



An
Bord
Pleanála

Inspector's Report ABP-302112-18

Development	Permission is sought for the demolition of an old building and construction of a new apartment building consisting of 4 no. ground floor apartments and 4 no. duplex apartments and associated site works
Location	San Antonio Terrace, Salthill, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	18/35
Applicants	Foxfield Inns DAC
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Emer Maughan
Date of Site Inspection	27 September 2018
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located in Lower Salthill, Galway, where it adjoins the back of an hotel facing the Bay and is accessed by a narrow cul-de-sac road at San Antonio Terrace. The site is occupied by a detached two storey dwelling located close to the south western corner near to the rear of the adjoining hotel. The site has extensive frontage to the roadway. It is rectangular in shape with the slightly longer axis running along the roadway. Ground within the site rises towards the west and north-west.
- 1.1.2. To the north a steep, narrow laneway, with steps, separates the site from adjoining dwellings to the north, which are close to the laneway. This group of dwellings comprises a pair of semi-detached houses facing San Antonio Terrace with front entrances c2m above road level and approached by steps. The gable of the building nearest the site has four levels with windows from semi-basement to attic level. A doorway in that gable indicates a separate dwelling at the western end fronting to and accessed from the laneway.
- 1.1.3. This narrow laneway leads to a wider laneway running between the site and housing which fronts Dalysfort Road and Salthill Park to the west. The western boundary of the site, in part adjoins the laneway, and in part the rear of residential property at Dalysfort Road, which is at a higher level than the subject site. The public road fronting the site is narrow. To the south the Eglinton Hotel (west) and terraced housing (east) at Atlantic Terrace access the road and there are sections of narrow path along parts of the roadway only. The front boundary of the subject site is forward of the building line of the hotel, such that the road along the site frontage is very narrow.
- 1.1.4. Northwards from the site the roadway (slightly wider) serves half a dozen houses some newer, some older. It adjoins a large car park to the east which serves development facing the Bay and which is served by access from the R336 as it runs along the Bay.
- 1.1.5. The roadway connects with Rockhill to the north but vehicular access is blocked.

- 1.1.6. The maps provided with the application indicate that the site and the hotel are in the same ownership. The dwelling on the site does not appear to be occupied. The grounds is in use as a vegetable garden.
- 1.1.7. A sheet metal gate provides access, towards the northern end of the frontage.
- 1.1.8. Bushes along the northern and western boundaries of the site provide low level screening.
- 1.1.9. The site is given as 0.1ha.

2.0 Proposed Development

- 2.1. The proposed development is the demolition of the existing building (176sqm) and construction of a new apartment building (670..40 sq m) consisting of 4 no. ground floor apartments and 4 no. duplex apartments and associated site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to grant permission subject to 23 conditions, including:

Condition no. 2 - A pedestrian access gate shall be provided to the boundary of each of the ground floor rear private open spaces to the abutting open space

Reason; In the interests of proper planning and sustainable development of the area.

Condition no. 18 - All retaining walls shall be designed and their construction supervised and certified by a suitably qualified bonded Structural Engineer.

Structural Certificate shall be forwarded to the Local Authority.

Reason: In the interests of public safety and the proper planning and sustainable development of the area.

Condition no. 19 - Surface water drainage from the proposed development should discharge to a suitably designed soakaway. These details including design calculations shall be agreed in writing with the Planning Authority prior to the commencement of development. Design details of the proposed soakaway system will be agreed in writing with the Planning Authority prior to the commencement of

development. An alternative solution incorporating discharge attenuation or other appropriate SUDS measures can be developed and agreed with the Planning Authority in the event that discharge to ground is rendered inappropriate due to ground conditions.

Reason: In the interests of proper planning and sustainable development of the area.

Condition no. 20 - S48 Contribution

Condition no. 21 - Contribution towards public transport facilities.

Condition no. 22 - Bond.

Condition no. 23 - S96.

The decision was in accordance with the planning recommendation.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning reports on the file.

3.2.2. The first recommending a request for further information on 9 points, includes:

Policy 10.3 refers to Salthill:

Enhance the role of Salthill as an urban village, a leisure, recreation and coastal amenity area for the city and service centre for the surrounding residential neighbourhoods.

Ensure high quality in the design of new developments which has regard to the distinctive character of Salthill.

The site contains two zonings CI - commercial / industrial and R - residential.

Residential is open for consideration in both zones.

The site is located within the established suburbs S 2.6 of the plan states that:

It is recognised that these areas are dynamic and that potential still exists for some additional residential development which can avail of existing public transport routes, social and physical infrastructure. It is the priority of the Council to ensure that new development will not adversely affect the character of the area.

Infill should not be of such a scale that represents a major addition to, or redevelopment of, the existing urban fabric. In this respect, infill development will have regard to the existing pattern of development, plots, blocks, streets and spaces. Such development will also have regard to the scale and proportion of existing buildings, building lines, massing and height of buildings in relation to the street.

This would not be a major redevelopment as this is one of the last undeveloped sites along this street. The development would meet the criteria for assessment relating to the redevelopment of this site for apartments.

