



An  
Bord  
Pleanála

## Inspector's Report ABP-302511-18

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<b>Development</b>	Daycare and Residential Healthcare Unit with a focus on Palliative Care Services.
<b>Location</b>	On the grounds at Merlin Park University Hospital Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	18208
<b>Applicant(s)</b>	Galway Hospice Foundation.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	<ol style="list-style-type: none"><li>1. An Taisce-Galway Association</li><li>2. D. Claire Hillery</li><li>3. Friends of Merlin Woods.</li></ol>
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Conservation Volunteers Galway</li><li>2. Anna Gaughan.</li></ol>
<b>Date of Site Inspection</b>	18 <sup>th</sup> of November 2018

**Date of Oral Hearing**

04<sup>th</sup> of December 2018

**Inspector**

Karen Hamilton

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## 1.0 Site Location and Description

- 1.1. The subject site is located within the grounds of the Merlin Park University Hospital, along the Dublin Road, east of Galway City Centre. The subject lands are c. 6.7 ha and located along the south of the main hospital campus and includes a large open meadow with dense woodland along the boundaries, Merlin Woods. The site is accessed from the main Dublin Road through the main hospital access and an internal road network.
- 1.2. Merlin Park University Hospital campus comprises of c. 16 buildings spread over a large site. The buildings are separated by an expanse of open space and connected through an internal road network. The subject site is set between two single storey stand-alone buildings (Unit 5& 6) each served with its own car parking. The area between these two existing buildings contains an area open space and a row of Leyland trees which separate the hospital site with the remainder of the subject site. The remainder of the site between the hospital with and the main Dublin Road contains an area of open space surrounded by trees with desire lines around the perimeter.

## 2.0 Proposed Development

- 2.1. The proposed development would comprise of the following:
  - Daycare and Residential Healthcare Unit with a focus on Palliative Care Services consisting of Part 2 storey, part 1 storey building comprising 36 no. of inpatient en-suite bedrooms, reception, daycare and therapy spaces, family accommodation, offices chapel, mortuary, library, parking.

## 3.0 Planning Authority Decision

### 3.1. Decision

Decision to grant permission subject to 19 no. conditions of which the following are of note:

C 2- The mitigation measures identified in the Ecological Impact Assessment shall be implemented in full by the developer.

C 3- The developer shall engage the services of a suitably qualified Project Ecologist during construction and monitoring for compliance with the Ecological Impact Assessment and Biodiversity Management Plan. An audit report shall be submitted to the Local Authority for written agreement.

C 4- The management and enhancement measures set out in the Biodiversity Management Plan shall be implemented in full by the developer.

C 5- Submission of a detailed Construction Management Plan.

C 6- Submission of public information signage.

C 7- Submission of a revised layout plan/ landscape plan to show a pedestrian access point to the southwest of the most northern car park and in the southeast corner of the most southern car park (where the pedestrian route is shown on Drawing No. 300, meets the southern site boundary). The access points shall be maintained at all times for public accessibility to the lands to the south. A Way finding and Road Marking Strategy for these pedestrian access points shall be shown on the revised plans.

C 9- Prior to the commencement of development on site, the developer shall agree an alignment/ setback for the Dublin Road Bus Corridor, with the Galway City Council Transport Department. Drawings of the same shall be submitted for written agreement.

C 10- Submission of a lighting scheme.

C 11- The developer shall engage the services of a suitably qualified archaeologist to monitor all ground works.

C 12- Submission of a report on the archaeological monitoring.

C 14- Completion of the car park to an acceptable standard before occupation of the development.

C 15- Certificate of completion from a Landscape Designer confirming the landscape works have been satisfactorily completed.

C 16- Cleaning of plant and machinery to prevent the spread of any hazardous invasive species and pathogens.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The report of the area planner reflects the decision to grant permission following the submission of unsolicited further information on the following:

- Access to the grassland will be maintained to allow public amenity usage in association with the Habitat Management Plan.
- The Biodiversity Management Plan includes a lowland hay meadow management plan along with 10 no bat boxes, bird boxes and the erection of educational signage to inform users of the Hospice and the local community.
- The proposal takes account of the land use zoning and the site specific objective.
- The proposed parking provision is for 159 no. spaces in line with the operational requirements of the Galway Hospice Foundation Limited.
- The Design Statement includes a site appraisal and incorporation of existing features. The footprint over two floors reduces the impact on the biodiversity.
- Habitat identification was based on N6 surveys, Releve Survey method and Grassland Survey
- Details of protected and important species are provided.
- The Appropriate Assessment only relates to the potential impact on the SAC or SPA and there is no potential impact.

The report of the area planner referred to the development site, the specific land use zoning, the biodiversity on the site and the objective in the development plan relating to the protection of this biodiversity.

The application was accompanied by the following documentation:

- Ecological Impact Assessment (including Biodiversity Management Plan),
- Engineering Report
- Tree Survey
- Archaeological Impact Assessment

- Landscape Development Report
- Design Statement
- Appropriate Assessment Screening Report
- Traffic and Transportation Assessment
- Road Safety Audit
- Workplace Travel Plan

### 3.2.2. Other Technical Reports

Environment Section- No objection subject to conditions.

Environmental Health- No objection to proposal

Galway Transportation Unit- No objection subject to condition.

Drainage Section- No objection to proposal.

Recreation & Amenity Department- No response received.

### 3.3. Prescribed Bodies

Irish Water- No objection subject to conditions.

An Taisce- Recommend refusal of permission.

Department of Culture, Heritage and the Gaeltacht- Submission to the planning authority stated there was no objection subject to archaeological monitoring.

Department of Culture, Heritage and the Gaeltacht- Submission to the appeal referenced the impact of the proposed development on the Annex 1 habitat.

Health Information and Quality Authority (HIQA)- No comments as they do not regulate Palliative Care Services.

### 3.4. Third Party Observations

19 no. submissions were received from An Taisce, local environmental bodies and residents in the vicinity of the site. Many of the issues raised are similar to those raised in the grounds of appeal and additional points are summarised below.

- The proposed development is premature until the options appraisal from Saolta for a new hospital has been finalised.

