



An
Bord
Pleanála

inspector's Report ABP-302183-18

Development	Construction of a 4 storey 60 bedroomed nursing home.
Location	Salthill Road Upper, Salthill, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	17277
Applicants	Rushmore Nursing Homes Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Iurie Matel
Date of Site Inspection	10 th January 2019
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1.1. The site is located at Salthill Road Upper, Salthill, Galway. The site is located at the junction of Salthill Road Upper, Salthill Road Lower and Grattan Road and immediately adjoining a gated entrance to Lenaboy Park. There is a mixture of uses in the area, including a filling station in the fork between Salthill Road Lower and Grattan Road, some shops and other retail services north of the junction along Salthill Road Lower, short term rental apartments and a hostel on the opposite site of Salthill Road Upper, a language school on the Grattan Road arm of the junction, and a disused premises, referred to on file as a former night club, adjoining to the south. These uses are interspersed with private residences, (many offering bed and breakfast on a seasonal basis). Residential use is the predominant use in Lenaboy Park. Commercial uses, many related to tourism, predominate further south along Salthill Road Upper which joins the R336, running along the promenade / Galway Bay coastline, c400m to the south. The Seapoint promenade is also accessible to the east of the site along Grattan Road c180m away.
- 1.1.2. There are residential properties to the west - north/west on individual sites. In some cases the ground level is considerably higher than the subject site.
- 1.1.3. The site is L shaped is with its long axis running along the public road, and is deepest at the southern end where it adjoins the disused nightclub; at the rear of the southern end of the site it adjoins a recently constructed dwelling on much higher ground which is accessed via a driveway from Lenaboy Park. To the north the site bounds a narrow laneway which serves a side entrance to the subject site and housing at Lenaboy Park. The first residential property in Lenaboy Park, which adjoins the subject site along two of its boundaries, is at a similar ground level to the subject site.
- 1.1.4. The site is occupied by the Warwick Hotel, or O'Connor's Warwick Hotel, which is currently vacant and in respect of which there is planning permission for demolition under planning authority reg. ref. 16/244. The existing hotel is positioned to the back of the site where the rear boundary is formed by a retaining wall. Over part of the rear boundary there are outbuildings along the boundary and over part the hotel building itself adjoins the boundary. Surface car parking occupies the area forward of the building towards Salthill Road Upper.

- 1.1.5. The roadways on Salthill Road Upper, Salthill Road Lower and Grattan Road have medians leading to the mini roundabout controlled junction.
- 1.1.6. The site is given as 0.3047ha. on the application form and as 0.3106ha in an accompanying letter.

2.0 Proposed Development

- 2.1. The proposed development is the construction of a 4 storey, 60 bedroomed, nursing home with associated surface level car parking, south-facing landscaped amenity & outdoor seating area, signage, widening existing entrance and provision of a security gate, alterations to existing pedestrian entrances to facilitate wheelchair access & connectivity, alterations and upgrades to existing boundary walls, connection to existing services, together with all associated site development works.
- 2.2. It is proposed to site the building close to the road, to alter the vehicular access slightly and to locate the main entrance to the building from the rear, as viewed from the road. Servicing and parking will take place to the rear.
- 2.3. The floor area of the development is stated on the application form to be 3,888.9m².

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided (5/7/2019) to grant permission subject to 21 conditions, including:

3) Prior to commencement of development, the exact design details of the main entrance gate shall be submitted to the planning authority for written agreement.

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

4) Prior to commencement of development, a revised ground floor and second floor plan shall be submitted in which the Library shall be relocated to the ground floor replacing the staff training room, which shall be positioned at second floor level, all details shall be submitted for the written agreement of the planning authority.

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

5) The developer shall obtain written agreement of Galway City Council for the appropriate name for the proposed development and shall incorporate some link to the geographical area and the Irish language where feasible.

Reason: To ensure the satisfactory completion of the development.

6) There shall be no plant, ducting, water tanks, television aerials, satellite dishes or telephone receiving/transmission equipment erected above roof level or on external walls without a further grant of planning permission, notwithstanding exempted planning and regulations.

Reason: In the interests of orderly development and the protection of visual amenities.

7) Prior to the commencement of development the detailed landscaping plan, which includes soft and hard landscaping, received on the 18/5/2018, shall be fully implemented by a suitably qualified landscape professional, certification of the completion of the scheme shall be submitted by the above appointed person and shall be submitted to the planning authority for written agreement. This landscaping plan shall include for the alternative 'Homezone' proposal for the rear, shown on drawing 18/1815 Rev (A), date received 18th May 2018. and the proper planning and sustainable development of the area.

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

8) The developer shall ensure that all construction activity impacting upon the public realm shall comply with the following:

- a) The applicant shall apply for and be issued with a road opening licence from Galway City Council prior to the commencement of any works on the public footpath.
- b) The nursing home shall not be occupied until a certified report prepared by a suitably qualified person is submitted to the planning authority for written agreement. This will certify that the public footpath and roadway, impacted by

the development, are maintained/repared to an acceptable standard after construction of the development.

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

9) construction hours, construction safety, waste management plan, rock breaking.