The applicant has submitted a cross section of the site and has indicated that some excavation will be required, particularly at the rear, in order that the proposed development would match the height of the adjacent roadway. The applicant proposes a three level building with a dual pitched roof, ridge height of 11.15m. this compares to a ridge height of 8.470m for the existing dwelling, however the ffl of the dwelling is slightly higher.

The proposal is to recess the building line 6m from the existing boundary wall. This will widen the existing public roadway by 2.5-2.7m, provide a footpath 2m wide along the entire front of the site and position the building 1.5m from the new footpath. The additional road width and new footpath would greatly enhance both pedestrian and traffic movements along this narrow public roadway. The building line would be slightly recessed from that established by the Eglinton Hotel and behind the dwellings to the north.

Plot ratio 0.67:1; CDP 1:1.25 CL zone and 0.46:1 R zone. Plot ratio is considered acceptable.

Overshadowing / overlooking – the only dwelling to be effected along the row of terraced dwellings on the eastern side of San Antonio Terrace would be No 3. There is a large gap/ side garden adjacent to the gable. 9.8m of building would be positioned directly opposite No 3 at 10m distance. Due to the height some overshadowing may occur. Summer sun should penetrate.

To the west rear gardens are positioned at a higher level and minimal impact would result.

Overlooking – the rear first floor terraced and rear upper level windows are positioned closer than 11 m to the rear boundary, which would not comply with the

development plan requirements. The lands to the west are at a higher elevation and it proposed to construct a retaining wall. Further details required.

Design Standards – the development would generate a requirement of 56sqm of communal open space provision, an area of 25 sq m has been provided along the northwestern section of the rear of the building. The layout and configuration is not particularly useable or functional. Revisions are required. Regarding the internal layout it is considered that the ground floor units living and bedroom areas should be reversed to allow direct access to the communal open space at the rear from kitchen living area, bedrooms to the front. Regarding the layout of the upper levels, the living and bedroom floors should be reversed to allow direct access to the private terraced area at the rear from kitchen living area.

Boundary treatment – clarification required re retaining wall.

Urban design – 8.7 of the development plan. The applicant is seeking to reflect the main Eglinton Hotel in the design and while generally acceptable it is considered that clearer vertical division between the different units should be included to break up the facade.

Roads / transport – per CDP:

In residential developments, where appropriate, a minimum of one cycle stand per 20 car spaces or over shall be provided. For every additional 50 car parking spaces, an additional cycle stand should be provided. Each cycle stand should accommodate a minimum of five bicycles. Cycle parking must be sheltered where appropriate. Where compliance with this standard is not deemed appropriate a transportation contribution will be levied accordingly.

A bicycle shed is being provided.

- 3.2.3. Other technical reports.
- 3.2.4. Environment Department – requirements re waste management during construction and operation.
- 3.2.5. Drainage Section – no objection subject to condition, see Condition no. 18 of decision.

3.3. Further Information

- 3.3.1. The recommendation for further information on 9 points issued:

1. Re overlooking, it is noted that the rear first floor terraced and rear upper level windows are positioned closer than 11 m to the rear boundary, which would not comply with the development plan requirements. It is noted that lands to the west are at a higher elevation, while you proposed the construction of a retaining wall.

Requesting that they submit:

A site layout plan which includes the position of all adjacent dwellings to the west, the existing site boundary wall.

A scaled cross section of the site which extends to the lands to the west to include all proposed site levels, height of retaining wall and adjacent site levels.

If the terraced area and upper levels windows are positioned less than 11 m to the boundary they face and directly overlook the adjacent lands/private open space, submit revised proposals with regards to the rear, upper terrace and third level windows.

Re any revisions relating to overlooking all should demonstrate compliance with S 11.3.1 (e) of the Galway City Development Plan 2017-2023, which states that 'all buildings should receive adequate daylight and sunlight. All habitable rooms must be naturally ventilated and lit and living rooms and bedrooms shall not be lit solely by roof lights.' In addition any revised proposals should investigate alternatives to the complete enclosure of terraced areas by obscured glazing as a response to avoid overlooking.

2. Re the proposed retaining wall, it is indicated that it will be replaced, clarify and submit consent from relevant owners. Submit a detailed cross section of the retaining wall and indicate the extent of the width of the wall on the site layout plan. Revised positioning may have implications re positioning of other structures within the site, car parking and open space provision.
3. Re communal open space provision, the layout and configuration proposed is not considered to either meet the requirements of the apartment guidelines in terms of quantum, usability and functionality, you are requested to submit a revised proposal in this regard.

4. Re internal layout, the living and bedroom areas should be reversed to allow direct access to the communal open space at the rear from kitchen living area, bedrooms to the front. Similarly the layout of the duplex units should be reversed.
5. Submit a detailed schedule which demonstrates compliance with Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities.
6. S 8.7 of the Galway City Development Plan 2017-2023 states 'Good urban design within Galway City seeks to reinforce the distinctive character of the city by ensuring a high quality built environment through good place-making and the creation of sustainable neighbourhoods.' There is a wide variety of residential, apartment and commercial housing developments of differing design in the vicinity. It is considered there is no requirement for the design of the new building to reflect the Eglinton Hotel and an invitation to amend the design using a combination of existing and contemporary features and including a clearer vertical division between different parts is offered.
7. Clarify if there is a need for the provision of services within the site, such as an electricity substation.
8. Submit proposals in which the number of external storage sheds is minimised in the areas opposite the ground floor apartment windows and associated private gardens.
9. Re autotrack, it is noted that the green line which is not identified in the details submitted is positioned in very close proximity/abuts in place the opposite dwellings. Clarify and submit revisions.