- The ecological survey only included 13 Releve over 2 days which equates to only 52m<sup>2</sup> of a 6,700m<sup>2</sup> site.
- Some high indicator species were not identified in the ecological survey.
- The ecological assessment failed to identify host plant species for the Marsh Fritillary i.e. Devils Bit Scabious or locate the species.
- The Conservation Status of both Orchid-Rich Calcareous grassland (code 6210) and Lowland Hay Meadows (code 6510) is poor.
- The pedestrian access is currently along the main Dublin Road and with the inclusion of a bus lane any crossing along the main road will be hazardous.
- The application states that a single storey design is required for operation although there are many examples of two storey hospices.

#### 4.0 Planning History

There is no planning history on the subject site although there are some relevant within the overall Merlin University Hospital complex.

##### **Reg Ref No 18/103**

Permission granted on a site to the north of the development for the construction a 613m<sup>2</sup> ambulance base building with 129m<sup>2</sup> integral garage and 2 no attached canopied parking bays, 19 no. canopied emergency vehicle parking bays, alterations to existing access road car parking and general signage, together with all associated site works and services (Granted August 2018).

##### **Reg Ref 07/874**

Permission granted on a site to the east of the proposed development for the demolition of the remains of a fire damaged dwelling house and the construction of a residential and day care nursing unit (22 bed spaces) for persons suffering from Alzheimers Disease, together with associated office and service rooms, car park, landscaping and site services. (Granted in 2008 and no works have commenced on site).



## Other relevant planning history

### **Reg Ref 14/149**

Permission granted for Galway Hospice at Renmore, Dublin Road for proposed development works at the centre consisting of a single storey side north extension, for additional bedroom accommodation and ancillary services.

## **5.0 Policy Context**

### **5.1. National Planning Framework. Project Ireland 2040.**

Galway City is identified as a metropolitan area for the provision of services to support the region.

- Objective 67- Metropolitan Area Strategic Plans will be prepared as part of the relevant Regional Spatial and Economic Strategies (RSES).

Public owned lands: The Spatial plan will enable its continued strategic development in a transformational and urban rejuvenation focused manner, with a special focus on capitalising on the potential of underutilised and publicly owned and centrally located sites and activating their potential to boost the population and economic output levels of central areas.

National Strategic Outcome 10- Health

Health care services in the community: Facilitating the transformation of healthcare delivery by investing in ICT infrastructure, to facilitate the flow of information across and within various care settings, and increasing the capacity of primary care.

Integrated Health Care Services: Facilitate the transition of people across services, providing multi-disciplinary care at the lowest level of complexity close to where people live. Focus on improving access to primary and community care services, including mental health, disability services, palliative care, services for older people, social inclusion and addiction support.

- Objective 30- Support Ageing communities through local planning, housing, transport/accessibility and leisure policies

## 5.2. Design Guidelines for Specialist Palliative Care Settings—Department of Health and Children (2014)

- Site selection should consider acute medical facilities and in-patient units.
- Consideration should be given for the possibility of expansion
- Guidance is provided for the design and layout of the proposed facility.
- Guidance is provided for the design and layout of Community Palliative Care services.

## 5.3. Galway City Development Plan 2017-2023

The site is located partially on lands zoned as Community, Cultural and Institutional (CF) and partially on lands zoned as Recreation and Amenity (RA).

- RA objective: *“To provide for and protect recreational uses, open space, amenity uses and natural heritage”*
- CF objective: *“To provide for and facilitate the sustainable development of community, cultural and institutional uses and development of infrastructure for the benefit of the citizens of the city”*

### Site Specific Zoning

Figure 11.4- Site at Merlin Park Hospital

- RA zoned lands north of Dublin Road and south of CF zoned lands at Merlin Park Hospital (2.83 ha). The Council will consider the use of these lands as a Hospice.

Table 11.5: Parking Requirements

- Hospitals/ Nursing Homes- 1 space per bed

### Section 3.10 Specific Objectives

Traffic and Road Network

- Facilitate a new access to Merlin Park Hospital from the Dublin Road.

## Public Transport

- Explore the provision of an on-road quality bus corridor to serve Merlin Park Hospital, Doughiska and Ardaun and the existing route through Merlin Park Woods will be reserved for pedestrian and cycle use only.

## Green Space

- Retail car parking of approximately 30 car parking spaces for amenity purposes east of Merlin Woods at Doughiska.

## Community Spaces

- Explore greenways to link Merlin Woods City Park, Murrough LAP area from Ballyloughane and Liam Mellows GAA lands at Lough Atalia within the Coastal greenway.

## Open Space Network

**Table 4.1:** Green spaces include Merlin Park Woods

**Table 4.2** Open spaces within the Green Network

Three City Parks of which Merlin Park Woods is one.

## Institutional Open Space

- Throughout the city including NUIG and GMIT grounds and Merlin Park Hospital grounds.
- These comprise of open space as part of educational, health, religious or residential institutional use, often with some access to the wider public.

Table 4.3- Network of Local Biodiversity Areas

- Merlin Park Woods: Mature broad-leaf trees, mixed broad-leaf/ conifer woodlands.

## Policy 4.4.1- Green Spaces: Urban Woodlands and Trees

Manage and develop woodlands in the ownership of Galway City Council for natural heritage, recreation and amenity use, including Merlin Park Woods.

## **Section 9.7 Water Services**

The Irish Water Capital Investment Plan includes investment in a Drainage Area Plan (DAP) for Galway City to identify the current and future situation. The DAP will also investigate the Merlin Park Drainage Catchment to identify cross connections in this catchment.

### **5.4. Natural Heritage Designations**

The site is located c. 300m the north of the Galway Bay Complex SAC (site code 000268) and c. 400m north of the Inner Galway Bay SPA (site code 004031).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Three appeals were submitted from a residents association in the vicinity of the site, An Taisce and resident from the vicinity of the site. The issues raised throughout the appeals are similar in nature and therefore I have summarised and grouped them under common headings below.

#### Zoning

- Much of the area proposed is located on lands zoned as Recreation and Amenity in the Galway City Development Plan 2017-2023.
- Section 11.2.2 of the plan includes an objective for the RA lands which the proposed development does not comply.
- The site specific zoning objective in Fig 11.4 contradicts the objective for RA lands.
- The proposal may lead to a precedent for further developments on RA zonings.
- The selection of the site and zoning was opposed by both the locals and the City Manager and the members voted for this objective.

