raise both common and particular issues. I have summarised individual appeal submissions as follows:

6.1.1.1 The first third party appeal is submitted by John Mooney & Company Ltd, Consulting Engineers on behalf of **VP Motors Ltd.** a car hire and sales company operating from Queen Street, Galway. Grounds of appeal are summarised as follows:

- No objection in principle to the proposed development. Concerns relate to the applicant's indication of a right of way over property of VP Motors Ltd. It is contended that there is no such right of way.
- Reference to alterations to the approach to the development on Queen Street which includes the provision of new footpaths and cycle-ways which is proposed to be installed across the property of VP Motors where no permission for same was provided.
- Reference is made within the planner's report to the area being under dispute with Galway City Council however no supporting documents are provided.
- Acknowledge that ownership details, rights of way and other legal issues may not be of relevance when adjudicating on planning applications however the claim of ownership over a portion of ground over which a piece of infrastructures (cycle lane and footpath) which serves the proposed development is to be constructed should be substantiated. No permission exists in relation to this section of ground and an alternative approach should have been proposed.

6.1.1.2 The second third party appeal is submitted by James O' Donnell, Planning Consultant on behalf of Mr and **Mrs Des and Therese Norton**, 25 Barr Taoide, Forthill Street Galway. Grounds of appeal are summarised as follows:

- Appellant's home is on the 5th floor (penthouse level) within the Barr Taoide complex along Dock Road immediately to the north-west of the proposed development.
- Scale and height of the development in its current form, in particular Blocks B and A is excessive and would result in an intolerable degree of overbearance, overshadowing and overlooking which would adversely affect the residential amenity of the appellants apartment and other apartments within Barr Taoide Complex.

- Inappropriate height and visually discordant intervention and would fail to contribute towards a sustainable residential content in the area.
- Scale and height of 7-8 storeys juxtaposed against the two storey ACA of St Nicholas Street and moderate rise Barr Taoide development. The level of the appellants roof terrace, which is the main private amenity space for the apartment, would be situated at circa 19.8m.
- Stark visual contrast is demonstrated in View 4 of photomontage documents submitted in response to the request for additional information.
- The visual impact of the development as viewed from the public realm will be particularly imposing and would adversely affect the visual integrity of the streetscape as well as the ACA of St Nicholas Street.
- Development Plan provides for moderate increases in height at appropriate locations however the proposal would result in a dramatic increase in height and an unacceptable visual intervention at this location.
- Precedent cases where the Board refused on grounds of excessive height and adverse impact on the character of the area PL61.228810 and PL61.227093.
- Plot ratio of the application amounts to 3.71:1 which greatly exceeds the accepted norm in Galway City 2:1.
- Barr Taoide Complex and St Nicholas Street alongside forms and identifiable city centre residential area. The scale and height of the proposed development in direct vicinity to these residences together with the absence of any proposed residential content is inappropriate. The proposed development would contravene the provisions and policies of the Development Plan.
- Appellants have gone to the expense of commissioning a professional shadow study to examine and demonstrate the likely overshadowing loss of light which would occur at 25 Barr Taoide, provided as Appendix 3. Report concludes that the proposed development will have a significant impact on the levels of daylight amenity which will be available. Results obtained indicate that the average drop in skylight levels registering on the main windows will be 32% and that the average drop in annual sunlight levels registering on the window will be 30% the equivalent drop in winter sunlight levels is predicted to be 53%. The report finds the proposed development fails to accord with the provisions of BRE Guides Site Layout Planning For Daylight and Sunlight : A Guide to Good Practice 2nd edition. Report concludes that the main

livingroom of 25 Barr Taoide is likely to appear gloomier, with electric lighting being required more often, and the outdoor terrace area will tend to look more heavily overshadowed. It can be extrapolated that the impact on apartments at lower level will be even more adversely affected.

- Significant overlooking of private living areas and space within c 19m.
- Lack of residential content will result in a dead quarter to the city centre after office hours and on weekends. Application of exceptional provision is not justified.

6.1.1.3 The third of the third-party appeals is submitted by **Mr Derrick Hambleton**. 25 Manor Avenue, Kingston. Galway. Grounds of appeal are summarised as follows:

- Galway City Council Executive have failed to address the proper planning and sustainable elements of this most neglected area of Galway City in failing to commission their own Local Area Plan.
- Application is premature in the absence of a decision by An Bord Pleanála on the Harbour Company's 2014 application for a new Harbour extension.
- Significant quantities of contaminated soil on the site need to be removed for proper remediation to a fully licensed location.
- Incongruous for 2,600 people to be found working in offices so close to a Seveso facility.
- No consultation in respect of masterplan / framework plan.
- Absence of 30% residential content the proposal provides a business development district as opposed to a mixed-use community district.
- The development of Bonham Quay as envisaged represents a Material Contravention of the Galway City Development Plan 2017-2023 specifically in regard to the required minimum residential content of 30% as officially designated for the key regeneration area of the Inner Harbour.
- Student accommodation proposal on adjacent site is not conducive to achieving the requisite urban sustainability nor does it envision a successful cohesiveness and consolidation with the surrounding residential neighbourhoods.
- Precedent for further such development.
- Request that the Board refuse permission.

- In the event of a permission request that a condition apply requiring the provision of the 30% residential component and reducing the building height to 6 storeys.

6.1.1.4 The appeal submission by **Mr Brendan Mulligan** included a request for an oral hearing. The request and all submissions on file were considered at a Board meeting held on the 12th March 2018 at which the Board considered that on the basis that the site was of significant local interest and importance to Galway City the oral hearing should be held. Subsequently the oral hearing took place at the Clayton Hotel, Galway on the 15th 16th and 17th May 2018. A summary report of the oral hearing forms appendix 1 to this report. The grounds of appeal as outlined in the appeal of Mr Mulligan are summarised as follows:

- Application is the first in relation to a significant brownfield regeneration lands in Galway City Centres and represents a once in a lifetime opportunity to develop an exemplary 21st Century vibrant living and liveable sustainable city centre where people can live and work.
- The 10 Key principles of the Planning Policy Statement 2015 have been ignored.⁴
- Proposal is in direct contravention of the Galway City Development Plan 2017-2023.
- No statutory Local Area Plan prepared by Galway City Council for significant area of lands in Galway City Centre including the inner harbour land.
- Public rights under Aarhus Convention denied in respect of participation in framework plan for Ceannt Station and Inner Harbour lands.
- Proposal is developer led rather than planning led.
- Represents “business as usual” as represented in the draft national planning framework 2040.⁵
- Development will not contribute to achieving the objectives of the national planning framework and will not address Galway’s Housing Need.
- Development is not socially, environmentally or economically sustainable.