3.3.2. A further information response was received on the 23rd May 2018 and notices were published on the 8th June 2018.

3.3.3. The response by means of a letter and drawings includes:

- Re overlooking:
 - revised site layout
 - cross section

- details of terrace and first floor windows
- compliance with S 11.3.1 (e) of the Galway City Development Plan 2017-2023
- Re the proposed retaining wall, they have revised the proposal. They now propose to retain the existing boundary wall and construct a new retaining wall at a lower level fully within the applicant's site; details provided.
- Re communal open space provision, revised site layout with communal open space increased to 68m².
- Re internal layout, the alterations suggested have been implemented.
- Detailed schedule provided which demonstrates compliance with Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities.
- The exterior design has been amended. Plaster detailing to the front has been completely remodelled with the traditional quoin detailing removed and replaced with more streamlined contemporary lines, incorporation vertical lines which give clearly visual division between the different units. An upwardly curved glass porch shelter feature is now proposed to the front entrances.
- There is an electricity substation located directly adjacent on the site of the Eglinton Hotel which is in the ownership of the applicant and it is proposed that the electricity will be directed from there.
- The amended proposals see the external storage sheds relocated and amalgamated.
- Re autotrack, the layout has been revised and autotracking carried out again.

3.3.4. Second Planning Report

- 3.3.5. The second planning report refers to the further information received and notes that lands to the west are elevated and will not be overlooked from the first floor terrace. The ground floor side windows are for bathrooms and the second floor windows are for bathrooms and have obscured glass.

- 3.3.6. Re overshadowing, the only dwelling to the east to be affected would be No. 3; there is a large gap/side garden adjacent. There will be 10m separation distance, but due to the height some overshadowing may occur to the front of the dwelling.
- 3.3.7. The front of the dwelling to the west will be somewhat obscured in the summer evenings however the development does not impact on the main amenity space at the rear of that building.
- 3.3.8. North the current site is vacant and any development will cast a shadow northwards around midday. The site is somewhat lower than the site to the north, there is a gap between the sites, the distance proposed for building would be in character with the area and a further set back would not be deemed necessary as the current distance of 1 m would be in keeping with the urban fabric of the area. Shadow to the north will occur during the midday period. The building will not cast shadow over the main amenity area of the dwelling to the north and during summer the proposal is considered acceptable.
- 3.3.9. The development would generate a requirement for 14 car parking spaces. Shortfall can be offset by contribution. The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines, allows for a reduction in centrally located areas. It is considered that, due to proximity to Salthill and nearby public transport, 1 space per apartment should be provided; S 10.3 of the CDP is cited in this regard.
- 3.3.10. Recommending permission, including a contribution for 5 parking spaces (6 minus 1 for the existing house); condition no 21 refers.

3.4. Prescribed Bodies

- 3.4.1. Irish Water – no objection.

3.5. Third Party Observations

- 3.5.1. Third party observations on the file have been read and noted.

4.0 Planning History

17/184 permission granted for change of use of existing hotel to 38 apartments, 2 storey extension to front to accommodate additional apartments, revisions to existing

front façade, revisions to rear and side elevations, reconfiguration of carpark and site layout, new winter garden on first floor, landscaping to front and car parking area and all ancillary works.

10/350 Permission granted by the Board for retention of 3 pole mounted antennas and 2 pole mounted point to point dishes on the rooftop together with associated equipment which forms part of 3G communications, previously granted under PI Reg Ref 04/488.

04/488 Permission granted to attach 3 pole mounted antennae and 2 pole mounted point to point dishes on the rooftop together with associated equipment for a new 3G broadband network.

00/791 Permission granted for a switch room in the car park.

99/349 Permission granted for retention of 3 windows and fire escape door at the end of the east wing of the original hotel block facing Atlantic Terrace.

PL 105805 PA Reg Ref 97/529 permission for demolition of a two storey dwelling, retention of 3 windows and fire escape door at the end of the east wing of the original hotel block facing Atlantic Terrace, construction of an additional 33 bedroom extension; refused by the Board for one reason:

The proposed development by reason of its height, scale, mass, proximity to houses to the east and consequent overshadowing of nearby residential properties would seriously injure the amenities of the area and of property in the vicinity and would be contrary the proper planning and development of the area.

97/128 Permission granted for ESB sub-station in the ground level car park.

95/743 Permission refused for demolition of a two storey dwelling and the construction of 14 holiday homes.

95/716 planning permission granted (1976) for a four storey extension containing enclosed car park at ground level and 16 No. hotel rooms at 1st, 2nd & 3th floor level to the rear (total 48 rooms).