- The decision is contrary to the policies and objectives of the Galway City Development Plan 2017-2023, the National Biodiversity Plan 2017-2021 and the EU Council Directive 92/43/EEC (1992).

### Site Selection

- There are currently 84 acres of CF zoned lands ideal for a hospice within the hospital site and the use of priority Annex 1 RA lands is not rational.
- The land in question is in State Ownership (HSE) (extracts from land registry submitted). The Hospice is a private entity and any disposal of state property is required to follow certain procedures and it is unclear if not relevant information has been provided for this disposal.
- There is concern the hospice will require expansion.
- A Freedom of Information Request (FOI) indicates that a site within the grounds of Merlin Hospital was previously made available and turned down.
- An extract from the Galway City Councils Chief Executive Report has been included as an example of the resistance to the change of zoning and loss of RA lands in addition the following has been highlighted “There is significant CF zoned lands in the vicinity which can accommodate such a use.”
- An Options appraisal for a new hospital or improved hospital has not been completed by Saolta (2018) and until such times this proposal is completed.

### Planning Process

- The unsolicited further information should not have been accepted and the application should have been withdrawn.
- The unsolicited further information contains factual inaccuracies.
- The assessment of this application was very different to a previous proposal near the site (18/103) ambulance base as further information was referred to the Recreation and Amenity Section and this application was not referred.
- The proposal was not assessed against the strategic objectives of “*Sustainable Development- A Strategy for Ireland 1997*”.

- Reference in the planners report to the status of the site, i.e. is not a designated protected space is worrying.

### Conservation

- The planning application details the area for the site as “*High Priority Annex 1 Lowland Hay Meadow*”.
- The planners report does not address the inadequacies of the mitigation proposed.
- The consultants claim that only parts of the South Meadows meet the criteria for EU Annex 1 Habitat 6510 as some of it is low quality and the appeal submissions have established that beyond doubt that the full meadow meet the criteria.

### Development plan

- Section 4.1 of the Galway City plan includes protection for a “Green Network” including protected spaces of ecological and biodiversity importance.
- Section 4.2.3 of the development plan requires that Local Biodiversity Sites are protected and a precautionary approach will be adopted by the Council.
- Policy 4.5.3 of the development plan requires the protection of views and prospects of special amenity value. The proposal interferes with the greenness on the approach to Galway.
- The Natura Impact Report of the city development plan notes the importance of meadows and the ecological coherence of the Natura 2000 network.
- The proposed development does not support the policies of the development plan regarding the protection of wildlife.

### Management Plan

- A proposed management plan will destroy the meadows as it should not require maintenance.
- The site should be transferred to Galway Council who have experience of managing meadows.

- A precautionary approach was not included as much of the biodiversity will be lost during construction and operation. Many natural features will be removed.
- The development plan refers to the importance of Merlin Park Woods on numerous occasions and it is noted as one of the three big parks.
- The development of the hospice will cause fragmentation of the woods.
- Target 4.1.8 of Irelands Biodiversity Plan supports a pollinator friendly countryside which the Annex 1 Hay meadow supports.
- Red squirrels are a resident of Merlin Woods as are many red list species and the impact of the proposal on these species will be negative.
- The installation of LED Lighting in the meadow area is not addressed in the planning application.
- National Strategic Outcome 7 of the National Development Plan 2018-2027 requires the protection of the biodiversity and the location of the hospice does not support the same.
- 60 trees are proposed to be removed and the stripping of Ivy from the trees will reduced the food supply to species.
- An environmental report submitted for the N6 Galway City Bypass Route in 2016 indicate the meadows in the site are of European Importance.
- A report by the Merlin Park Habitat Survey and Management Plan states that any development will cause habitat fragmentation.
- The site supports various species of birds throughout the year
- The meadow site is currently managed by the HSE and as a public body there is an obligation to manage the site.
- The Ecological Impact Assessment has failed to acknowledge the species which existing within the footprint of the site

#### Annex 1 Habitat.

- The ecological assessment has failed to assess the site as a priority Habitat 6210 Semi-natural Dry Grasslands (Fuestuco- Bromelia). In this instance the impact on the Orchids has not been assessed.

- The management of cutting late summer has increased the number of Orchids and wildflower species on the site
- The ecological assessment fails to assess the impact on the woodland species by the decline of the meadow species.
- An extract from “Management of Natura 2000 habitats” provides an analysis of the Annex 1 Habitat and it is noted that the site contains at least one orchid species not common to the national territory.
- Orchids within the Annex 1 habitat 6210 are particularly sensitive to ecological change.
- An extract from “A Guide to Habitats” Julie Fossit referring to both Annex 1 6210 and 6510. The ecological assessment has failed to include the habitat as the higher “priority” habitat.

#### Impact on Species

- 6 orchid species are under threat by the development, Bee Orchid, Birds Nest orchid, Marsh Orchid, O Kellys Spotted Orchid, Common Spotted Orchid, Pyramidal Orchid.
- The proposed development site is the only location of Twayblade Orchid and Ladys Bedstraw (indicator species) and would be lost if the hospice was built.
- 5 Relevés here taken on 24<sup>th</sup> of July 2018 at different parts of the site which indicate an abundance of species.
- 8 bumble bees and 10 mammals’ species are under threat.
- Results from a Bat Survey within Merlin Woods (2014) recorded the Soprano Pipistrelle at the site.
- The National Biodiversity Act Plan 2017-2021 requires the implementation of an All-Ireland Pollinator Plan and this site is the only Annex 1 area in Galway City.



## 6.2. Applicant Response

A response was received from an agent on behalf of the applicant as summarised below:

### Planning Process

- No new information was submitted within the unsolicited further information and the planners report noted the submission of this information as acceptable.
- In regard to the differences with this application and the proposed ambulance base (Reg Ref 18/103) it is argued that the information was referred to the Recreation and Amenity Section as additional information was requested. Each application is dealt with on its own merits

### Site Selection

- A letter is submitted from an agent on behalf of the applicant to state that the subject site was the only site provided as a potential site by the HSE.
- The subject site was initially intended for the Alzheimer's Society, although they chose not to proceed with their facility.
- The letter states that all other lands within the Merlin Site are "core" and therefore not available.
- The site was selected following a democratic process.
- The possibility of providing an alternative solution on the site is outside the scope of planning.