11) All loading and unloading facilities within the development shall take place entirely within the confines of the service area and between 8am and 6pm Monday to Saturday, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of traffic safety and the residential amenity of the area.

12) The operator of the Nursing Home shall insulate against the transmission of sound and the activities carried out therein and shall ensure that the plant services for the home shall not make or cause to be made any noise or vibration which is no loud, so continuous or so repeated or of such duration of pitch or at such times as to give reasonable cause for annoyance to persons in any premises in the neighbourhood or to persons lawfully using any public place.

Reason: To prevent annoyance by reason of noise to occupants of nearby premises and to safeguard the amenities of the area.

13) A monitoring report shall be submitted, prepared by a suitably qualified person, with regards to the heat pumps, this is in order to ensure that they are operating in compliance with the report submitted with the planning application, this report shall be submitted within 6 months of the occupation of the Nursing Home, and the report shall be agreed in writing with the planning authority.

Reason: In the interests of residential amenity.

14) All alterations to public services, public areas or utilities necessitated by the development shall be carried out at the developer's expense having firstly obtained the agreement in writing of Galway city Council or other public bodies responsible for such areas or utilities, before any alterations are carried out.

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

15) Surface water run-off from paved areas and down pipes associated with the development shall not be permitted to discharge onto the public road or footpath.

Reason: In the interests of traffic and public safety.

16) All works shall be carried out in accordance with the requirements for 'Site Development Works for Housing Areas', as issued by the Department of the Environment, Heritage and Local Government unless required otherwise by Galway City Council in which case Galway City Council standards shall apply.

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

17) The car parking spaces provided within the development shall be reserved for exclusive use of the occupiers, staff and visitors to the development.

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

18) The applicant shall be responsible for installing and maintaining to a satisfactory standard a vehicular wheel washing facility on site during all of the construction phases of this development so as to prevent any dirt being transferred to the public roadways.

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

19) The car parking spaces shall be adequately delineated.

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

20) Surface water drainage from the proposed development should discharge to a suitably designed soakaway. 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 of 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 the proper planning and sustainable development of the area.

21) S48 contribution - €29,045.

3.2. Planning Authority Reports

3.2.1. Planning Reports

There are two planning reports on the file. The first (21/11/17) recommending a request for further information on 8 points (which issued), includes:

- Recording two observations.
- The three storey hotel which operated as a hotel, bar, restaurant, function room and nightclub has been closed and vacant for a number of years and the building has visibly deteriorated over this period.
- The City development plan states that community facilities would be a use which would be compatible with the zoning objectives. The location of a nursing home within the city and close to the amenities of Salthill is a welcome development as it allows existing residents of the city who may require such facilities the option to remain within their community while acting as a private commercial development and in this case the principle of such development on a C1 zoned lands is considered in accordance with the development plan objectives.
- Plot ratio 1.27:1, maximum permissible 1.75:1; acceptable.
- Site coverage 0.28:1 the standards allow for up to 0.8:1; acceptable.
- Height and context – height of 13.295m facing the public road. The land rises towards the west and significantly along the northern boundary where a number of single residential dwellings are located within Lenaboy Park which is accessed via a small road running along the site boundary. The lands to the north (north-west) are positioned at approximately second storey level when compared to the site under consideration.
- Unlike the existing hotel which directly abuts the rear boundary the proposed building would be 11-27-18 metres from the boundary. The building is to be positioned 6.5-8m from the roadside boundary and would face onto a wide public

roadway; from edge to edge of footpath 14-28-32m. The proposal of developing a taller building closer to the public roadway allows for a greater sense of enclosure for this urban roadway while the width of the roadway is not altered and aids significantly in reducing any impact of a taller building. It is considered that the height and position of the building may be in keeping within the context of the surrounding area.

- Overshadowing – the existing hotel abuts the boundary and overshadows the residential dwellings and lands. The proposed nursing home while adding an extra level is now positioned off the boundary at a distance of approx. 11-27-18m. A shadow analysis has been submitted. It is considered that any impacts would be minimal.
- Daylight (development plan 11.3.1 (e)) 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.
- 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, (development plan 8.7).
- Design – there is a wide mix of building design within the immediate vicinity. The existing hotel does not have any particular design characteristics. In the surrounding area there is a legacy of practical commercial developments such as the petrol station, contemporary office buildings and modern apartments etc.
- The front and south- eastern corner have been designed in a more residential format with the inclusion of a pallet of differing complementary materials and finishes. The northern elevation is more restrained in finish and has active elements and acts as the main entrance. This would not be open for public views. Additional information is required on the details of materials, given the size and prominence of the building and the extensive use of render, rain screen cladding and the annotation of some elements on the drawings.
- Boundary treatment – the applicant proposes to retain the majority of the existing boundary walls. To the roadside they propose to add a railing creating a 1.25m high wall and a 0.75 m rail on top. Along the rear boundary they propose a

retaining wall 4.3m high, faced with block or stone, when viewed from their property, and 1.8m when viewed from the adjacent lands. It is considered that this is acceptable solution to the very differing levels; while this wall will not be viewed from any public road.