5.0 Policy Context

5.1. Development Plan

5.2. Galway City Development Plan 2017-2023 is the operative plan.

CI - To provide for light industry and commercial uses other than those reserved in the CC zone.

R - To provide for residential development and to protect residential amenities and to provide for limited associated uses.

11.3.1 (d) Overlooking

- Residential units shall not directly overlook private open space or land with development potential from above ground floor level by less than 11 metres minimum.
- In the case of developments exceeding 2 storeys in height a greater distance than 11 metres may be required, depending on the specific site characteristics.

11.3.1 (e) Daylight

- All buildings should receive adequate daylight and sunlight. All habitable rooms must be naturally ventilated and lit and living rooms and bedrooms shall not be lit solely by roof lights.

11.3.1 (f) Distance between Dwellings for New Residential Development.

- The distance between side gables and side boundaries of dwellings shall normally be a minimum of 1.5 metres.
- Within all other residential developments, including apartment buildings and large dwellings, (greater than 200m²), the distance between buildings shall be greater, to provide a good layout and context for the development.

Salthill

Enhance the role of Salthill as an urban village, a leisure, recreation and coastal amenity area for the city and service centre for the surrounding residential neighbourhoods. Ensure high quality in the design of new developments which has regard to the distinctive character of Salthill.

5.3. **Sustainable Urban Housing: Design Standards for New Apartments**, Guidelines for Planning Authorities, Department of Housing, Planning and Local Government, March 2018.

To assist in the move towards a much greater level of apartment living essential in ensuring our major urban areas develop sustainably rather than sprawling inexorably outwards.

The quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.

In larger scale and higher density developments, comprising wholly of apartments in more central locations that are well served by public transport, the default policy is for car parking provision to be minimised, substantially reduced or wholly eliminated in certain circumstances. The policies above would be particularly applicable in highly accessible areas such as in or adjoining city cores or at a confluence of public transport systems such rail and bus stations located in close proximity.

These locations are most likely to be in cities, especially in or adjacent to (i.e. within 15 minutes walking distance of) city centres or centrally located employment locations. This includes 10 minutes walking distance of DART, commuter rail or Luas stops or within 5 minutes walking distance of high frequency (min 10 minute peak hour frequency) bus services.

In suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car

For all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired.

The provision of reasonable levels of natural light in new apartment developments is an important planning consideration as it contributes to the liveability and amenity

enjoyed by residents. In assessing development proposals, planning authorities must however weigh up the overall quality of the design and layout of the scheme and the measures proposed to maximise daylight provision with the location of the site and the need to ensure an appropriate scale of urban residential development.

Planning authorities should have regard to quantitative performance approaches to daylight provision outlined in guides like the BRE guide '*Site Layout Planning for Daylight and Sunlight*' (2nd edition) or BS 8206-2: 2008 – '*Lighting for Buildings – Part 2: Code of Practice for Daylighting*' when undertaken by development proposers which offer the capability to satisfy minimum standards of daylight provision.

Living spaces in apartments should provide for direct sunlight for some part of the day.

Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking.

A minimum depth of 1.5 metres is required for balconies, in one useable length to meet the minimum floor area requirement under these guidelines.

Communal amenity space may be provided as a garden within the courtyard of a perimeter block or adjoining a linear apartment block. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.

5.4. National Planning Framework - Ireland 2040 - Our Plan

The Government's draft long-term strategic planning framework will guide national, regional and local planning and investment decisions over the next 25 years.

In relation to housing it states that well designed and located higher density housing will assist: fast-growing urban areas to achieve much needed scale; medium-sized urban areas to find a route to quality in a new competitive framework; all urban areas to increase vibrancy and vitality; and increased efficiency and sustainability in the use of energy and public infrastructure

5.5. Natural Heritage Designations

- 5.5.1. The Galway Bay Complex SAC site code 000268 (c90m distance) and Inner Galway Bay SPA site code 004031 (c120m distance) are the nearest Natura Sites.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A third party appeal against the decision to grant permission, has been made by Emer Maughan. The grounds includes:

The appeal represents the genuine concerns of residents of San Antonio Park, San Antonio Terrace and Atlantic Terrace.

There are numerous breaches of both national guidelines and the Galway City Development Plan; the culmination of failing to meet minimum standards with regards to plot ratio, overlooking, overshadowing, car parking and open space without any compensating measures such as exemplary design, well considered open space, sustainable construction methods or other mitigating factors. The appellants fully acknowledge the national housing crisis and the need to develop residential units on serviced sites in city centre locations, however there is also an onus on the government agencies to ensure that where high density residential units are proposed that they do not injure the rights of existing residential properties and that they are of a high standard.

The plot ratio is higher than the standard for residential zoning. The site has not been assessed under the CI zoning. Higher density should only be permitted subject to high design quality.

Public /Private open space provision – the open space to the ground floor units provides only 11% as opposed to 50% of the floor area as required. The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines require a minimum of 7m² private and 7m² communal for a 2 bedroom 4 person apartment. The ground floor units at 8.1m² fall well short. Minimum depth of 1.5m is required for balconies. The ground floor units have a width of terrace of 1.1m.