⁴ ⁴ Planning Policy Statement 2015 Department of Environment, Community and Local Government. http://www.housing.gov.ie/sites/default/files/migrated-files/en/Publications/DevelopmentandHousing/Planning/FileDownload,39991_en.pdf

⁵ ⁵ In reference to Project Ireland 2040 National Planning Framework <http://npf.ie/project-ireland-2040-national-planning-framework/>

6.1.1.5 The Appeal of **Mr Tom Conroy** is summarised as follows:

- Welcome the principle of development of the site and potential revitalisation of the docks area. The positioning of the site is uniquely important as it acts as a gateway to the inner city. The development will set the tone for further development at Ceannt Station and Galway Docks. The scale, massing and height is inappropriate.
- Massing and rhythm of the proposed buildings have no relationship to either the local original historical protected structures (like St Nicholas Street Architectural Conservation Area) or even to more recent development around the docks, let alone the embankment walls of Forthill cemetery.
- 36m height is excessive and will dominate the docks environment and completely dominate and overlook the ancient Forthill Cemetery.
- Excessive plot ratio sets an inappropriate precedent for the further development of the dock area and Ceannt Station.
- Commercial imperatives have led to the proposed overdevelopment.
- Locations of Visual impact studies are selective and give an illusion of diminished visual impact. Scale in context of St Nicholas Street shown on Sheet 40.
- Materials and details of the plans bear little relation to the context.
- Absence of 30% residential mix represents a missed opportunity.
- Absence of meaningful public or cultural benefits. Token provision.
- Quality of the public realm is in question. There will be extensive overshadowing of the paths and the podium square.
- Lack of architectural engagement to the city or harbour. Proposal is an internationalist style central business district building placed out of context in a historic and sensitive environment.
- Overshadowing of Barr Taoide apartments. Queen Street will be turned into a dark shaded canyon open to wind tunnel effects.
- Building as planned will be cast adrift from the locale. It has little relationship to the historic rhythm of the area and its design is not fluent. It is driven by maximising commercial returns.

- Request the Board to reject the application on this sensitive site that has so much potential. This is a once in a generation opportunity to establish an area of architectural excellence and elegance in Galway Inner City.

6.1.1.6 The grounds of appeal by **An Taisce, Galway Association** is accompanied by a number of enclosures to elucidate the arguments raised. Salient issues are summarised as follows:

- Proposal is in Material Contravention of the Development Plan.
- No requisite 30% residential use.
- Sustained negative impact on nearby protected structures and St Nicholas ACA.
- Contravention of Strategic Vision for Galway.
- Insufficient and Inadequate public realm areas.
- Lack of engagement with waterfront.
- Unsustainable urban development for key regeneration area lacking in overall masterplan and buy in by landowners and stakeholders.
- No sustainable concept of creating a new neighbourhood.
- Restricted public accessibility and permeability.
- Overshadowing and overlooking of Bar Taoide apartments and St Nicholas Street ACA.
- Premature pending decision by An Bord Pleanála on Galway Harbour Extension, and Galway Transport Strategy.
- Contaminated soil remediation and construction demolition of the site.
- Developer led rather than plan led.
- An Taisce remains fully supportive of appropriate and sustainable strategies and initiative for future development/s in key regeneration area of the Inner Harbour, Galway City.
- No demonstration of a “more beneficial use mix”.

6.2. Applicant Response

6.2.1 The responses by Stephen Little and Associates on behalf of the first party are summarised as follows:

- The strategic importance of the application site and this development for Galway City is stressed.
- Decision of the Planning Authority is robust.
- As regards issues raised regarding title of land in the VP Motors appeal the applicant contests such claims. In any event this is a civil matter and not one for the planning system to address.
- The proposed development in combination with the adjoining student residential accommodation scheme ABP300613-18 is fully in accordance with the National Objectives and of the National Planning Framework 2040.
- Proposed development subject to amendment accords fully with the ten principles contained in the planning policy statement 2015.
- Development is plan led located adjoining city centre and transport hub of Ceannt Station makes this the logical sequential expansion of the city.
- Development will enhance the sense of space at this location providing significant areas of public realm and sustaining viability and vitality of Galway City Centre.
- Design is to a high standard.
- Proposal enhances and encourages sustainable modes of transport and efficient use of brownfield site.
- Proposal involves 43% site coverage with remaining 57% open space landscaped public realm.
- The heritage in the immediate environs of the site is protected.
- There is no requirement for a local area plan. The Framework plan submitted with the application is consistent with the master planning requirements of the development plan.
- Framework plan represents the potential framework for development of the Inner Harbour area and the potential integration with the surrounding area. The principles of the Development Plan have guided the structure of the framework plan.

- Phasing and diagrammatic development of the lands identified under the framework plan are notional and demonstrate the potential for these lands based on current understandings of the built environment.
- Steps taken to ensure that residential use is delivered concurrently with the proposed development.
- Proposed student housing will address the identified need in Rebuilding Ireland Action Plan for Housing and Homelessness. Section 10.2.2 of the Development Plan provides that the requisite 30% can be provided at a more appropriate location.
- Proposed ground floor uses restaurant and café and retail generate footfall and attract people to the Inner Harbour area.
- The proposed development does not compromise future transport enhancements.
- Concerns regarding traffic and transport impact are anecdotal. NRB Consulting Engineers Transport assessment and preliminary mobility management plan concluded that no adverse impact on traffic or transportation capacity. Site is ideally located in the heart of the city centre the preferred location for developments of this nature.
- Design and finish influenced by local materials.
- Public realm areas provide high quality appropriately sized areas which contribute to the attributes of the inner harbour and waterfront.
- Height has been arrived at based on a building height strategy contained in the Inner Harbour Framework Plan. Building height strategy identifies the general height increase established by existing and approved buildings in the city and sets out a development baseline for the lands. As a result of the site's proximity to Galway City Centre, the height of the proposed development represents a sequential transition from the existing urban form to a new dockland waterfront area.
- BDP response to sunlight daylight and shadow analysis notes that the daylight assessment completed as part of the third-party appeal differs is that it focuses on the percentage change in the sunlight availability on the living room windows and outdoor terrace of one of the apartments. The analysis does not highlight the current vacancy of this brownfield site and therefore exaggerates the impact. The adjacent apartments have received an artificially high level of sunlight particularly for a residential development in a city centres urban area.