- Open space requirements – CDP section 11.9.3 states the Minimum Open Space Requirements for CI and I zoned lands would be 5% of the total site area. This would equate to 152 sq m. The applicant indicates on the site layout plan submitted that they are providing an area of 345sq m along the front of the building, abutting the public footpath/road. This area is positioned along the southern (south eastern) and a portion of the western (south western) boundary of the site and would maximise any solar gain. It would have a depth of approx. 6-7m and a length of 42m and would be considered a functional area.
- It is noted that this area to the front would effectively be the only significant area of open space available to the residents and while its proximity to the road may be beneficial in terms of interaction with the public the downside is road noise and pollution. The area includes benches, pathways, areas of planting and direct pedestrian / wheelchair accessible ramp to the public footpath.
- Recreation and Amenity Department comments noted.
- CDP also requires 50% of residential content where a residential content is proposed. It is considered that an increase in the quantity and quality of open space is required given the nature of the nursing home is closer to residential accommodation.
- The applicant proposes to retain the existing boundary but to add a railing to the top (total height of 2m) this allows residents interaction with the public street while enjoying a secure private amenity area.
- Overlooking and daylight – CDP states 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 (d) overlooking). 11.3.1 (e) (daylight) 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. The applicant has addressed these issues. A number of windows proposed along the western (south western) boundary, facing the adjacent boundary, are obscured, while additional pop out windows facing south are provided which allow daylight and prevent overlooking. Re the northern elevation, while meeting and exceeding standards a mixture of windows is proposed to prevent overlooking. Many bedrooms have obscured glazing some are supplemented by secondary windows directed to avoid direct overlooking. It is important to assess the quality for long term residents.

- Distance between buildings 1.9-4.82 – acceptable.
- Deliveries and noise – the proposed use will have significantly lesser impact than the permitted hotel etc. A report on potential noise generation (heat pumps) concludes that it will be well below acceptable levels. It is considered reasonable to limit deliveries to normal working hours.
- Car parking – per CDP 60 required, 43 proposed. Hotel would generate 143, the proposal has significantly less demand; shortfall acceptable. Location close to priority bus corridor and other public transport facilities and other services. Transport Assessment required.
- Entrances – it is proposed to widen the existing entrance from 4m to 6m. There will be a footpath/pedestrian access to the side. No objection. Additional information required re electric security gate and automated night security gate, re proximity to protected structures, historic gates and historic post box (protected structure). Pedestrian gate at south-western boundary proposed, and existing pedestrian entrance onto Lenaboy Park to be retained for emergency access/exit.
- Signage – a number of locations for signage to the front and upper side sections and directly above the entrance at the rear; general locations acceptable details should be agreed.

FI recommendation.

3.3. Other Technical Reports

Recreation and Amenity Department (20/10/2017) – whilst the application contains reference to landscape elements and amenities there is no planning stage Landscape Plan provided to allow for advice on its appropriateness or sustainability. Reporter therefore urges that given the important societal category of people who will live at this facility this matter is recorded and reporter remains disposed to meeting with the applicant/agent and landscape architect.

As this development is for senior citizens the amenities should provide activity and a means to maintain physical health and should include: exercise equipment (outdoor) walking routes (for those less able), and raised bed with full accessibility for wheelchair and other perambulatory assistance devices. The planting should include species attractive for colour, attracting pollinators, seasonal variation, texture, sound, and food and food enhancements.

CFO – (15/11/2017) – the proposal would not comply with the current Fire Safety Requirements for such a development, in particular, with regard to Means of Escape. Advising applicant to consult and resubmit.

ACFO – (16/5/2018) – OK for planning, it will have to be vetted in more detail at FSC (fire safety certificate) stage.

3.4. Further Information Request

3.4.1. A further information request issued on 8 points:

1. Fire safety
2. Increase amenity open space.
3. Shortfall in car parking – submit Transportation Strategy and travel plan.
4. Re bedroom windows glazed in obscured glazing, certify through HIQUA/ medical personnel the measure and impact of such filtered lighting; extent and nature of obscure glass for each bedroom.
5. Planning stage landscape plan; consult with Senior Executive Parks Superintendent.

6. Submit examples of buildings where the mix of materials proposed is used; rear parking courtyard should reflect the environment of a residential setting.
7. Revise very extensive parking court to DMURS standards.
8. Details of security gates

3.5. Further Information Response

- 3.5.1. A further information response, was received 18 May 2018.

3.6. Unsolicited Further Information

- 3.6.1. Unsolicited further information was received (28/6/18) responding to the single observation on the further information, which includes:
 - Reference to their failed attempts to contact the observer and referring to a Board history file where an oral hearing was held in similar circumstances and the appeal dismissed.
 - The design was development in consultation with HIQA standards and the document National Standards for Residential Care Settings for Older People in Ireland 2016. These are guidelines not legally binding technical standards.
 - Re 2.6.7 '*The premises include safe, secure outdoor spaces which residents are supported in using and which provide positive sensory stimulation. Outdoor spaces are accessible to residents with disabilities, and include seating and facilities for recreation*'; the layout complies. The homezone is accessible, with a looped walkway. As the parking spaces are for staff they will be used infrequently. Deliveries will prior to 9am and refuse collection will be from street edge. There is no open space standard for nursing homes. The homezone and therapeutic garden and the close proximity to a wealth of public parkland and recreational amenities, is considered more than adequate.
 - Internal layout – there are no cul-de-sacs and all floors, depending on requirements of residents, will have directional signage.
 - Windows – internal rooms that have no windows are not in everyday use; those with daily activity are on the external perimeter and have windows.