The appellants have concerns regarding the quantum, usability and functionality of the communal open space: too narrow, wedged into a corner, below the adjoining ground level and, facing west, is constantly overshadowed. The Sustainable Urban Housing: Design Standards for New Apartments is cited in this regard.

Overbearing/ Overlooking/ Overshadowing – despite concerns no solar shading studies have been submitted.

The residential dwellings to the north, No 1 and No 1A San Antonio Park have the majority of their windows facing the gable of the proposed building. In the case of No 1A San Antonio Park all the windows face the gable. The planner's report considers impact only on No 3 San Antonio Terrace and that some overshadowing may occur. There are no facts, quantification or analysis. A solar study should have been provided showing how the proposal would overshadow the houses to the north, east and west. The appellants contend that the current proposal will significantly reduce the amount of daylight entering adjoining properties. No1 and No 1A San Antonio Park will be particularly impacted, no mitigation measures have been proposed.

This property has enjoyed uninterrupted south facing aspect for over ninety years.

The site plan failed to even show the properties to the north or the dimensions to the boundary, in contravention of the validation process.

Re the FI request and S 11.3.1 (e) of the Galway City Development Plan, which states that all buildings should receive adequate daylight and sunlight, bedroom 2 in apartment 4 has a north facing window less than 1m away from a 2m or higher boundary wall.

The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines states that planning authorities should have regard to quantitative performance approaches to daylight provision, outlined in guides like the BRE guide Site Layout Planning for Daylight and Sunlight or BS 8206-2:2008. This has not been carried out, despite the challenging nature of the site and the extensive excavation required.

The dimension from the gable to the northern boundary is too narrow at 1m. The DP requires in excess of 1.5m when a building has a floor area of greater than 200m².

The height of the proposed new boundary wall has not been indicated on the drawings. No design has been submitted. The extant original wall and railings are an attractive feature. The appellants have concerns in this regard.

Despite being requested the applicants have failed to submit a section showing the development in the context of the two storey buildings opposite. Drawing H17-PI-200 does not give a true picture of the domineering form proposed.

Vehicular Movements / traffic management - San Antonio Terrace is very narrow. The 8 additional properties will add to the congestion, notwithstanding the new footpath and proposed road widening. The deficit in parking will lead to further congestion. They provide an image of on-street parking.

The design appears to have evolved from maximising the development potential of the site. The façade to San Antonio Terrace is overscaled and no effort made to relieve the massing. It will look over the houses opposite. No 3-d images were provided or requested.

They request the Board to consider if this building will be fit for purpose 5, 10 or 20 years after construction. Will it add to the urban fabric of Salthill? Will it offer a mix of accommodation to attract different types of occupancies? Will it add to the public realm? Are they intended for rental or long term accommodation or Airbnb? Does it contribute to the coastal setting? Will the materials weather well? Do open spaces offer attractive amenity? Will the building add to the streetscape?

Higher densities should equate to exemplary design with sustainability at its core. They contend that the development seeks to achieve high density without providing the necessary safeguards to ensure that the building is sustainable and will not impair the rights of the adjoining owners.

6.2. Applicant Response

- 6.2.1. Cyril J Kelly & Associates Consulting Engineers has responded to the grounds of appeal on behalf of the first party. The response includes:

The site is an infill site, currently derelict. There are some restrictions but they believe the overall proposal is well thought out, conscientious and positive.

The building will take an aesthetically pleasing crescent form. Sympathy with the character of existing dwellings in Salthill was a central consideration. At 8.5m wide it will be similar to the existing dwelling to the north and other buildings typical of the area. It will be well proportioned. There will be no large mass effect blank walls. It will be far removed from other larger scale developments in the area and is a relatively small modest structure for the site.

Floor levels will be dropped to within 450mm of the proposed footpath level. This coupled with the generous set back will mean it will sit well into the site.

Although flanked by a large 4 storey building it was designed to be modest in scale. The ridge will be lower than that of those either side. The façade will be of a much reduced scale to the building directly south. The area in front will be widened.

The Sustainable Urban Housing: Design Standards for New Apartments have been exceeded in almost every area and a high quality standard would be achieved for the occupants.

Overlooking has been addressed in the application.

Plot ratio has been addressed in the application.

Vehicular Movements / traffic management – the proposal involves setting back the boundary, giving land (c4m width) to carry out road widening, and providing a footpath. This will greatly improve the area for all residents. Although the site is limited to 4 parking spaces a large public car park exists within 65m and public transport passes every 15min within 50m. Dedicated secure bicycle parking and storage has been provided for.

Fit for purpose 5 years after construction? The first party response to the question posed is yes.

It contributes to the laneway by widening and the installation of a 1.8m footpath, low level wall and ornate railing. A further 1.5m separation buffer is to be provided between the railing and the building. The building will be set further back from the road than any existing building. There will be a 10m distance between the new building and that opposite.

Materials of the highest quality will be used in the building which will be to Building Regulation, Fire Safety Certificate and Disability Access Certificate requirements. Some details are referred to in relation to Part L and sustainability.