- Review of the daylight assessment completed as part of the third-party appeal demonstrates that 5 of the 6 windows tested meet and in most cases significantly exceed the BRE targets for annual probable sunlight hours both annually and in winter. It is BDPs opinion that one window not meeting the BRE target is considered acceptable in the context of the urban environment.
- With respect to the Vertical Sky Component the windows B-F range in value from 81% -94% of the recommended BRE targets - consistent with the impact being described as moderate.
- With respect to daylight; the vertical sky component is just one component of an average daylight factor result. Daylight factor is the ratio of daylight levels inside a structure to the light levels outside the structure. Complete daylight analysis (Section 7) found that the average daylight factor result of over 6% DF was still achieved for the main living room in Unit 25 following development. This is significantly higher than the recommended target of 2%DF.
- In relation to overshadowing the BRE report recommends that at least half of the area of relevant spaces should receive at least two hours of sunlight on 21st March (Equinox). Study finds that 50% of the terrace area still receives two hours of sun exposure on 21st March as recommended by BRE. Third party appeal suggests that the level falls 2% short at 48%. The shadow plans detailed in the report and backed up by shadow plans in the third-party appeal further demonstrate that the proposed development will only overshadow the apartment between 7am (sunrise) to 10am on 21st March.
- As regards daylight availability BS 8206-2:2008 Lighting for Buildings: Code of practice for daylighting recommends that the average daylight factor should be at least 2%. The British Standard goes on to recommend a minimum average daylight factor of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. An average daylight factor of over 6% achieved for the living room would be considered well-lit following development of the scheme. Daylight factor of over 2% is achieved even in the back of the room.
- It is concluded that the impact on Barr Taoide is moderate because any development on this site will bring about a change in the shadow environment of the area due to the easterly orientation and this change is consistent with a pattern of change that would be reasonable in a city centre urban environment. The definition of “moderate

impact” is an impact that alters the character of the environment in a manner that is consistent with emerging trends.

6.3. Planning Authority Response

6.3.1. The response of the planning authority to the appeals is summarised as follows:

- The majority of the issues raised have been given due consideration during the planning process with some of the issues highlighted forming the basis of an extensive further information request.
- The Planning Authority has no statutory obligation to carry out a Local Area Plan for the Inner Harbour Area nor is it considered to be a necessary requirement.
- The framework plan included with the application is acceptable with regard to master planning for the area.
- Development accords with the draft National Planning Framework 2017-2040 where targeted growth on brownfield sites within the built envelope of existing urban areas is promoted to encourage people jobs and activities. Proposal will act as a catalyst for more expansive development on adjacent brownfield sites.
- Development Plan provides that the 30% residential requirement can, in limited cases, be provided at a more appropriate location within the overall site or as part of a different development.
- Claims that the proposal contravenes the core strategy are roundly rejected.
- Appellants appear to misinterpret the Development Plan.
- The framework plan, architectural design statement and public realm strategy submitted as part of the application provide a detailed urban design response addressing the requirements of the development plan.
- Proposal provides for an architecturally designed landmark development for Galway City.
- In relation to contention of overshadowing conflict between the applicant and appellant’s expert reports is- acknowledged. Note that the site is a brownfield site and previously incorporated historic industrial structures. Given the zoning of the site

it is reasonable to assume that any development will have an impact on light levels / overshadowing.

- In relation to appeal of VP Motors Ltd. reference is made to the transport and infrastructure section report which states that “*The area of land claimed to be in the ownership of VP Motors is part of the public road. It is open to the public, has been used for pedestrians and for parking. Galway City Council has for many years treated this section of property as part of the public road and have issued parking enforcement tickets to vehicles parked in this area. In addition, Galway City Council as roads authority have maintained this portion of roadway. No claim can be made to the title of land that forms part of the public road given that the land was subject to public rights of way*”. In any case reference to Section 34(13) of the Planning and development Act 2000 as amended.
- Environmental obligations in respect of contaminated soils on site will be appropriately addressed.
- Proposal does not rely on the outcome of the proposed SID application for Galway Harbour extension.
- It is considered that the proposed development with the modifications and conditions as set out is in compliance with GCDP policy represents a scheme that responds to demand for Grade A Office Space in the city and represents a development that will further enable Galway City to compete internationally as a regional city and driver of growth thereby supporting balanced regional development.

6.4. Observations

6.4.1 A number of observers to the appeal gave evidence to the Oral Hearing. (Refer to pages 17-18 of Summary report of oral hearing). Submissions were both in favour and opposed to the development. Issues raised by those opposing the development are summarised as follows:

- Inappropriate proposal for this key strategic area.
- Democratic deficit. Concern that a “masterplan” is a planning application made by the developer.
- Failure to include residential housing to ensure Galway’s future viability and sustainability.

- Development could become an abandoned urban desert.
- Today's most viable cities are focusing on improving urban living for people with significant benefits of Living in Galway's City Centre.
- Concern regarding the design of the ground floors of the development that meet the street and public areas including the public square / central plaza.

6.4.2 Observers in favour of the development noted that:

- Proposal will make a significant contribution to the economy of the city
- Widespread support for the proposal in a context of significant constraint in terms of office space.
- Footprint of the city is limited and increase in height is justified.
- Opportunity for working and living in the city centre and will bring vibrancy and life into the city.
- Permission was subject to full rigours of the planning assessment.
- Height and density is welcome.
- Competitive edge and strategic site in its ability to attract investment to the city.
- Associated student residential proposal (ABP300613-18) to be welcomed given demand for such accommodation.
- Significant enterprise opportunities and market requirement for Grade A office accommodation to ensure that FDI opportunities will not be lost and to prevent loss of indigenous start-ups will to other locations. Proposed development will kickstart the regeneration of Galway's urban centre as envisaged under the National Planning Framework. It is entirely consistent with Galway Chamber's Vision 2040 which forecasts economic growth on the back of rapid expansion of city based workforce.
- The development will deliver economic and social dividends to the City and Western Region.
- The scheme regenerates and breathes new life in creating new business district.

6.5. Further Responses

6.5.1 Further submission from An Taisce in relation to comments by Galway City Council

- Not only does the Galway Inner Harbour Key Regeneration lands require a master plan as per development plan. Any regeneration plan for the adjoining Ceannt Station Key Regeneration Area will have to be of a “*parallel consideration in any redevelopment of the Inner Harbour in order to maximise the benefits to the city in both land use amenity and urban design terms*”
- Galway City Council have not explained to the Board why this specific development was given planning permission prior to an overall masterplan (in contravention of GCDP 2017-2023).
- Submissions made to the Planning Authority indicate that adjoining landowners and stakeholders were not engaged nor was there a common objective to have a co-ordinated and integrated approach.
- The proposed development, the method and reasons of consideration by Galway City Council Planning Authorities specifically with regard to master planning and the provision of housing for this key regeneration area are in direct contravention of the GCDP 2017-2023 and the Draft NPF0 2017-2040 and represents “*business as usual*”
- 100% student plus tourist accommodation schemes on their own do not constitute an optimal housing or homes to encourage sustainable city centre neighbourhoods or communities.
- Development is in direct contravention of policies strategies and objectives as per Chapter 2 – Housing and Neighbourhood Concept. Chapter 8 Built Heritage and Chapter 10 City Centre, and Chapter 11.
- Concern that planning authority would not seek independent assessment of daylight sunlight and shadow effects.