### Zoning

- The proposed development complies with both the zoning objective and the specific land use objective.

### Impact on Amenity

- As stated in the planning application the proposed development includes the retention of access to the grassland within the landownership boundary.

- Appendix 3 of the Habitat Management Plan also states that the plan has been designed to take into consideration public access to the grassland and information/ educational signage will be used to raise the public awareness.
- The planners report notes the benefits of the Habitat Management Plan is building on work done by members of the community.

### Visual Amenity

- There are no protected views within the site
- The proposed scheme will be well set back from the public road.
- The existing trees and vegetation along the public road will be retained and not impacted by the proposed development.
- The landscaping strategy has been designed to integrate into the surrounding environment.

### Ecological Issues

- The Ecological Impact Assessment provides a brief description of the grassland habitat on the site and whilst all the site is defined as Annex 1 habitat the surveys carried out indicate that different sections are of a different botanical quality or condition.
- Surveys were undertaken following a recognised methodology and carried out during the months of July and August and at other times in the winter over a 2 year period.
- It is acknowledged that the other interested parties may have more species as they have been on the site over a longer period of time.
- The site was not recorded as a habitat 6210 "Semi-natural dry grassland and scrubland facies: on calcareous substrates (*Festuco-Brometalia*) as the habitat is management as a dry meadow i.e. cut once a year and does not include any grazing practice. Having regard to the management and species recorded the site was classified as 6510.

### Fragmentation of Habitat

- In relation to the fragmentation of the woodland, the siting of the hospice has been chosen to be as close to the existing hospital as possible and located in a gap between the trees.
- Tree planting and specific management will enhance the area.
- The proposal includes the retention of the majority of the Annex 1 grassland habitat (0.68 ha lost).
- The remaining 1.63ha of Annex 1 habitat will be managed specifically for biodiversity and the development will be screened from the grassland by native hedgerow planting.
- It is argued by Friends of Merlin Woods that the ecological assessment fails to demonstrate how the woodland species will be affected. Specific design measures have been included to enhance the surrounding habitats and vegetative connectivity.

### Impact on Pollinators

- The high quality of the site for pollinators is not unique to the city and the loss of 0.68ha habitat is not considered significant.

### Impact on Red Listed Species

- A bat survey was undertaken as part of the ecological assessment and no red squirrels were recorded on the site.
- No significant impact on any species is identified although mitigation for a slight impact is provided in the form of a landscaping plan which provides for planting and an enhancement of hedgerows.

### Impact of lighting on Bats

- There is no lighting proposed outside the hospice building or within the meadow.
- Section 5.2.2.1.1 of the EclA considers the impact of the proposal on the bats and concludes that external lighting will use directional accessories to avoid

light spillage onto areas of ecological sensitivity and will be of a low intensity to avoid effects on foraging or commuting bats.

- The landscaping plan shows the extent of hedgerow planting that will screen the development.

#### Indirect impact of the proposed development on surrounding lands

- The effects of shading on the existing environment are minimal and will not have any increase in the current shading from the trees.
- The surface water has been designed to the appropriate standards to ensure there is not impact and the meadow will be protected during construction.
- The landscaping plan includes native species and no invasive species.

### **6.3. Planning Authority Response**

A response was received by the Planning Authority and the issues raised are summarised below:

#### Unsolicited Further Information

- Section 5.10 of the Development Management Guidelines state that the submission of unsolicited information may be considered should it relate to non-contentious issues such as clarification of details already submitted and if the information substantially departs with the information submitted it should be dealt with in accordance with the requirements of Article 35.
- Unsolicited information submitted on the 16/08/2018, clarified details already on the file and was therefore considered acceptable.

#### Annex 1 Habitat

- The conclusions drawn in the Appropriate Assessment report were accepted by the Planning Authority.
- The planning assessment referred to the existence of Annex 1 habitat on the site although did not infer the entire development supported Annex 1 Habitat.
- The Planning Authority are satisfied with the findings of the Ecological Impact Assessment which identifies habitats of high and low importance.

- The proposed development is in compliance with Section 4.2 of the development plan with regard to the protection and conservation of Annex 1 habitats.
- It is considered the application has had due regard to the sensitivity and the biodiversity importance of the area, by virtue of the design and layout and mitigation measures proposed.
- It is considered the bio-diversity management plan and landscaping/ tree plan has mitigated for any loss to same.

#### Inconsistencies between Reg Ref 18/103 and Reg Ref 18/208

- In relation to Reg Ref 18/103 (ambulance based application) the application was referred to the Recreation and Amenity Section following the submission of further information on an Ecological Impact Assessment, Landscape Plan and Impact on Biodiversity and Flora/Fauna.
- The current proposal Reg Ref 18/208 was referred to the Recreation and Amenity Department on the 29<sup>th</sup> of June 2018.

#### Alternative Site Location

- In relation to the site specific zoning it is noted that the making of the development plan is a reserved function of the Elected Members of Galway Council.
- The site has a specific zoning on the site which refers to the inclusion of a hospice and therefore it was considered acceptable in the context of the adopted plan.

#### General

- The planning assessment must be considered in its entirety, along with conditions that were recommended to be attached to a grant of planning permission on the ecology are acknowledged and a comprehensive assessment was given to same.