- Height of clear windows – 2.7.20 *‘Rooms used by residents are individually and naturally ventilated with windows conforming to recognised standards. The height of the window enables residents to see out when seated’*; all rooms meet these requirements. A sketch is attached to illustrate the provision in rooms, with a combination of skewed windows with clear glazing (sitting height) and obscure windows with clear top hung sections above standing height.
- Building Design – the building integrates well with urban grain and established building line, at plot ratio recommended in the City Development Plan. Rooms have sufficient daylight without overlooking.

3.7. Planning Report

3.7.1. The second planning report (29/6/18) referring to the response to the request for further information, and recommending permission, includes:

- 1) The applicant has liaised with the Fire Officer and has altered the plans to respond to concerns; and further points out that Fire Regulation is under separate legislation.
- 2) They consider that full compliance with open space requirements for residential would not be appropriate, however a revised landscaping proposal has been provided – shared surface area at the rear.
- 3) Reduction in car parking spaces by 7, with additional amenity space. Justification for lesser car spaces is provided: bus route, Galway transportation Study; experience at existing nursing home. On site bicycle parking and showers and changing rooms provided on site.
- 4) Response from HIQA – HIQA does not lay down specific criteria. The operator will assess patients for their needs and they will be placed in rooms to suit their individual requirements. All rooms exceed minimum floorspace requirements. All will have a window with unobscured glazing.
- 5) Revised landscaping plan provided. Senior Executive Parks Superintendent consulted and satisfied, subject to implementation of the alternative option provided for car parking and Homezone at the rear.
- 6) Examples submitted.

7) Reduced car parking has had regard to DMURS.

8) Revised proposals have had regard to nearby protected structures.

Reporter is satisfied with response.

Development charge based on the floor area in excess of the existing hotel floor area, at a rate of 28 euro per sq m. = 29,045 euro.

3.8. Prescribed Bodies

Irish Water – (10/10/2017) no objection. Connection agreement to be signed.

EHO, HSE (22/12/2017) – no objection.

3.9. Third Party Observations

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

4.0 Planning History

16/244 Permission granted for demolition of the building formerly known as O'Connors Warwick Hotel, in preparation for redevelopment.

5.0 Policy Context

5.1. Development Plan

The Galway City Council Development Plan (GCCDP) 2017 – 2023 is the relevant plan. relevant provisions include:

Identifies this area as C1 To provide for enterprise, light industry and commercial uses other than those reserved to the CC zone. Uses which are compatible with and contribute to the zoning objective, include for example: community and cultural facilities.

It is considered that community and cultural services, which have a wide catchment and patronage, should be at accessible locations in terms of all modes of transport in particular public transport.

Policies in relation to community facilities include (Policy 7.4.1) - encourage and facilitate the provision of a range of community services, including local health services, services for the elderly, and places of worship.

Daylight (11.3.1 (e)) 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.

5.2. National Planning Framework - Ireland 2040 - Our Plan

- 5.2.1. The Government's draft long-term strategic planning framework will guide national, regional and local planning and investment decisions over the next 25 years, includes emphasis on compact development.
- 5.2.2. National Policy Objective 11 - In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria enabling alternative solutions that seek to achieve well-designed high quality and safe outcomes in order to achieve targeted growth and that protect the environment.

5.3. Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018

- 5.3.1. To put into practice key National Policy Objectives contained in the Framework to secure better and more compact forms of future development.
- 5.3.2. Refers to consolidation and densification in meeting our accommodation needs into the future.

5.4. National Standards for Residential Care Settings for Older People in Ireland (2016).

- 5.4.1. This document sets down standards for nursing home care. In relation to residential accommodation buildings they are performance standards rather than detailed measurable requirements. These standards are administered by HIQA.

5.5. Natural Heritage Designations

- 5.5.1. The nearest Natura site is Galway Bay Complex SAC, site code 000268, located less than 120m from the subject site. Inner Galway Bay SPA, site code 004031 is located just in excess of 150m from the subject site.

5.6. Environmental Impact Assessment

- 5.6.1. 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.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. This is a third party appeal by Lurie Matel against the planning authority's decision to grant permission. The grounds includes:
- A nursing home is not mentioned in the uses which are compatible with and contribute to the zoning objective, nor are any similar uses. It is not a community facility it is a residential use. As a residential use it is only acceptable if it is of a scale that would not unduly interfere with the primary use. The use would conflict with the zoning objective.
 - Density is excessive – existing plot ratio is 0.92 proposed is 1.25, permissible 1.25, planner's report states 1.27. There are 2 storey buildings to west and east and low density housing to the rear (Lenaboy Park). Existing hotel is part 2, part 3 storey. The proposal is mainly for 4 storeys. The character of opposite side of Salthill Upper – seafront, is different with taller buildings, mostly apartments. This side is more domestic. The excessive height and scale necessitates extensive use of opaque glass.
 - Open space – the level of amenity is inadequate – it is a minimal area and located beside a busy road. The 'homezone' to the rear is accessible to