6.6 Oral Hearing

- 6.6.1 I refer the Board to the summary of the oral hearing set out in Appendix A. The summary provides an outline of the proceedings whilst points of clarification and elaboration presented at the oral hearing are set out in the relevant section of the report herein.

7.0 Assessment

7.1 On the issue of Environmental Impact Assessment screening I note that the relevant class for consideration is class 10(iv) “*Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere*”. Having regard to the size of the development site (.92ha) and scale of the development it is sub threshold and does not the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development, the brownfield nature of the receiving environment, and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The main issues that arise for assessment by the Board in relation to this appeal can be considered under the following broad headings:

- Principle of Development in the context of Development Plan and specific requirements at 10.2.2. in relation to the redevelopment of the Inner Harbour Area. Question of material contravention of the development plan.
- Design, plot ratio, height and impact on visual amenity and cultural heritage
- Impact on established residential amenity. Overshadowing and Overlooking.
- Traffic and transport
- Other Matters
- Appropriate Assessment

7.2 Principle of Development

7.2.1 The proposed development is acceptable in principle in the CC- City Centre zoned area which encourage a wide mix of uses that support the city centre as the dominant commercial area of the city. The provision of a mixed office use will clearly improve the overall vibrancy and vitality of the city centre. I note that the proposed development is submitted concurrently with the adjoining proposal ABP 300613-18,

that application is intended to provide for the requisite 30% residential component⁶ in the context of the proposed mixed-use office scheme. I have noted the submissions of the third parties which question the appropriateness of the provision of largely office space as opposed to a greater use mix particularly with provision for permanent residential homes at this location. The third-party appellants further assert that the caveats contained within Section 10.2.2. of the Development Plan do not apply and that the development does not meet the test of representing an “optimum use” for the specific site or a more “beneficial use mix” as opposed to the provision of a permanent residential component. The arguments are presented regarding the shortcomings of such accommodation (occupied by students during term time and tourist / students during holiday period) in terms of the creation of community given the transient nature of occupants. I further note that the support for such schemes has been questioned in light of evidence of overpricing and exclusivity. Such arguments, however evidence based, are beyond the remit of the current appeal which has to focus on the acceptability of the proposal in terms of the proper planning and sustainable development of the area. I note that there is merit in the argument, as expounded by both the applicant and the planning authority, that the provision of purpose built student accommodation will free up the private rented residential stock for the normal housing market. Notably the need for the provision of purpose built student accommodation is identified within the National Planning Framework⁷ which notes that demand for student accommodation exacerbates the demand pressures on the available supply of rental accommodation in urban areas in particular.

7.2.2 As regards the office use, evidence presented at the oral hearing by Ms. Marian Finnegan, Cushman Wakefield referenced key features of the Galway office market displaying exceptionally low supply with demand focused on large, Grade A modern floorplates. Further evidence provided at the oral hearing indicated that this acute shortage has been a significant constraint in terms of attracting foreign direct

⁶ Galway City Development Plan 2017-2023, At 10.2.2 Inner Harbour Area requires that “the use mix of any redevelopment proposal should provide for a minimum residential content on the site equivalent to 30% of the proposed gross floor area in order to achieve a significant level of residential presence and a critical mass to create a new community.

⁷ Project Ireland 2040 NPF <http://npf.ie/project-ireland-2040-national-planning-framework/>

investment and enabling the advancement of indigenous enterprise. The proposal development will clearly meet an identified need within the region. Within the development plan reference is made to the considerable capacity on CC zoned lands at Ceannt Station and the Inner Harbour to cater for new general office development noting proximity to transport hub. Policy 5.1 Enterprise provides seeks to *“Encourage and facilitate the regeneration of city centre sites in particular Ceannt Station Quarter and the Inner Harbour for a range of uses including high order commercial office space capable of accommodating a business and technology cluster.”* The proposed development seeks to provide high quality office accommodation and flexible floorplates in an Office campus or HQ type setting. Some 31,655 sq.m of office floorspace is proposed and it is expected that the proposed development will cater for approximately 2,700 employees once operational. High quality employee facilities are also provided for including a wellness centre, commuter centre, external green terraces and roof gardens. Mixed uses at ground floor level and cultural space including cultural / meeting facility in block C, and a multi-purpose space. The first party asserts that the proposal provides critical mass of development into a designated gateway city site. I consider that in terms of the principle of development, there is significant policy support for this type of development.

7.2.3 As regards the requirements for the development of the Inner Harbour Area as set out at 10.2.2, of the Galway City Development Plan 2017-2023, I note the requirement for a masterplan for the overall site *“which will address the critical issues that will contribute to making this a successful place”*. *The plan will address critical issues including sustainability, protection of adjoining European Sites, access to urban design context, maximum building heights, massing, appropriate use mixes, high quality public realm, industrial heritage, climate adaption measures and likely phasing of construction.”*

The development plan requires that:

“The preparation of this plan shall be the responsibility of the applicant in consultation with the local authority, adjoining landowners and stakeholders, This will

build on the acknowledged co-operation existing between the harbour landowners and Ceannt Station landowners, which includes for a common objective to have a co-ordinated and integrated approach embedded into future proposals.”

The third-party appellants are critical of the submitted *Inner Harbour Framework Plan*⁸ claiming that it is not a masterplan and point to a democratic deficit in terms of the absence of a local area plan for the inner harbour lands and lack of public participation in the evolution of the framework plan. The third parties further refer to the lack of buy in by key stakeholders. The unique (“*once in a lifetime*”) opportunity presented, given the character and context of the appeal site is stressed by the third parties and in this context it is contended that a common goal should be arrived at through a democratic local area plan process.

7.2.4 Whilst I acknowledge the merits of these arguments, and acknowledge that best practice urban regeneration projects incorporate social inclusion and public participation in the earliest design stage, I concur with the Planning Authority that the development plan as configured does not envisage nor require the process of a local area plan. Rather it is clear from the development plan wording, (10.2.2. Inner Harbour Area) that the requirement is:

“In advance of specific proposals for development, a masterplan will be prepared for the overall site which will address the critical issues that will contribute to making this area a successful place.

This plan will address the critical issues including sustainability, protection of adjoining European Sites, access, urban design context, maximum building heights, massing appropriate use mixes, high quality public realm, industrial heritage. Climate adaption measures and likely phasing of construction. The preparation of this plan shall be the responsibility of the applicant in consultation with the local authority, adjoining landowners and stakeholders. This will build on the acknowledged co-

⁸ The Galway Inner Harbour Area Framework Plan BDP was prepared as a precursor to planning applications 300275-17 and 300613-18 to demonstrate how the City Development Plan objectives will be applied to the urban design of the inner harbour area. The plan seeks to satisfy the stated development plan requirements for a master planning within the inner harbour regeneration area.

operation existing between the harbour landowners and Ceannt Station landowners, which includes for a common objective to have a co-ordinated and integrated approach embedded into future proposals.”