## 6.4. Observations

2 observations were received on the proposed development and the issues raised are summarised below:

### Conservation

- The area is a designated protected environmental wild meadow.
- The ecological impact assessment relies on the applicant's environmental assessment regarding Habitat type 6510 and ignores ample independent evidence that the proposed construction area also conforms to habitat type 6210 (*Semi-natural dry grasslands & scrub facies on calcareous substrates (Orchid rich) Habitat*).
- The conservation status of habitats 6210 is bad.
- The Habitat Management Plan submitted ignores the previous excellent management by the HSE. Previous records are required.
- The plan to cut each August is too early for the later seeding species e.g. a Tufted Vetch, St John's Wort, Field Scabious, Knapweed.
- The planner's assessment does not consider the benefit of rest years (there was no harvest in 2016).
- The key species (annual) Yellow Rattle herb *Rhinanthus minor* was not overcome by grass sward between 2015 and the next cut in 2017.
- There is no evidence that any local community groups carried out any works within the meadow, as per the planners report.
- Examples of community projects at Cairn Ard Park and Terryland Forest Park complex are submitted and it is of note that the Merlin Wildflower Meadow is an established self-sustaining traditional meadow.
- Based on previous experience (moving of a wildflower meadow from M18 motorway site to Renvill Park Galway) it is not advisable to relocate soils sods from the 18/208 construction footprint area.
- The western most location at Merlin park field has the greatest wildflower variety and densities.

### Site Selection

- There are vacant sites and unused buildings within the Merlin Hospital which could be used as a hospice.
- There are three locations with suitable sizes within the CF zoned lands.

### General

- Submissions on the planning file are not fully available on Galway Council's web site and it is not assumed that those pages not scanned were fully considered in the planning assessment.

## 6.5. Further Responses

A submission was received from the Department of Culture, Heritage and the Gaeltacht in relation to the impact on the Annex 1 habitat. The initial submission from the Department on the planning application related only to the archaeology on the site. The submission is summarised below:

- The botanical and ecological data contained within the Ecological Impact Assessment does not support the categorisation and evaluation of the habitats as Annex 1 habitats.
- There is other ecological data available in connection with the N6 Galway City Transport Project which establish the presence of Annex 1 habitat at the site as :
  - Semi-natural dry grasslands and scrubland facies on calcareous substrates (*Festuco-Brometea*) (\*important orchid sites) (6210) potentially Annex 1 priority habitats
  - Lowland hay meadows (*Alopecuruc pratensis*, *Sanguisorba officinalis*) (6510)
- The habitat categorisation should be supported by the necessary scientific evidence and data, correspond with the Annex 1 habitats and be reasoned and justified in each specific case.

- Unsuitable development in this area would be contrary to policies in the Galway City Development Plan, specifically
- The permeant loss of 0.68ha of habitat should be considered in the context of the conservation status at a national level.
- Unsuitable development would be contrary to the policies of the development plan in relation to protected spaces, in particular Policy 4.2.

## 7.0 Oral Hearing

An Oral Hearing was undertaken on 04<sup>th</sup> of December 2018 in The Connaught Hotel, Galway. The Board retained the services of Artane Audio which forms the official record of the proceedings.

### 7.1. Attendance at the Oral Hearing

The hearing was attended by the applicant, and accompanying team, the Planning Authority and 3 appellants and 2 observers.

### 7.2. Submissions by the Applicant, Galway Hospice Foundation.

Presentation made by Rory Mulchay (Senior Council), Mary Nash (CEO of Galway Hospice), Gus Mc Carthy (Mc Carthy, Keville and O'Sullivan), Donol O'Donohue (Architect), Pat Roberts (Ecologist , Mc Carthy, Keville and O'Sullivan).

#### Site Selection

- The funding for the Hospice facility will be entirely by fundraising from the public.
- Galway Hospice has undertaken a search for a new site in the Galway City Region since 2010. There was initially 50 sites identified.
- In addition to the subject site, two other sites where accessed (Killen, Bushypark and Rosshill, Roscam) and where disregarded on planning issues relating to flooding and roads issues.
- The HSE only identified the lands previously permitted for the Alzheimer's Society.



- The current site along the Dublin Road at Renmore is not fit for purpose and many of the day services are undertaken in porta cabins. The cost of development at this site is prohibitive.
- The current facility is operating at 95% capacity which is extremely high and indicates the demand for the facility.
- The applicant provided justification as to the need for the location of the site at the specific location fronting onto the main Dublin Road.
- The nature of the hospice is such that a peaceful and tranquil location is required.
- The subject site is the only site made available to the Hospice from the HSE which would allow full purchase, all other sites within Merlin Park University Hospital are only available on a leasehold basis which is not financially viable for the Hospice.
- Submissions from the appellants and observers consider this location is the worst location for another building within the entire HSE campus and produced FOI documentation as evidence there where ongoing discussions with the HSE in regard to a selection of sites.
- The design statement is informed by the information in the biodiversity report and the removal of trees and siting of the building follow the recommendations in these reports.
- The Hospice requires its own space and a shared space is not applicable for the hospice environment.

#### Biodiversity

- Planning Conditions can control the remainder of important Biodiversity on the site.
- There is no reliance on mitigation measures to screening out the need for Appropriate Assessment.
- There is no barriers in law to the development on the site.
- The landscaping design and siting of the building takes cognisance of the walkers within the meadow.

- The use of the hedgerow provides a barrier between the building and the meadow.
- Specific details on the survey methods used to identify the Annex 1 habitat where included and it was confirmed that these survey methods were in compliance with the recommended “Irish Semi- Natural Grassland Survey”.
- The analysis of the surveys indicated that the defining features of the site are more in line with Annex 1 Habitat 6510 Lowland Hay Meadow.
- The proposed building was moved north to avoid the majority of the sections with the highest biological diversity and minimise the potential for fragmentation.
- The final design of the hospice development will result in a loss of 0.68ha or 29% of the total Annex 1 habitat on the site. The remaining 1.67ha within the control of the developer will be managed as a hay meadow.
- There is currently long-term management of the meadows. The planning conditions included in the grant of permission which will allow the long-term management and monitoring of the Lowland Hay Meadow Habitat.
- The site is Merlin Park is not include in any previous reports for Article 17 (EU Habitats Directive monitoring). As such the loss of 0.68ha will not alter the national status of this habitat.
- The proposed development will result in the loss of c. 0.22 ha of mixed broadleaf/ conifer woodland and native tree planting and hedgerow is included in the landscaping plan.

#### Appropriate Assessment

- There are no watercourses within the site and the proposed development is separated from the closest Natura site by a road, dwellings and industrial buildings.
- The proposed development is served by water and foul water.
- There are no mitigation measures relied upon to prevent any impact on any European Sites.