parking and delivery vehicles and of no use to residents. The area to the rear is bounded by a high wall in excess of 6; not an amenity area. The arguments made in the FI response as to why additional amenity space cannot be provided are countered. The report of the Parks Superintendent is cited. Space provided does not come close to meeting objectives. The front space is noisy, public and confined. The rear space shared by vehicles. A wheelchair bound or mobility impaired person cannot exercise or enjoy the sunshine in a space used by cars. Re availability of extensive public open space in the vicinity, the problem for most occupants is its inaccessibility. A resident might be wheeled outdoors on a pleasant sunny day to a location close to the building, where they can be seen, supervised and safe. Residents need access to outdoor space that they can independently access, of sufficient quantity and high quality.

- Internal issues – erratic shape and size of rooms eg. 10 and 13, similarly on other floors. Unobscured glazed windows are at an angle to the rooms and not useable by a resident, especially one bed bound. Extensive use of obscured glazing betrays excessive density and poor amenity. Amenity will be less if adjoining site is developed at a similar density/height. The layout is poor – long corridors and dark spaces, rooms with no windows, including library/reading room and bereavement rooms. A number of important papers illustrating the importance of natural light are enclosed. Insufficient daylight is a fundamental flaw.
- Nursing Home Standards – The document National Standards for Residential Care Settings for Older People in Ireland 2016 is enclosed. Sections 2.3, 2.6 and 2.7 are referred to, re psychological wellbeing and daylight; homely and accessible and promote independence. 2.6.7 – *‘The premises include safe, secure outdoor spaces which residents are supported in using and which provide positive sensory stimulation. Outdoor spaces are accessible to residents with disabilities, and include seating and facilities for recreation’*. The front area cannot be described as meeting the requirement to ‘meet the privacy, dignity and wellbeing of each resident’ (2.7).

6.2. Applicant Response

6.2.1. Planning Consultancy Services have submitted a response on behalf of the applicant, which includes:

- They consider that the appeal should be dismissed for reasons which they outline and they enclose a Barrister's Opinion in this regard. They refer to a Board history (PI 07.349047) in which an oral hearing was held and the Board decided to dismiss the appeal.
- CDP – provisions of the GCDP are cited - the Nursing Home will provide an invaluable community Facility and Local Service to cater for the older population of the area, in keeping with CDP policy.
- Objective SC02 of the RPGs is cited.
- A nursing home was established on the opposite side of the road operating for decades before recently being converted to a hostel.
- Plot ratio 1.12:1 allowable in general C1 in which the standard is 1.25:1, in Salthill the C1 standard is 1.75:1 (i.e. even higher).
- Building height – justification is provided; it will appear as three storey with fourth floor set back behind building line; will allow more enclosure and high-quality intervention onto the street. Reduction in length, and animation of gables/side elevations will assist visual integration; positioning allows greater separation from residential properties; residential properties to north west are on elevated ground, facilitating the height increase; the location at a junction, marking the eastern end of Salthill along an arterial road and a public transport corridor, is capable of accommodating a higher building; the area has a mixed use character and a wide range of building heights; the acceptability of the height is demonstrated in photomontages.
- Open space – provision is made up of a Homezone, a therapeutic garden, and balcony areas. Homezone – 533m² - 17% of site area; therapeutic garden – 370m² 11.9% of site area; and balcony areas - 113 m²; total 1,016 m². The excellent pedestrian connectivity to neighbouring promenade, beach and parkland areas, is referred to.

- Internal Design – the assertions are incorrect; it complies with 2.7.20; all bedrooms will have clear windows, and all obscured glazed windows will have clear upper panels; only a minority of bedrooms have partial obscure glazing, (to meet CDP standards), even though the existing hotel is equipped with windows overlooking neighbouring properties. It is considered that the proposed design achieves an appropriate balance in the provision of adequate daylight whilst ensuring adequate privacy. A sketch of a bedroom is provided, together with a breakdown of window types for each bedroom.
- Re internal rooms with no window – they are willing to relocate the library /reading room and training room, in line with condition no 4. All other internal rooms consist of meeting rooms, staff rooms, storage rooms etc.
- Nursing Home Standards – a table of standards and compliance therewith is provided. The proposed development is fully compliant with HIQA standards.
- They urge the Board to dismiss the appeal, or hold an oral hearing to protect the integrity of the planning system.
- Attached to the response is an opinion from David Browne, Barrister-at-law.

6.2.2. Legal opinion - David Browne, Barrister-at-law.

- This relates to arguments regarding invalidity of the appeal.
- It submits that the Board should exercise its discretion to seek clarity from the appellant and confirmation of his address and bona fides in bringing the appeal. If the appellant fails to establish his bona fides or does not provide convincing evidence that he resides at the address of the appeal, the Board should exercise its statutory powers and dismiss the appeal. The precedent of 07.349047 and the provisions of Sections 127 and 138 of the Planning and Development Act are referred to.