7.2.5 I note that there was much consideration of the issue of stakeholder engagement and public participation at the oral hearing both in terms of submissions and cross questioning. Mr Mulligan sought that it be noted to the Board that the First party and Planning Authority did not address the issue and he further questioned the quality of engagement with adjoining landowners. I have noted a sense of disenfranchisement evident in the third-party submissions based on the lack of a public participation strand in the evolution of the Inner Harbour Framework Plan and in the absence of a statutory Local Area Plan for the Inner Harbour Area. This is clearly regrettable in terms of demonstrating a discordant relationship between planning and citizenship and local democracy. However, the perception of disempowerment of local citizens is a much wider debate beyond the realms of the appeal case in hand. In the present context, I consider that the master planning requirements as set out in the development plan have been met in terms of the submitted framework plan.

7.2.6 As regards locational aspect, the location is ideal in terms of its proximity to major transport nodes, Ceannt Station and the City Centre. The proposed scheme will clearly create critical mass and result in a significant boost for services and amenities within Galway City Centre and will act as a catalyst for further development within the Inner Harbour Area. I conclude that the proposed development clearly addresses an identified need for grade A office space at a key location in Galway city and is therefore considered acceptable in principle at this location.

7.2.7 On the basis of the foregoing I consider that the first party is correct in the assertion that there is no fundamental conflict in principle with the objectives of the

development plan. Thus, it is appropriate to advance the assessment to the detail of the proposed development.

7.2.8 On the contention that the proposal represents a material contravention of the development plan based on the lack of a 30% residential component within the scheme. I note that the Development Plan provides for the following:

“where a residential content would not represent the optimum use for a specific site within the overall plan area or where a specific site within the overall plan area or where a specific development proposal might not in terms of urban design have a more beneficial use mix. The equivalent 30% requirement may be provided at a more appropriate location within the overall site or as part of a different development. Any alternative measures to achieve the minimum residential content will be required to be part of the framework strategy for the overall development of the area.”

The first party notes that the adjacent student accommodation development is intended to meet the residential component and in light of the provision outlined I consider that the issue of material contravention does not arise.

7.3 Design, plot ratio, height. Impact on Visual Amenity and Cultural Heritage.

7.3.1 The plot ratio associated with the proposed development is 3.75:1 which is significantly more than the permitted maximum as set out in the development plan of 2:1. Site coverage is 47%. The Development Plan at Section 11.4.2 provides for exceptions where increased plot ratio will be permitted. *“In the CC zone consideration will be given to development proposals more than the normally *permissible plot ratio where such proposals would contribute to urban regeneration or make a significant contribution to urban character, this excess will be interpreted as a proportional increase only.”* I note that plot ratio is a somewhat crude instrument in terms of measuring density and the avoidance of the adverse effects of overdevelopment. The specific nature and qualitative elements of the proposal need to be considered in terms of the assessment of the appropriateness of the

development as proposed to its context. Such wider considerations furthermore inform the issue of whether this proposal contributes to urban regeneration or makes a significant contribution to urban character. In this regard it is appropriate to rely on the qualitative factors defining built form including height, open amenity space provision, and standards of public realm.

7.3.2 In relation to building height, this is addressed at 8.7 Urban Design within the Galway City Development Plan 2017-2023, where it is noted that the scale of development in terms of height and massing can have a considerable impact on other buildings and spaces as well as views and skylines. Additional building height over and above prevailing height can usefully mark points of major activity such as business districts, civic functions and transport interchanges. They can also have a considerable impact in the context of historic buildings, conservation areas, areas of natural heritage importance and can detract from the city's skyline and impinge on strategic views. In the context of the city which is predominantly low rise with its sensitive historic core and unique natural amenity setting, there is little capacity for dramatic increases in height, however it is recognised that modest increases at appropriate locations, can help use land efficiently and provide for sustainable high densities. The development plan sets out four key principles to be considered when assessing capacity for height as follows:

- Protection of existing built and natural heritage and residential amenity.
- Creation of landmarks that enhance the city's legibility without eroding its innate character
- Retention of existing benchmark heights to retain strategic views and to protect and enhance the general character of sensitive locations.
- Promotion of higher density at centres / nodes of activity on large scale infill sites and along public transport corridors.

The plan notes that *“areas where major change is anticipated to occur such as at Ardaun, Murrough, Ceannt Station and the Inner Harbour may present opportunities for increased heights. As these are major development areas, there is potential for these areas to establish their own distinctive character. Such height increase will*

only be considered in the context of an LAP in the cast of Ardaun and Murrough and in a master plan in the context of Ceannt Station and the Inner Harbour. Any development proposals for buildings above the prevailing benchmark height will be required to be accompanied by a design statement outlining the rationale for the proposal and an assessment of its impact on the immediate and surrounding environment including buildings, open space, public realm and any views.”

7.3.3 I consider that having regard to the characteristics of the site, in particular the topography of the area, detachment from established residential properties and landmark location within the inner harbour the opportunity to provide for taller building volumes exists. I have reviewed the Framework Plan in detail and the design statement and I consider that the approach in terms of the building height strategy has been justified.

7.3.4 A number of the third-party appellants and observers are critical of the design labelling it to be *inter alia* internationalist in style and a structure cast adrift from the locale. I note the innovative character of the design, exemplary environmental performance and considerable attention to detailing and provision for high quality landscaped space and public realm. As regards façade treatment the development provides for a simple defined elevational treatment primarily glass and metal and stone which seeks to unify the overall proposal while each elevation is also provided with subtle variations to respond to context and climate. I note the detail of the evolution of the design as set out in the submitted design statement and he sought to demonstrate that the design is not generic, is legible and landmark. Whilst clearly the proposal is corporate in nature and constrained in terms of the achievement of floorspace and relevant standards, I consider that the proposed design has been justified. I note modifications at further information stage to address issues arising with regard to permeability the quality of public realm interaction with the waterfront.

7.3.5 The Visual Impact Assessment compiled by Arc Consultants Ltd. addresses the potential impact. The assessment rates the potential impact from 14 viewpoints and these ratings vary from “moderate impact” to “slight” to “none”. Three additional viewpoints were assessed within the Addendum report on the likely visual impact. These include panoramic view from the Dock Road west of the Harbour Hotel, view from Lough Atalia Road to the east of Forthill cemetery, view from harbour enterprise park and view from Dock Street. The impact arising is predicted to be “moderate” notably in a context where significant redevelopment is envisaged for Ceannt Station and the wider harbour area.