### Zoning

- Policies in the development plan (2017-2023) refer to need for health care and facilities and balance for the provision.

### Road and Pedestrian Access

- The applicant is not aware of any detailed proposal in relation to the realignment of the road as per Condition No 9.

### Car parking

- Homecare is made available for those who wish to stay at home in their final years.
- The layout of the car parking takes into consideration the use within the building where the visitor's park along the front and the fleet parking is directed to the south east.

## **7.3. Submission from Planning Authority.**

Mr Peter Staunton (Planner, Galway City Council).

### Land use zoning

- There are two zonings on the site (CF and RA) and the uses and policies to support the development within each zoning is stated.

### Development Site (Natural Heritage Value)

- The bi-diversity on the site is recognised.
- The conservation value of the site was not identified on any surveys until 2015 following a route selection process for the N6 and the applicant's ecological submission.
- The cessation of recreational activity on the site has led to an increase in biodiversity.

### Proposed development

- Pre-planning consultations were undertaken with the applicant.

- The design rationale and bulk of the building is located at the north east away from the higher quality habitat and a large proportion of the hay meadow is retained.
- The overall design of the scheme provides simplicity and appropriate for the site and location along the Dublin Road
- The Biodiversity plan acknowledges and has due regard to the sensitivity of the site.

#### Car parking

- 14/149 existing hospice building in Renmore provided 75 no. caraprking spaces which equates to 4 per bedroom.
- The use of the site at Merlin park is intended as a regional facility and the car parking provision is equivalent to 5 no spaces per bedroom (144 no car parking spaces).

#### Pedestrian Accessibility

- It is essential that pedestrian access is not restricted to the remainder of the lands and as such Condition No 7 was included.

#### 7.4. **Submission from Dan Clabby, on behalf of Conservation Volunteers Galway (CVG).**

- The Conservation Volunteers promotes awareness of natural biodiversity and assist other groups
- The Hospice development should be located within the pre-zoned lands within the Merlin Park and three other appropriate sites within the HSE ownership have been illustrated as an a example.
- The previous applicant by Alzheimer's Foundation has expired and is in a different location.
- A background on the management of the important species on site is provided. (Yellow Rattle Herb which is vital for the ecosystem)
- The Annex 1 assessment criteria species for both 6210 and 6510 is included.

- The location of orchid recorded on the site is included and it is noted that this is important to define Habitat type 6510 (priority habitat) and the information recorded by CVG supports this.
- Pryamidal Orchid and Oxeye Daisy are recorded on the site subject to construction.
- The recording of different species had identified different biodiversity areas within the site, where Meadow Sweet area and Ladies Bedstraw are located to the north.
- Ladies Bedstraw or Twayblade Orchids (located on the construction site) are not recorded anywhere else in the Merlin south meadows.
- Other species exist on the site which are no indicator species for either habitat 6210 or 6510 but are important to the general public.
- The existing management is self-sufficient and enables self-seeding regeneration of wildflowers without expense.
- STRAVA maps on the movement of people illustrate the continued and important sue of the site as a recreation facility.
- One third of the meadow asset will be lost.
- According to the Irish Semi-Natural Grasslands Survey: Western Seaboard Counties and Tipperary- BEC Consultants 2013 the closest Annex 1 habitats are 4.8km and 6.8km away and STRAVA does not show any recreation or footfall on these sites.

#### 7.5. **Submission from Mr Butler on behalf of An Taisce- Galway Association**

##### HSE

- The choice of site does not represent good planning
- There are no plans for future buildings, the capital plan (Item 3).
- Elective patient services is undertaken within Merlin Park and the main hospital is the University Hospital (Item 5, Minutes of Regional health Forum West).

- Mr Bulter considers any update of acute services will be in the City Centre (University Hospital)
- By 2021, unit 5 and Unit 6 will be replaced in the current HSE grounds, adjoining the proposed site. (Item 7). This could be an alternative location for the Hospice.

### Site Selection

- FOI requests indicate a price of 10 per acres was agreed.
- An audit of purchase states that an agreement to acquire the lands are undertaken by HSE Dublin and the sale of the site is ongoing.
- There was no consultation after the purchase.
- Ecological assessment came after the purchase
- It is questionable why the choice of the meadow was taken rather than the lands currently within the HSE site. Items 11, 12 & 13 indicate that the Hospice did not seriously consider any other sites as they did not suit their branding, i.e. separate from the campus.
- The planning authority and councillors should have been informed of all other alternative locations available and no additional lands should have been rezoned.
- The proposed new entrance into Merlin Park Hospital has been stalled for a few years.
- The location within Merlin Park is stated as a reason by the Hospice to transfer venerable patients
- The subject site is not specifically required as all the sites within Merlin Park Hospital are quite and tranquil.
- It has been previously stated that expansion to 50 beds is proposed. The hospice is only for 35 bed. The area for expansion has not been detailed in the planning application.
- Examples of sites are provided in the grounds which would have limited impact on biodiversity.

- There is advantage for the travel time of patients in the vicinity of the City to locate the Hospice at Merlin Park rather than the University Hospital.
- A two storey building should be used and it is not essential that the building be mainly single storey. FOI states that it was always the intention of the hospice to have the current design.

### Biodiversity

- The importance of the site for biodiversity was not identified until 2017, when the application was being prepared.
- Annex 1 habitat cannot be divided into high quality and low quality as by their definition as an Annex 1 habitat they are important.
- There is always movement of species between the west field and the east field, species do not represent any division as the site is always one meadow. The corner for the proposed site is the dampest corner which supports a specific range of species.
- Mitigation and compensation measures in the biodiversity plan state that the

### Planning Authority

- Reference is provide to the Chief Executives report on the proposal of a site specific zoning.
- There is a legacy of poor planning by the HSE, for example the Ambulance base is to be located on Merlin Park rather than the University hospital which is the acute services.
- Good planning principles include the right development in the right location.
- The unsolicited further information should have been placed on the web page to allow for further responses to be submitted. The planning authority consider the information. This process is deemed inadequate.
- The Park department made submission on 18/103 (Ambulance base) and not the proposed development.
- The national policy in Sustainable Development- A Strategy for Ireland 1997 has not been sufficiently considered.