6.2.3. There are further attachments relating to the foregoing issue of invalidity including a letter from the applicant.

6.3. Planning Authority Response

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

6.4. Oral Hearing

- 6.4.1. The Board considered the submissions made in relation to S 138 and directed that an oral hearing should be held.
- 6.4.2. This file contains various items of correspondence with the third party, following the decision to hold the oral hearing and prior to the opening of the hearing, including a letter received 25th January 2019 from Mr Iuri Matel stating that he cannot see what he could contribute to a hearing or add to the already detailed submission; and a further letter received 28th January 2019 from Mr Iuri Matel enclosing a bank statement as proof of address; which correspondence is noted for the Board's attention
- 6.4.3. The oral hearing was held for 29th January 2019 in the Galway Bay Hotel, Salthill, Galway. In attendance were,

for the Planning Authority:

John Doody Planner Galway City Council,
Caroline Phelan Planner Galway City Council, and
Theo McLoughlin Engineer (Roads), Galway City Council.

for the Applicant:

James O'Donnell Planning Consultancy Services,
Aidan Clarke, Clarke Construction Design,
David Browne BL, Law Library,
Sharon Conlon Rushmore Nursing Home and
Emma Conlon Rushmore Nursing Home.

The appellant did not attend the hearing.

- 6.4.4. Having taken the attendance and ascertained that the Mr Iuri Matel, the third party appellant, was not in attendance, the inspector closed the hearing.
- 6.4.5. A recording of the hearing is attached to the file.

7.0 Assessment

- 7.1.1. The issues which arise in relation to this appeal are: appropriate assessment, development plan compliance, scale and density of development, standard of the development, parking and deliveries, 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. Development Plan Compliance

- 7.3.1. Conflict with the zoning objectives for the area is referred to in the grounds of appeal. It is stated that it is not a community facility but a residential use; as a residential use it is only acceptable if it is of a scale that would not unduly interfere with the primary use; and that the use would conflict with the zoning objective.
- 7.3.2. The planning authority considers that community facilities would be a use which would be compatible with the zoning objectives. The planner's report states that the location of a nursing home within the city and close to the amenities of Salthill is a welcome development as it allows existing residents of the city who may require such facilities the option to remain within their community while acting as a private commercial development and in this case the principle of such development on a C1 zoned lands is considered in accordance with the development plan objectives.
- 7.3.3. The Galway City Council Development Plan 2017 – 2023, which is the relevant plan, zones this area as 'C1' To provide for enterprise, light industry and commercial uses other than those reserved to the CC zone. A list of uses, which are stated to be compatible with and contribute to the zoning objective, are given as examples and therefore are not exhaustive. The list includes community and cultural facilities. For the zone 'CC' the main objective is to provide for city centre activities and particularly those reserved to this zone.

- 7.3.4. The proposed development does not fall neatly into any one use description. It is a commercial use and as commercial use it is not of a type reserved to the CC zone. It could also be described as a community use. Although there will be residents in the facility, it is not, in my opinion, a residential use, as the term is normally applied; but it would be compatible with residential usage.
- 7.3.5. In my opinion the proposal is compatible with and contributes to the zoning objective and is therefore acceptable in this zone.
- 7.3.6. Other relevant development plan provisions include: that community and cultural services, which have a wide catchment and patronage, should be at accessible locations in terms of all modes of transport, in particular public transport; and the policy to encourage and facilitate the provision of a range of community services, including services for the elderly.
- 7.3.7. I agree with the planning authority that a nursing home within the city and close to the amenities of Salthill is a welcome development. I consider that the proposed development is acceptable in principle.

7.4. Scale and Density of Development

- 7.4.1. The grounds of appeal refers to excessive height, density and scale: that the density is excessive, the existing plot ratio is 0.92, the proposed is 1.25; there are 2 storey buildings to west and east and low density housing to the rear; the existing hotel is part 2 part 3 storey and the proposal mainly 4 storey; and that comparing the development to the opposite side of Salthill Upper is wrong, because there the character is different with taller buildings at the seafront; whereas this side is more domestic.
- 7.4.2. The first party has responded stating that the plot ratio is 1.12:1 the development plan provides for a general plot ratio in C1 zones of 1.25:1, and in the Salthill C1 zone of 1.75:1. The response provides justification for the scale: it will appear as three storeys with fourth floor set back behind the building line; it will allow more enclosure and is a high-quality intervention onto the street; the reduction in length, and animation of gables/side elevations will assist visual integration; the positioning allows greater separation from residential properties; residential properties to north west are on elevated ground, facilitating the height increase; the location at a

junction marking the eastern end of Salthill along an arterial road and a public transport corridor is capable of accommodating a higher building; the area has a mixed use character and a wide range of building heights; and the acceptability of the height is demonstrated in photomontages.