7.3.6 I consider that the proposal will have a significant impact on the setting and that of the adjacent protected structures including Forthill Cemetery, Quay wall, Old Stables Building, The Stores and The United Methodist Presbyterian Church. However, I consider that these adjacent structures can maintain their own significance and their new context will contribute to a high quality urban realm. It is noted that from an urban perspective the site is currently blighted and surroundings do not represent a conducive or welcoming realm. The proposed development provides for a significant landmark structure which in my view is positive and in tune with development plan goals for the area namely the encouragement of a strong identity through innovative good contemporary architecture good street network and high quality public realm. In my view the development provides a new innovative contextual arrangement and identity for the Inner Harbour area and represents high quality design approach.

7.3.7 As regards archaeological impact I note as recommend in the archaeological impact assessment by Richard Crumlish given the location of the site within a zone of archaeological potential that archaeological monitoring of all groundworks by a suitably qualified archaeologist is appropriate.

7.3.8 I conclude in relation to the visual impact and impact on cultural heritage that the proposal is of a high standard and is innovative and contemporary yet acknowledging of its context. The provision of multiple active uses retail / restaurant / café / cultural at ground floor level will provide for activity and engagement. The design provides for significant landscaping and enhancements to the public realm and improvements to permeability. In my view the proposed design is successful from an urban design perspective.

7.4 Impact on established residential amenity overlooking and overshadowing.

7.4.1 The potential for negative impact on established residential amenity is assessed particularly with regard to impact of overshadowing and overlooking of the Barr Taoide Apartment complex. I note the appeal of Mr and Mrs Des and Therese Norton which raises issues of overshadowing of their apartment No 25 Barr Taoide which occupies the fifth-floor penthouse level of the Barr Taoide complex. The appellants engaged BPG3 to carry out a sunlight daylight analysis of the proposal which concluded that the proposed development would have a significant impact on levels of daylight amenity which will be available. The report notes an average drop in skylight levels of main windows of 32% and an average drop in annual sunlight levels on windows of 30% the equivalent drop in winter sunlight is predicted to be 53%. The report concludes that the main living room is likely to appear gloomier with electric lighting being required more often and outdoor terrace area will tend to look more heavily overshadowed.

7.4.2 The first party in response to the appeal notes that the analysis does not highlight the current vacancy of this brownfield site and exaggerates the impact. It is noted that the adjacent apartments have received an artificially high level of sunlight particularly for a residential development in a city centre urban area. A review of the BPG3 daylight assessment also demonstrates that 5 of the 6 windows tested meet and in most cases significantly exceed the BRE targets for annual probable sunlight hours both annually and in winter. It is asserted that one window not meeting the BRE target is considered acceptable in the context of the urban environment. With respect to the Vertical Sky Component the windows B-F range in value from 81% - 94% of the recommended BRE targets - consistent with the impact being described as moderate. With respect to daylight; the vertical sky component is just one component of an average daylight factor result. Daylight factor is the ratio of daylight levels inside a structure to the light levels outside the structure. Complete daylight analysis found that the average daylight factor result of over 6% DF was still achieved for the main living room in Unit 25 following development. This is significantly higher than the recommended target of 2%DF. In relation to overshadowing the assessment finds that 50% of the terrace area still receives two hours of sun exposure on 21st March as recommended by BRE. It is noted that the third-party appeal suggests that the level falls 2% short at 48%. Notably the proposed development will only overshadow the apartment between 7am (sunrise) to 10am on 21st March. As regards daylight availability an average daylight factor of over 6% achieved for the living room would be considered well-lit following development of the scheme. Daylight factor of over 2% is achieved even in the back of the room. The first party concludes that the impact on Barr Taoide is moderate because any development on this site will bring about a change in the shadow environment of the area due to the easterly orientation and this change is consistent with a pattern of change that would be reasonable in a city centre urban environment.

7.4.3 As regards potential for overlooking I consider that the set back of 19.8m from the Barr Taoide apartments is a reasonable setback in an urban context. Furthermore, having regard to the office use of the upper floors, the future office occupancy rate

will vary from the established residential use thus further mitigating potential amenity impact. I consider that it is reasonable to conclude based on the information submitted that the proposed development will have a moderate impact on the adjacent Barr Taoide complex. Having regard to the inner harbour location and zoning designation of the site for redevelopment, it is reasonable to conclude that the proposed development will not have significant adverse impact on established residential amenity as a result of overshadowing sunlight and daylight access.

7.5 Traffic and Transport

7.5.1 Issues have been raised within the grounds of appeal regarding the potential for traffic congestion particularly with regard to the limited provision for car parking (131 car parking spaces at basement level) within the development. The development provides 330 no cycle parking spaces at basement level and a further 52 spaces at ground floor level. Shower and changing facilities are provided for employees. I note the wider policy context which seeks to progress sustainable transport solutions for the city through the implementation of the Galway Transport Strategy. In line with national policy the transport strategy supports a fundamental shift towards sustainable travel and reducing car dependency. Clearly the proposed development accords with this policy context. I consider that the submissions on behalf of the applicant have demonstrated that the trip rates arising from the proposed development will have a negligible impact on traffic flows on the local street network. Having reviewed all the submissions, I consider that it has been demonstrated that adequate set down and servicing arrangements can be put in place to appropriately service the development and in my view the proposal is acceptable from a traffic and transport perspective.

7.5.2 I note the concerns raised at the hearing with regard to the lack of housing options in Galway and likely obligation for long distance commutes by employees perhaps from locations where access to public transport facilities are limited. However as

noted by Mr Little in response to questions raised on the matter significant further residential development within the Inner Harbour is envisaged and the proposed development is likely to act as a catalyst for such development. Clearly resolution of these issues is an evolving process and not readily resolved as part of one single development proposal.

7.5.3 As regards impact on existing business I note the brownfield nature of the site and location within an area zoned for redevelopment and regeneration and consider that whilst a level of disruption and disturbance will arise during the construction period this can be appropriately managed and mitigated. As regards operational traffic I consider that necessary provisions have been demonstrated and the layout demonstrates flexibility to provide for future proofing as the traffic regime evolves in line with the development of adjoining lands and in accordance with the Galway Transport Strategy. I conclude that the development is acceptable from a traffic and transport perspective.

7.6 Other Matters

7.6.1 As regards issues raised by VP Motors with regard to ownership legal rights of way and such entitlements, I note VP Motors claim of ownership of the section of ground identified on maps accompanying the appeal, currently used for parking and display are for the car sales / hire business. The indicative cycle lanes and footpaths traverse these lands. The applicant in response to the appeal contests the claim of ownership. I further note that submissions on behalf of the planning authority asserts that this area forms part of the public road however this is strongly refuted by VP Motors Ltd.