It has been designed to make use of the orientation of the site etc.

Different occupancy types, is responded to. No short term leasing is proposed.

Responding to the photographs in the submission it responds, that re the first photograph, showing the existing dwellings to the north, 4 storey - 3 storey over basement with ad hoc additions over time, the scale and mass is comparable to the proposal, except for the length. The photograph shows that the existing building casts a shadow which reaches across the road but would not get as high as the ground floor window on the opposing side of the road. The proposed building will be set further back and would not cast a shadow on No 3, the only house with the potential for any shadow being cast.

Neither the applicant nor the planning authority thought it necessary, having regard to the orientation, lowered siting and relatively small scale, to carry out a shadow analysis, which they now include with the response.

Two drawings accompanying the response: A101 - Solar Analysis 01, which shows existing shadow, and shadow with the proposed development in place at the summer solstice at 00 hours (I take this to midday since there is light, rather than midnight) and at the spring equinox at 00 hours; and A102 - Solar Analysis 02 which shows shadows at the winter solstice and at the autumn equinox.

6.3. Planning Authority Response

- 6.3.1. The planning authority has not responded to the grounds of appeal.

6.4. Further Responses

- 6.4.1. The third party has responded to the first party's response to the grounds of appeal, which includes: Points previously made are reiterated points. Despite numerous requests no cross section has been provided of San Antonio Terrace to demonstrate the development in the context of houses opposite. A sketch cross section is provided by the third party. The extensions to No 1 and No 1A and No 3 San Antonio Park, referred to as ad hoc, are part of the original construction. The shadow study provided shows the shadow cast at noon only, when the least amount of shadow is cast (and should show 9am and 3pm also) but it demonstrates that the proposed development will overshadow during Spring Summer and Autumn. All of the windows

of No 1A San Antonio Park face south. The existing site is used as a community garden for the residents of the direct provision centre located in the adjacent Eglinton Hotel, and is not derelict.

7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, environmental impact assessment, the principle of the development, impact on residential amenities, traffic & safety and development plan standards, and the following assessment is dealt with under those headings.

7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

7.3. Environmental Impact Assessment

- 7.3.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.4. Principle of the Development

- 7.4.1. The site is partly zoned CI - to provide for light industry and commercial uses other than those reserved in the CC zone; and partly zoned R - to provide for residential development and to protect residential amenities and to provide for limited associated uses. The CI zoning applies to an area just over half of the site in extent, adjoining the hotel. Residential use is open for consideration in that zone and is acceptable in principle in the R zoning.

7.4.2. The proposed development will provide higher density residential development on a serviced, centrally located and accessible brownfield site, which is in line with the National Planning Framework Plan, the Sustainable Urban Housing Guidelines and the Galway City Development Plan, and is acceptable in principle.

7.5. **Impact on Residential Amenities**

7.5.1. Many of the issues raised in the grounds of appeal relate to residential amenities.

7.6. Sunlight

7.6.1. It is stated that the residential dwellings to the north, No 1 and No 1A San Antonio Park have the majority of their windows facing the gable of the proposed building; in the case of No 1A San Antonio Park all the windows face the gable. The grounds states that the planner's report considers impact only on No 3 San Antonio Terrace noting that some overshadowing may occur; there are no facts, quantification or analysis; a solar study should have been provided showing how the proposal would overshadow the houses to the north, east and west. The appellants contend that the current proposal will significantly reduce the amount of daylight entering adjoining properties; and that No1 and No 1A San Antonio Park will be particularly impacted and no mitigation measures have been proposed.

7.6.2. In response to the grounds of appeal the first party includes solar analysis drawings and states that the proposed development would not cast a shadow on No 3, the only house with the potential for any shadow being cast.

7.6.3. The response refers to potential impact on houses on the opposite site of the road, referring to a photograph submitted with the grounds of appeal, they state that the proposed building will be further back from the road and therefore less impactful than the buildings to the north, seen in the photograph, which shows that the existing building casts a shadow which reaches across the road but would not get as high as the ground floor window on the opposing side of the road. The proposed building will be set further back and would not cast a shadow on No 3, the only house with the potential for any shadow being cast.

7.6.4. Two drawings titled 'Solar Analysis 01' and 'Solar Analysis 02' accompany the response. Drawing no. A 101 Solar Analysis 01 shows existing shadows and shadows with the proposed development in place at the summer solstice at 00 hours

(taken to be midday) and at the spring equinox at 00 hours. Drawing no. A102 - Solar Analysis 02 shows shadows at the winter solstice and at the autumn equinox.