- 7.4.3. The planner's report found the plot ratio to be well within the maximum permissible 1.75:1; and found it to be acceptable. The site coverage 0.28:1 is well within the standard which allows for up to 0.8:1; and found to be acceptable. The height of 13.295m facing the public road, was found to be acceptable. Unlike the existing hotel which directly abuts the rear boundary, the proposed building would be 11-27-18 metres from the boundary, a greater sense of enclosure will be provided for this urban roadway, while the width of the roadway is not altered and aids significantly in reducing any impact of a taller building. The report considered the height and position of the building to be in keeping within the context of the surrounding area; and noted, in relation to overshadowing, that the existing hotel abuts the boundary, and overshadows the residential dwellings and lands, whereas the proposed development does not.
- 7.4.4. I am satisfied that the scale and density of development and the building height are acceptable for this location and that a lesser scale density and height would fail to achieve the densification required for this centrally located site.

7.5. Standard of the Development

- 7.5.1. The grounds of appeal refers to the standard of accommodation being inadequate in terms of the internal layout of the building, the individual bedrooms and the outdoor amenity space provision; and in doing so refers to the document National Standards for Residential Care Settings for Older People in Ireland (2016).

7.6. Internal Layout & Bedrooms

- 7.6.1. The first party states that the internal layout was developed with reference to the National Standards; they state their willingness to relocate the library/reading room and training room, in line with condition no 4; and that all other internal rooms consist of meeting rooms, staff rooms, storage rooms etc.
- 7.6.2. They state that the appellant's assertions regarding internal design are incorrect; that the development complies with paragraph 2.7.20 of the National Standards; all

bedrooms will have clear windows, and all obscured glazed windows will have clear upper panels; only a minority of bedrooms have partial obscure glazing (to meet CDP standards), even though the existing hotel is equipped with windows overlooking neighbouring properties. They consider that the proposed design achieves an appropriate balance in the provision of adequate daylight whilst ensuring adequate privacy. In support of their claims they provide a sketch of a bedroom, together with a breakdown of window types for each bedroom. They also provide a table of standards, demonstrating that the proposed development is fully compliant with HIQA standards.

- 7.6.3. The Board should note that in any case where obscured glazing is used in a bedroom window the obscured glazing extends only to above head height and a second window in the same room has unobscured glazing. In my opinion daylight provision and the contact with the outdoors via an outdoor view required for residents, is adequately provided for in all bedrooms.
- 7.6.4. Condition 4 of the planning authority's decision requires that prior to commencement of development, a revised ground floor and second floor plan be submitted in which the library is relocated to the ground floor replacing the staff training room, which is to be positioned at second floor level. In my opinion this is a necessary requirement so that a recreation space for residents has natural daylight and outdoor views. I note the first party's acceptance of this requirement.
- 7.6.5. Subject to a condition, similar to condition 4 of the decision, in my opinion the internal accommodation is of an adequate standard.

7.7. Outdoor Amenity Space

- 7.7.1. The grounds of appeal refers to the proposed open space, that the level of amenity is inadequate; minimal area is proposed and it is located beside a busy road; the 'homezone' to the rear is accessible to parking and delivery vehicles, of no use to residents and bounded by a high wall in excess of 6m. The front space is noisy, public and confined, and the rear space shared by vehicles. A wheelchair bound or mobility impaired person cannot exercise or enjoy the sunshine in a space used by cars. Re. availability of extensive public open space in the vicinity, the problem for most occupants is its inaccessibility. A resident might be wheeled outdoors on a pleasant sunny day to a location close to the building, where they can be seen,

supervised and safe. Residents need access to outdoor space that they can independently access, of sufficient quantity and high quality.

- 7.7.2. The first party states that the total open space provision is 1,016 m², made up of a Homezone of 533m² (17% of site area); a therapeutic garden of 370m² (11.9% of site area); and balcony areas of 113 m². They point out that there is excellent pedestrian connectivity to the neighbouring seaside promenade, the beach and parkland areas.
- 7.7.3. It would be hard to find a location which offers more attractive opportunities for strolling for ambulant residents or for wheelchair users who, by themselves or with the assistance of visitors or staff, can avail of those opportunities.
- 7.7.4. Within the confines of the development the amenity area between the building and the roadside boundary is accessible to those with less mobility. I cannot agree with the third party that the proximity of this area to the public street is a negative aspect, because of the lack of privacy it affords. This fails to acknowledge the importance of social interaction for the elderly, which is at least as well considered in many publications as the importance of daylight cited in the grounds of appeal and in the publications provided therewith. The proposed landscaping will provide areas which are less exposed to public view for residents with that preference. In my opinion the amenity space forward of the proposed building, termed therapeutic garden, provides a valuable outdoor amenity space for residents.
- 7.7.5. I acknowledge that the area to the rear termed a 'homezone' is bounded by a very high wall and its accessibility to delivery vehicles and availability for parking makes its management as an amenity space more problematic. It is not a sitting out area, but is of value for limited exercise and access to the fresh air. In my opinion it has an important amenity function. I also acknowledge that the balcony areas referred to are useful amenity spaces.
- 7.7.6. In my opinion the outdoor amenity space is of an adequate standard in terms of quantity and quality and in conjunction with the outdoor amenities available in the immediate area, will provide for the needs of residents.
- 7.7.7. There is nothing in the document National Standards for Residential Care Settings for Older People in Ireland, 2016 with which the proposed development has been

shown to fail to comply. It should be noted that ensuring compliance with these standards is the responsibility of HIQA.