7.6.2.I would note in response to issues regarding legal interest that all the matters raised are essentially civil matters between the parties and are not strictly matters for determination within the scope of planning legislation. In this regard I would refer the

parties to Section 34(13) of the Planning and Development Act 2000, as amended as follows: *“A person shall not be entitled solely by reason of a permission under this section to carry out any development.”*

7.6.3 On the issue of flood risk the application is accompanied by a flood risk assessment by Punch Consulting Engineers. The assessment notes location of the site within flood zone A. In terms of the justification text in the Context of the Planning System Flood Risk Management Guidelines for Planning Authorities⁹, it is noted that the site is zoned for city centre uses and a strategic flood risk assessment was carried out as part of the City Development Plan 2017-2023 process as part of which areas at risk of flooding were reviewed and subject to the justification test.

⁹ The Planning System and Flood Risk Management Guidelines for Planning Authorities, Department of Environment, Heritage and Local Government. OPW. November 2009.
<https://www.opw.ie/media/Planning%20System%20and%20Flood%20Risk%20Management%20Guidelines.pdf>

7.6.4 In terms of the site-specific assessment the first party submits that the Development will not increase flood risk elsewhere. While the development may lead to some loss of storage on the flood plain from a tidal perspective these losses are insignificant when compared to the volume of water entering Galway Bay during a storm surge. Water levels in the flood plains will be dependent on the level of the storm surge, the volume of water entering the harbour rather than the provision of storage. Thus, it is argued that the development will not influence flood risk elsewhere during a tidal flood event. The relatively small runoff (which incorporates green roofs) from the development will be discharged to the public surface water system which in turn will discharge to the coastal waters in Galway Bay. Discharging surface waters to Galway Bay will not change the flood risk in Galway Bay.

7.6.5 It is asserted that in assessing the development one must have regard to the nature of the development relating to the provision of employment office retail and cultural space, the low risk of the floodwater inundation from a severe flood event and the short duration of such a flood event. In terms of alternatives relocation of the development elsewhere away from city centre and transport hub would be the antithesis of proper planning and sustainable development.

7.6.6 Mitigation measures to minimise flood risk are outlined. The main mitigation is raising finished floor level above the future flood levels and providing protection to vulnerable infrastructure. It is noted that the highest recorded water level to date was 3.6m AOD however it was likely that water levels were much higher due to wave action. The Western CFRAMS notes that the future 1:200-year flood level will be 4.27m AOD in Galway with a medium range change scenario while the estimates for the 1:200-year event in the high-end future scenario is 4.77m AOD. The finished floor of the ground floor is 4.77m which it is argued allows sufficient freeboard for hydraulic uncertainty, wave action and a change from a mid-range climate change scenario to a high range climate change scenario. The basement mitigation measures include flood barriers, elevated ventilation opes, Sealed water ducting and conduits non- return valves. Storm and foul water infrastructure to be sealed to

withstand a minimum hydrostatic head of 3m. The electrical substation is at street level which is below the 1 in 200-year level. A flood barrier to be provided ere to prevent flow paths via ducting to the basement. It is considered that the requirements of the justification test have been met and based on details submitted the residual risks can be successfully managed and there are no unacceptable impacts on adjacent lands.

7.6.7 On the issue of site remediation the application details note that arising from the former industrial use of the site, soil has been left contaminated and will require remediation works before development can commence. As the site is reclaimed land the soil composition has a high level of ground water present which will also affect the construction process. This has had a large impact on the viability for redevelopment. I note that the application is accompanied by an Environment and Human Health Risk Assessment compiled by Awn Consulting which sets out the to assess the current environmental condition of the site with focus on the nature of any potential environmental liabilities at the site that may be relevant to the redevelopment of the site. Based on historic use of the site as an oil / fuel depot the site the assessment follows the general approach in the EPA guidelines for assessing environmental risk outlined in EPA Contaminated Land and Groundwater Risk Assessment Methodology (2013). This guideline is based on developing a sound conceptual site model for the site which then allows understanding of any source pathway receptor linkages to be identified and assessed.

7.6.8 Site data confirms that the overburden of the site is generally composed of fill much of which has been contaminated due to historical use of the site as an oil / fuel storage facility. The underlying bedrock comprises low permeability granite which is considered a poor aquifer. The fill and weathered rock is the primary pathway for contaminant migration from the site. The proposed development requires removal of c 39,000 tonnes of soil across the footprint of the site for a basement construction. This development will require removal of a significant proportion of the contaminated soil which will result in an overall improvement in the existing soil and groundwater

quality beneath the site following redevelopment. The proposal development will also result in the site being fully capped thereby reducing the potential for further leaching of any residual contamination. The soil proposed for excavation will be assessed for licensed disposal and will be excavated and removed by a licensed waste contractor to an appropriate was facility during redevelopment works. I consider that the based on the details submitted the side remediation strategy is in accordance with best practice and appropriate mitigation measures have been addressed.

7.6.9 As regards the contention that the proposal is premature pending determination by An Bord Pleanála of the application for the harbour extension PA0033, I consider that the proposal development is not dependent on the outcome of this application and can be determined on its own merits.

7.6.10 On the issue of proximity of the inner harbour to the Topaz Energy Galway Terminal located in New Docks Harbour Board Enterprise Park an upper tier establishment under the Seveso III Directive which is subject to the control of Major Accident Hazards (COMAH) Regulations 2015, I note that the file was referred to the Health and Safety Authority for technical advice and they indicated that they do not advise against the granting of permission in the context of Major Accident Hazards.

7.6.11As regards the duration of permission, I note that the third-party appellants cite concerns in respect of a prolonged permission also noting the potential for expedient completion of a local area plan process. I note that the application seeks planning permission for 10 years however in closing statement to the oral hearing on behalf of the applicant Mr Little indicated that a shortened timeframe of 7 years would be acceptable to the applicant. The first party submits on the basis of the scale and complexity of the proposed development, which includes remediation of the existing ground, such an extended timeframe is appropriate. I would agree that the development is complex and having regard to the relatively self-contained nature of

the site I consider that a seven-year permission is fitting. Negative impacts on residential and other amenities of the area should be appropriately mitigated by way of a construction management plan and good construction practices.

7.7 Appropriate Assessment

7.7.1 The application is Appropriate Assessment Stage 1 Screening Report compiled by Aquafact dated April 2017. Sites within 15km of the appeal site are identified and assessed in terms of their Qualifying interests / Special Conservation Interests.

7.7.2 In relation to the identification of the sites which would be potentially affected using the source pathway receptor model, the following sites are screened out on the basis of the absence of pathway for interaction.

- Galway Bay Complex cSAC (Site Code 00028)
- Lough Corrib cSAC (Site Code 000297)
- Lough Fingall Complex cSAC (Site Code 000606)
- Ross Lake and Woods cSAC (Site Code 0001312)
- East Burren Complex cSAC (Site Code 001926)
- Connemara Bog Complex cSAC (Site Code 1150)
- Lough Corrib Bog SPA (Site Code 004042)
- Creganna Marsh SPA (Site Code 004142)

7.7.3 In relation to the Inner Galway Bay SPA (Site Code 004031) a number qualifying interests were screened out on basis of absence of pathway for interaction due to habitat preference. Four qualifying interests were screened in on the basis of their potential to forage or be present on/near the development site, namely the Black Headed Gull, Common Gull, Sandwich Tern and Common Tern.