- Insufficient consideration was given to the policies of the development plan, in particular those which aim to provide green spaces as a network.

#### 7.6. **Submission by Ms Caroline Stanley on behalf of Friends of Merlin Woods**

- Attention is drawn to a previous permission for housing in the vicinity (437/98) which was refused permission by the Board and referred to the protection of Merlin Park and the zoning objective relating to visual impact.
- An additional application (18/103) for the ambulance bay includes a new bus route through Merlin Woods for the Ambulance Bay. Assurances have since been given that this route will not be used.
- There is no response from the Park Department and it is evident they had submitted a detailed submission to a previous permission for the Ambulance base.
- There was no input from Dr Jim Higgins from the Heritage Department.
- The Alzheimer's proposal is now out of date (07/874) and this development formed the basis for the new site specific zoning.
- The design of the building and surrounding area is such that it can easily be expanded to join a future bus route or proposed road. Further expansion of the building will lead to further destruction of the woodlands and meadows.
- It is evident from the FOI requests that that a number of sites were available and it is the opinion of FOMW other suitable sites existing within the CF zoned lands.
- One third of the site will be affected which is a substantial loss of meadow/Annex 1 Habitat.
- The location of the building on the damp part of the site will displace water and further affect the biodiversity of the meadow.
- The introduction of landscaping and gardening will affect the biodiversity.
- An extract from a Natural England report on Lowland Grassland Habitat has been submitted to state that fragmentation will result in the loss of species from areas.



- The biodiversity report fails to recognise the wildness of the area, the threatened species such as Bumble Bee, Moss Carder Bee or butterflies such as Dingy Skipper and Wood White. Eliminating part of the species has effects on other areas and subspecies.
- A map from the National Biodiversity Data Centre illustrates a multitude of species within the site and there is no doubt Merlin Woods supports wider ecological network of the city.
- The Councillors stated that no trees would be lost although the proposed development and tree survey indicate the loss of 60 trees.
- It is questioned why the development only measures 2.8ha while the application says 6.7ha.
- The woodland habitat has many uses for the community and the place is well used by the local community

#### **7.7. Submission by Dr Claire Hillery**

- The use of the meadows by family in the area is highlighted.
- The meadows are currently used for recreation and as a retreat.
- Merlin Woods is on the lower end of the socio-economic scale and evidence shows a clear need for access to high value green spaces.
- There is no consideration for the users of the meadows in the submitted design.
- The national guidelines “Design Guidelines for Specialist Palliative Care Settings—Department of Health and Children (2014)” states that future expansion should be made available.
- Green spaces have health benefits and higher biodiversity spaces have increased benefits.
- The Galway City Development Plan includes the lands as RA and specific policies require the management, protection and improvement of biodiversity.
- The works of the hospice is praised although to move it 100m would ensure that everyone was happy.

## 8.0 Assessment

8.1. The main issues in this appeal and can be dealt with under the following headings:

- Principle of Development
- Impact on the Biodiversity
- Impact on the Built Heritage
- Access and Parking
- Appropriate Assessment
- Other

### Principle of Development

- 8.2. The proposed development is for the construction of a Day Care and Residential Healthcare Unit (5,484m<sup>2</sup>), with a focus on palliative care, located on open space adjoining and associated with the Merlin Park University Hospital. The proposal is located on lands which are zoned partially for Recreation and Amenity (RA) and Community, Cultural and Institution (CF) where the car parking is located on the latter zoning. The lands contain a site specific zoning objective, Figure 11.4, in the development plan which state that the RA lands north of the Dublin Road and South of CF lands at Merlin Park Hospital (2.83ha) will be considered for use as a Hospice.
- 8.3. The grounds of appeal consider the site specific zoning is not compatible with the RA zoning on the site and considering the inclusion of the site zoning objective in the amended development plan was not supported by the Chief Executive, the proposed development should not be permitted. In addition, the grounds of appeal note the expanse of current lands available within the existing Merlin Park Hospital Site and consider there is sufficient available space to accommodate the Hospice without encroaching onto the RA lands. I have addressed the issue of zoning and site selection separately below.
- 8.4. Zoning- The most northern section of the site, including the proposed northern car park, is located on the CF zoned lands where it is an objective *“To provide for and facilitate the sustainable development of community, cultural and institutional uses and development of infrastructure for the benefit of the citizens of the city”* and hospital is permitted within this land use. The remainder of the lands are located on

the RA zoned lands where it is an objective *“To provide for an protect recreational uses, open space, amenity uses and natural heritage”*, the hospital use is not permitted on this zoned lands therefore the report of the planner refers to the site specific zoning and considered the proposed hospice complied with the development plan. As stated above the grounds of appeal do not consider the site specific zoning and land use objective are compatible. Whilst I acknowledge the site specific zoning was adopted against the advice from the Chief Executive during the development plan review, I note the use as for palliative care is complimentary to the CF zoning. The National Development Framework (NDF) provides a road map for appropriate development at a national level, leading down towards a regional level and Galway City is identified as a metropolitan area for the provision of services to support the region. Submissions to the planning application, appeal and during the oral hearing refer to the two hospitals in Galway, Merlin Park University Hospital Galway, the subject site, and the University Hospital, adjoining the city centre and University and it was alluded that the University Hospital was at capacity. National Strategic Outcome 10 of the NDF requires the delivery of health care, including palliative care, as a multidisciplinary care at a location close to where people live, which the proposed development supports. Therefore having regard to national policy, the primary use of the surrounding site as a hospital and the retention of part of the site for recreation and amenity, I consider it reasonable that the proposed development may be assessed against the site specific zoning subject to other factors relating to site selection discussed below.

- 8.5. Site Selection- As stated above, the site is located within the site of Merlin Park Hospital, along the southern boundary of the existing campus. The majority of the submissions received from third parties reference the significant expanse of available lands within the existing hospital campus and consider these are suitable to accommodate the proposed hospice. Correspondence between employees of the HSE and Galway Hospice accompanied the appeal and where referenced at the oral hearing to state that in addition to the subject site, there is space amongst the various hospital units which may accommodate the long-term project. The hospice responded to these assertions to state that the only lands being made available to the hospice, on a freehold basis, was the subject site and all other sites within the

hospital campus are only available on a leasehold basis which will not support the financial requirements of the organisation to provide a new building.