7.7.8. The standard of the development should not be a reason to refuse permission.

7.8. **Parking and Deliveries**

7.8.1. The proposed car parking on site is below that set out in the City Development Plan. The existing hotel and ancillary uses would generate a parking demand greatly in excess of that required for the proposed development. The first party has offered justification for the provision: the location close to a bus route, Galway Transportation Study plans for public transport, experience at their existing nursing home, and the on-site bicycle parking to be provided together with showers and changing rooms.

7.8.2. In line with the National Planning Framework Plan, minimum standards for car parking provision can be inappropriate in such a central area with access to public transport and in proximity to amenities and services, where the objective is to achieve an acceptable density of development and to support public transport provision. Parking is adequately provided for.

7.8.3. The proposed development provides for some parking in an area where its dual use as amenity space and parking is proposed. The use of this area should be regarded as primarily amenity space.

7.8.4. In justifying this dual use, the first party proposed that deliveries would take place before 9am daily. Condition 11 of the planning authority's decision requires loading and unloading facilities to take place between 8am and 6pm Monday to Saturday, unless otherwise agreed in writing with the planning authority. In my opinion there is no justification for this condition. The established use as a hotel would not have operated to this schedule. The use of the area as an outdoor amenity space would be better managed if deliveries were carried out before 9am as proposed, and a condition to this effect should be attached.

8.0 Recommendation

- 8.1.1. In the light of the above assessment I recommend that planning permission be granted for the following reasons and considerations and in accordance with the following conditions.

9.0 Reasons and Considerations

The proposed commercial development provides a valuable community service which it is the policy of the planning authority, as set out in the City Development Plan, to facilitate. The central location in Salthill, well served by public transport, and close to and accessible to services, residential areas and public amenities, is an appropriate location for this use. Subject to the following conditions the proposed development would not detract from the amenities of the area, or the value of property in the vicinity, or create traffic congestion or hazard; would provide suitable accommodation for persons requiring care and achieve an acceptable density of urban development; and would accordingly be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 18 day of May 2018, 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. Prior to commencement of development, a revised ground floor and second floor plan shall be submitted in which the library shall be relocated to the

ground floor replacing the staff training room, which shall be positioned at second floor level, all details shall be submitted for the prior written agreement of the planning authority.

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

3. Prior to the commencement of use, the detailed landscaping plan, which includes soft and hard landscaping, received on the 18/5/2018, shall be fully implemented under the supervision of a suitably qualified landscape professional and certification of the completion of the scheme shall be submitted to the planning authority for written agreement. This landscaping plan shall include for the alternative 'Homezone' proposal for the rear, shown on drawing 18/1815 Rev (A).

Reason: In the interests of residential amenity.

4. Prior to commencement of development, the exact design details of the main entrance gate shall be submitted to the planning authority for written agreement.

Reason: In the interests of visual amenity.

5. Details of name signs shall be submitted to the planning authority for written agreement, prior to installation; signage shall be limited to identifying the building and its use and shall not be used for advertising purposes.

Reason: In the interests of visual amenity.

6. The developer shall obtain the written agreement of Galway City Council for an appropriate name for the proposed development referencing the geographical area, a local feature and/or the Irish language.

Reason: To ensure the satisfactory completion of the development.

7. Following commencement of use of the nursing home all loading and unloading within the site shall take place before 9am Monday to Saturday, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential amenity.

8. There shall be no plant, ducting, water tanks, television aerials, satellite dishes or telephone receiving/transmission equipment erected above roof level or on external walls without a further grant of planning permission, notwithstanding exempted planning and regulations.

Reason: In the interests of orderly development and the protection of visual amenities.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services. In this regard all surface water from the development shall discharge to suitably designed soakaways on site or in the event that discharge to ground is rendered inappropriate due to ground conditions, SUDS measures may be developed and shall be agreed with the planning authority prior to construction commencing on site.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

10. 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 the 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;
- (e) Measures to obviate queuing of construction traffic on the adjoining road network;
- (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, including proposals for the installation of a vehicular wheel washing facility on site, and its maintenance to a satisfactory standard for the duration of the construction, to prevent any dirt being transferred to the public roadways;
- (g) Proposals for remediating any unearthed contaminants;
- (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the 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 specially 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; and
- (m) 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 Construction Management Plan, shall be kept for

inspection by the planning authority.

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

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 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.

12. During the construction and demolition phases the proposed development shall comply with British Standard 5228 Noise Control on Construction and open sites Part 1, Code of practice for basic information and procedures for noise control.

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

13. All alterations to public services, public areas or utilities necessitated by the development shall be carried out at the developer's expense having firstly obtained the agreement in writing of Galway City Council or other public bodies responsible for such areas or utilities, before any alterations are carried out.

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

14. The car parking spaces provided within the development shall be reserved for exclusive use of the occupiers, staff and visitors to the development.

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

15. The developer shall pay to the planning authority a financial contribution of €29,045 (twenty nine thousand and forty five euro) 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. The application of any indexation required by this condition 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.

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

Planning Inspector

8th February 2019

Appendix 1 Photographs

Appendix 2 Extracts from the Galway City Council Development Plan 2017-2023