7.7.4 In relation to the common tern and the sandwich tern it is outlined that while terns have the potential to be in the vicinity of the site given location near the city docks the levels of noise from construction and operation phases of the development will be similar to those currently experienced. It is asserted that the proposed development does not pose any risk to the common tern and sandwich tern breeding population and the conservation objective and overall integrity of the SPA will not be impacted by the proposed development. These qualifying interests can be screened out and do not require Stage 2 AA.

7.7.5 In relation to the black headed gull and common gull while gulls have the potential to opportunistically feed in and around the site the nature of the site does not lend itself

to being a valuable resource for gulls. Any avoidance during construction phase will not have a significant impact. Levels of noise during construction and operation similar to those currently experienced. The proposed development will not pose any risk to the black headed gull population of the Inner Galway Bay SPA and the common gull the conservation objectives and overall integrity of the SPA will not be impacted on by the proposed development. The black headed gull and common gull are therefore screened out and do not require stage two AA.

7.7.6 As the proposed development will not have any significant impacts on any of the qualifying interests or special conservation interests of the nearby Natura 2000 sites, it cannot have any cumulative impact with other proposals planned or ongoing to those Natura 2000 sites. The screening statement concludes that the impacts from the proposed development will not have any significant effects on the nearby Natura 2000 sites, their qualifying interests / special conservation interests, or conservation objectives therefore Stage 2 AA is not required.

7.7.7 It is reasonable to conclude that on the basis of the information on the file, which I considered adequate in order to issue a screening determination, that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the Inner Galway Bay SPA (Site Code 004031) or any other European site, in view of the site's conservation objectives, and a Stage 2 Appropriate Assessment (and submission of an NIS) is not therefore required.

7.0 Recommendation

8.1 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.

Reasons and Considerations

Having regard to the city centre location of the development, the pattern of development in the area, to the provisions of the Galway City Development Plan 2017-2023 and to the nature, scale, layout and design of the proposed development, it is considered that the proposed development would not result in an excessive density of development on the city centre 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 impact on archaeological and cultural heritage of the area and 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 lodged with the application, as amended by the further plans and submitted on the 14th day of September 2017, 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 period during which the development hereby permitted may be carried out shall be 7 years from the date of this order.

Reason: Having regard to the nature of the development the Board considers it appropriate to specify a period of validity of this permission in excess of five years.

3 The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

4. Prior to the commencement of development the developer shall employ a suitably qualified archivist to provide a report recording the industrial heritage of the site. A copy of this shall be forwarded to Galway City Council and made available for the archive section of the public library.

Reason: In order to conserve the archaeological and industrial heritage of the site.

5. All works adjacent to the protected structures shall be carried out under the supervision of a professional with specialised conservation expertise.

Reason: To ensure the authentic preservation of the protected structures and to ensure that the proposed works are carried out in accordance with best conservation practice.

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

Reason: In the interest of visual amenity.

7. No signage, advertising structures / advertisements, security shutters or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

8. The internal road network serving the development, pedestrian and cycleway fronting the development, access to car park and provision for taxi drop off / pick up shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

9. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The agreed lighting system shall be fully implemented and operational before the development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

10. All plant / machinery shall be located within the buildings and shall not extend beyond roof level unless authorised by a prior grant of planning permission.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

12. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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, including:

(a) Location of the site and materials compound including area identified for the storage of construction refuse

(b) Location of areas for construction site offices and staff facilities

(c) Details of site security fencing and hoardings;

(d) Details of on parking / transport facilities for site workers during the course of construction

(e) Details of timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.

(f) measures to obviate queuing of construction traffic on the adjoining road network

(g) Measures to prevent the spillage or deposit of clay rubble or other debris on the public road network;

(h) alternative arrangements to be put in place for pedestrians and vehicles in the case of closure of any public road or footpath during the course of site development works;

(i) details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels.

(j) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(k) Off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil;

(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the 14.

Reason: In the interest of amenities, public health and safety.

14. Prior to the opening of the development, a mobility management strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company within the development. Details shall be agreed with the planning authority and shall include the provision of centralised facilities within the

development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the 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 development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

- 16 The development shall be managed in accordance with a management scheme which shall be submitted to, and agreed in writing with the planning authority, prior to the occupation of the development. This scheme shall provide adequate measures relating to the future maintenance of the development; including landscaping, open space, roads paths, lighting, waste storage facilities and sanitary services together with management responsibilities and maintenance schedules.

Reason: In the interest of residential amenity and orderly development.

- 17 Public access shall be provided to all areas designated as open to the public including the North Plaza, Central Square, Ceannt Courtyard and Waterfront Area and these areas shall be reserved for such use. Lands within the site to the eastern side of Block D, between Bóthar na Long to the south and the northern site boundary shall be dedicated to the provision of public access.

Reason: To ensure access permeability and to ensure the satisfactory development of the public realms and public open space areas and their continued use for this purpose.

18. The development shall include a minimum of four professional pieces of civic artwork / features. The artwork shall be conceived and installed subject to the approval of the planning authority and the developer, or in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: It is considered reasonable, given the scale and nature of the development that an appropriate provision for artworks associated with the development should be made.

19. Areas designated for cultural use within block C and D shall be made available to community / cultural / arts events on reasonable demand and at a not-for-profit cost. A legal agreement providing for same shall be entered into by the developer and Galway City Council.

Reason: In order to comply with the provisions of Section 10.2.2 of the Galway City Development Plan 2017-2023 in the interest of social and cultural amenity.

20. Prior to the commencement of development, the developer shall submit and agree in writing with the planning authority a landscaping and amenity scheme. The scheme shall include details of the materials/planting for all hard and soft areas. The approved scheme shall be completed prior to occupation of the development. On completion of the landscaping/amenity scheme for the development, the developer shall submit to the planning authority a certificate of completion from a suitably qualified landscape designer confirming that the landscaping works have been satisfactorily carried out in accordance with the approved landscaping/amenity scheme. The developer shall be responsible for full maintenance of the landscaping and for the replacement of all failed stock. A copy of the maintenance agreement with a suitably qualified person shall be submitted with the required certification.

Reason: In the interests of visual amenity.

21. Details of the bilingual naming of the development along with a wayfinding and road marking strategy, for the internal site layout and a co-ordinated signage strategy

shall be submitted to the planning authority for written agreement prior to occupation of the development.

Reason: To provide for the future maintenance of this development in the interest of amenity and orderly development.

22. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services.

23. 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.

Bríd Maxwell

26th June 2018