- 7.6.5. Impact on sunlight is quantified in terms of the Annual Probable Sunlight Hours (APSH), which is the potential for a site to receive sunlight given its location and average meteorological conditions; the APSH existing and post development have not been given in this case. When shadow plans are used as a graphic representation of shadow impact, it is conventional that they be shown for three time periods: 9am, 12noon and 3pm. From the single time period shown in the shadow plans submitted it can be seen that the proposed development, which is due south of dwellings 1 and 1A San Antonio Park, will significantly reduce sunlight to these buildings and the associated amenity space. The shadow impact shown in the drawings appears significant during winter months. It should be noted that the single time selected for study, midday, is the most benign time to show sunlight summer impact and it can be inferred that significant negative impact would be experienced during summer and throughout the year, by the buildings to the north.
- 7.6.6. The grounds of appeal states that No 1 and No 1A San Antonio Park have the majority of their windows facing the gable of the proposed building and in the case of No 1A San Antonio Park all the windows face the gable. The significant impact on dwellings to the north has not been acknowledged during the course of the application or in the response to the appeal.
- 7.6.7. In relation to dwellings to the east the reduction in the APSH has not been quantified. Any impact to these dwellings would occur in the afternoon and would be less than the impact on the dwellings to the north. Those to the west are located at a greater distance and are unlikely to be significantly impacted by the shadow which would be cast in the morning.
- 7.6.8. The solar study submitted, although not allowing for a full assessment of the proposed development on sunlight in accordance with BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition), provides the Board with sufficient information to enable the conclusion to be reached that the proposed development would have a significant adverse impact, through loss of sunlight, on the residential amenities of dwellings to the north.

7.7. Daylight

7.7.1. Impact on daylight is not identified. No cross section north-south through the site has been provided, and the dwellings to the north are not shown on the site plan. No measurable loss of daylight to the dwellings to the north is available. It can nevertheless be anticipated that the windows, which will face a gable rising to 11.2m, located just in excess of 5m away at the nearest point, will be significantly adversely affected by loss of skylight since the development will extend well beyond a line subtending an angle of 25° to the horizontal from the centre of the lowest window (a simple measure of likely impact).

7.7.2. In relation to dwellings on the opposite side of the road, as noted in the grounds of appeal the cross sections provided do not extend to the opposite side of the road and therefore measurement of effect on these windows is not readily available. These dwellings are located further from the proposed building, twice as far, and the impact will be less significant, nevertheless the relevant information should have been made available as part of the application.

7.7.3. Properties to the west are located at higher ground level and considered not to be significantly impacted.

7.8. Residential Amenities of Future Residents of the Proposed Development.

7.8.1. The sunlight and daylight availability to the proposed development has been raised in the grounds of appeal with reference to the significant excavation required and the impact on the communal open space to be provided, and also with reference of the proximity of windows to high walls. No examination of sunlight availability to amenity spaces was carried out. From the cross section drawing F117-PL-107 it can be seen that the communal open space, although south facing, would, due to the proximity of the proposed high retaining wall, be likely to have limited access to sunlight. The situation would become increasingly worse northwards within the site where the communal open space narrows and is enclosed on three sides by high walls. The BER guidance states that to enjoy reasonable amenity at least 50% of the space should be capable of receiving at least 2 hours of sunlight on 21st March. This has not been demonstrated.

7.8.2. The sunlight and daylight available to the proposed building has been raised in the grounds of appeal. It is pointed out that gable windows are close to high walls. In this regard it is noted that bedroom 2 in apartment 4 is close to a high boundary wall. BS

8206-2 is referred to in the Apartment Guidelines. It gives minimum values for the average daylight factor (ADF) required in dwellings; the percentage required for a for bedrooms 1%. Although not demonstrated to have such daylight, measures to improve the use of available daylight can be implemented and therefore this is not considered a limiting factor for the proposed development.

7.9. Overbearing

- 7.9.1. Overbearing impact is referred to in the grounds of appeal. It is stated that the property to the north has enjoyed an uninterrupted south facing aspect for over ninety years. In relation to loss of sunlight, this issue has been referred to elsewhere in this assessment. In relation to outlook or view, there is no entitlement to a view and it is not considered that the loss of outlook should be a reason to refuse permission or modify the proposed development.
- 7.9.2. The proposed development would be somewhat imposing viewed from property to the north and to a less extent from property to the east. In the context of the location in a commercial centre in suburban Galway the proposed development it is not considered to be unduly imposing or overbearing.
- 7.9.3. Properties to the west are located at higher ground level and considered not to be significantly impacted.
- 7.9.4. It has been acknowledged earlier in this assessment and is referred to in the grounds of appeal, that site is suitable for residential development and that there are benefits to achieving development of reasonable density, however, in my opinion, impact on residential amenity has not been adequately addressed. It has not been shown that significant impacts on the daylight and sunlight availability to the dwellings to the north is inevitable or that appropriate development of the site cannot be achieved without causing significant impact. There is no indication in the documentation on file that any attempt was made to design the development with a view to reducing impact and, in relation to the communal open space, it does not appear that the utility value of the space was important in the design, in contrast to the more detailed consideration given to the vehicular access arrangements, referred to further below.
- 7.9.5. I consider that impact on residential amenity is a reason to refuse permission.

7.10. Development Plan Standards

- 7.10.1. Various development plan standards, which the proposed development is considered to breach, are cited in the grounds of appeal.
- 7.10.2. Plot ratio is referred to as exceeding the development plan standard for the residential zoning. The plot ratio is 0.67:1; the standards in the development plan state 1:1.25 in the commercial/industrial zone and 0.46:1 in the residential zone. In my opinion the plot ratio is acceptable.
- 7.10.3. The private open space provision for the ground floor units is stated to provide only 11% as opposed to 50% of the floor area, as required by the Development Plan. It is also stated that, at 8.1m² provision, the ground floor units, fall well short of the 7m² private and 7m² communal space required for a 2 bedroom 4 person apartment per the guidelines, Sustainable Urban Housing: Design Standards for New Apartments. The terraces, with a width of 1.1m, are stated to fall short of the minimum depth of 1.5m required.
- 7.10.4. The Urban Housing: Design Standards for New Apartments guidelines sets out requirements in relation to private amenity space and communal amenity space: two bedroom (4 person) apartments require 7 sq m of private amenity space and 7 sq m of communal amenity space. The ground floor apartments are indicated as having a minimum of 8.1 sq m of private amenity space. The duplexes are shown to have more. The quantum of private amenity space is therefore acceptable, however the ground floor terraces, with a depth of 1.105m to 1.125m, are below the minimum depth of 1.5m considered necessary to provide the necessary utility value.
- 7.10.5. Communal amenity space of 68sq m is shown, in excess of minimum standards, the quantum is therefore acceptable
- 7.10.6. In my opinion these deficiencies in relation to the quantum of open space provision are capable of being remedied by condition and should not be a reason to refuse permission. Potential deficiency in relation to the utility of communal open space provision has been addressed earlier in this report.
- 7.10.7. The Urban Housing: Design Standards for New Apartments guidelines sets out requirements in relation to bicycle parking with a requirement for a minimum of 1 bicycle storage space per bedroom and 1 visitor space per two apartments: 20

spaces. In the subject development storage sheds are proposed as dual function for storage and bicycle storage and additional outdoor bicycle storage space is proposed, which is acceptable.

7.10.8. Non-compliance with development plan standards, should not be a reason to refuse permission.

7.11. Traffic & Safety Issues

7.11.1. The adequacy of the proposed car parking provision is questioned. It is stated that the deficit will cause increased on street parking and congestion.

7.11.2. It is proposed to provide 4 spaces. The development plan sets out various methods by which the car parking requirement for residential development may be calculated. The planner's report states that the development generates a requirement for 14 spaces but that in the circumstances of its central location, proximity to Salthill and public transport, a contribution in respect of the shortfall is acceptable. The Sustainable Urban Housing: Design Standards for New Apartments guidelines refers to car parking requirements and that adopting a more flexible approach to standards can assist in the move towards a much greater level of apartment living. In my opinion the proposed provision is acceptable. Illegal on-street parking is a matter for enforcement authorities.

7.11.3. The proposed development involves the widening of the narrow public roadway, which can be perceived as a planning gain, and involves ceding to public use a substantial amount of ground.

7.11.4. It is worth noting in this regard that there is reference in the response to the grounds of appeal to 'widening of the laneway'. This refers to widening the public road, rather than the laneway to the north of the site. In relation to that laneway the proposed development involves deep excavation immediately adjoining the laneway. Unlike the treatment of the western boundary, where some details of the proposed retaining wall are given in the further information response, no details are available of the proposed retaining wall along the laneway and it doesn't feature on the site layout, where the area available between the building and the edge of the laneway is only c1m. The drop of up to 3.5m which will be created by excavating the site to the laneway edge creates a hazard which has not been addressed in the design.

- 7.11.5. The proposed development includes the provision of a vehicular access to the south of the building, between the proposed apartment block and the adjoining development, referred to in reports as the Eglinton Hotel. An autotrack drawing was submitted with the application and a revised autotrack drawing was submitted with the response to the further information request. The proposed access is 6.2m wide and includes a footpath of 1.8m width. This entrance is intended to serve 4 car parking spaces. Having regard to other design limitations identified, this access roadway and footpath exceeds the needs of the site. It may be that the wide access arises from a need to provide for deliveries to the adjoining hotel. This is not stated. In the context of the proposed development alone, some of the space available would be better allocated to creating greater separation between the development and the northern boundary, where significant constraints have been identified.
- 7.11.6. In my opinion the development as presented does not adequately address the site constraints. In particular, the need for the extent of the excavation proposed is not clear, and since it brings with it significant issues regarding safety and shadowing, this aspect of the design requires justification or amendment. The failure to acknowledge the impact on the residential properties to the north has not allowed for exploration or refinement of the design, to address that impact or to seek to justify development based on the inevitability of impact. This is in contrast to the refinement noted in the design relating to the access roadway.

8.0 Recommendation

- 8.1.1. In the light of the above assessment I recommend that planning permission be refused for the following reasons and considerations

9.0 Reasons and Considerations

The proposed development by reason of its height, mass and proximity to houses to the north and consequent overshadowing would seriously injure the amenities of the area and of property in the vicinity and would thereby be contrary the proper planning and sustainable development of the area.

Planning Inspector

15th October 2018

Appendices

- 1 Photographs
- 2 Extracts from the Galway City Development Plan 2017-2023
- 3 Extracts from the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, Department of Housing, Planning and Local Government, March 2018.