- 8.6. The grounds of appeal also raise concern over the expansion of the facility into the existing meadow and make reference to the design of the road network within the proposed development which would permit connectivity to the meadow and woods. A further submission from an appellant at the oral hearing referenced the information contained within the national guidelines for the siting and design of palliative care centres “*Design Guidelines for Specialist Palliative Care Settings—Department of Health and Children (2014)*” which states that potential sites must allow for future expansion.
- 8.7. The principle of development and compliance with the land use zoning of the development plan is established as acceptable in the first instance, arguments submitted relating to the potential for relocation of the Hospice within the existing campus where not submitted with the planning application and whilst I note the submission at the oral hearing in relation to investigation of other potential sites, I do not consider it a remit of the Board or indeed the planning process to assess the potential for other areas to accommodate this development. I consider the appellant’s concerns in relation to the future expansion of the site are relevant and considering the main issue relates to the impact on the meadow and woods I have addressed this below in relation to the impact on biodiversity.
- 8.8. Therefore, having regard to the policies and objectives of the National Development Plan, the location of the site within the Merlin Park University Hospital and the site specific zoning in the development plan, I have no objection to the principle of the use site as a Hospice subject to complying with conditions and other planning requirements as addressed in the following sections.

#### **Impact on Biodiversity.**

- 8.9. The subject site is located between Unit 5 & 6 of Merlin Park University Hospital and extends south into the existing open field. The lands along the north east and west contain expanses of mature trees which make up part of Merlin Woods. The remainder of the site is referred to locally as Merlin south meadows.
- 8.10. The grounds of appeal are submitted from An Taisce, environmental bodies and members of the community who use these meadows for recreation and amenity and

consider that an area with such high biodiversity value should be retained in totality. It is argued in the submissions that the entire site is defined as Annex 1 and having regard to data gathered over the past number of years the site contains indicator species which would define the existing habitat as Annex 1 6210, rather than the existing classification as Annex 1 6510, which has a higher protection as a priority habitat, based on the inclusion of orchids on the site. Other submissions relating to the impact on biodiversity are the most common areas of concern by appellants and observers and I have addressed both the habitat classification and the impact on the biodiversity separately below.

- 8.11. Annex 1 classification: An ecological assessment of the site was undertaken over three days using up to 13 quadrants to collect data. The results were compared against the standard assessment criteria for Annex 1 grasslands habitats in *The Irish Semi-natural Grasslands Survey 2007-2012* (O'Neill et al 2013)<sup>1</sup> (ISGS) and noted to correspond with the EU Habitats Lowland Hay Meadows (code 6510). The grounds of appeal and other submissions argue that there has not been sufficient weight given to the possibility that the site is an Annex 1 habitat Semi-natural dry grasslands (*Festuci- Brometalia*) (code 6210). The submission from the Department of Culture, Heritage and the Gaeltacht states that the Ecological Impact Assessment report lacks the necessary botanical and ecological data to support the characterisation of the habitat as Annex 1 grassland. The submissions draw attention to a range of information which is currently present including the data collected to support the N6 Galway City Transport Project and the information recorded by local environmental groups, which included the presence of orchids on the site and consider this information which would alter the classification to Annex 1 priority habitat.
- 8.12. The response from the applicant refers to both Annex 1 habitats and states that the surveying of the meadows was undertaken in line with best practice, referred above and analysis of the surveys indicated that there are more indicator species linked to the Annex 1 habitats 6510 Lowland Hay Meadow, rather than Annex 1 priority Habitat 6210. In addition, the applicants response stated that the current management as a dry meadow i.e. cut once a year with no grazing practice would assist in identifying the habitat as Annex 1 6510. It was also acknowledged that the

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<sup>1</sup> O'Neill, F.H., Martin, J.R., Devaney, F.M. & Perrin, P.M. (2013) The Irish semi-natural grasslands survey 2007-2012. *Irish Wildlife Manuals*, No. 78. National Parks and Wildlife Service, Department of Arts, Heritage and the Gaeltacht, Ireland

appellants and observers may have recorded other species on the site as they had been surveying for longer. In regard to the habitat assessment of the site the Planning Authority noted during the oral hearing proceedings that no information was available on the site until a recent Galway City Survey on the possible constraints of lands for the N6 route and then further surveys by the applicant to support the planning application.

- 8.13. I note the information contained in Section 2.6 of the ISGS provides best practice for surveying grasslands and refers to a minimum of one relevé, or more where there is a variation in sward, and I consider the survey duration over three days and use of various numbers of relevé is acceptable. Appendix 1 of the ISGS also includes an assessment criteria for the habitats surveyed and I note Appendix 2 of the Ecological Impact Assessment ( Botanical/ Qaudrat Data), which accompanied the proposed development, utilises the same criteria, therefore I consider the survey methods appropriate. The ISGS states that “If the 6210 grassland has a population of any orchid species other than the relatively common *Dactylorhiza fuchsia* and *Dactylorhiza maculata* it should be considered for the orchid-rich priority habitat \*6210.” The applicant’s survey did not record any orchid species although the observers, CVG, submitted surveys recording Twayblade Orchids (*Neottia*) within the site. The submission from the DCHG in relation to the appeal referred to the ecological data arising from the N6 Galway City Transport Project and the presence of both Annex 1 Habitat 6210 and 6510, no specific recommendation for classification on the site was provided. The only other data available on the site is from the N6 project which refers to the site as having “ecological constraints of a moderate consideration” and not as a priority habitat.
- 8.14. Other available information on Natura 2000 sites (*Lasen & Wilham 2004*)<sup>2</sup> on the two habitats discussed, Semi-natural dry grasslands (Festuco- Brometalia) 6210 and Lowland Meadows (6510), notes the similarities between the species in the two habitats and states that without manuring and when mowing is carried out more than once a year the Annex 1 habitat (6510) could develop towards *Mesobromion* grasslands (habitat 6210) and states that the maintenance of the Lowland Meadows depends on human activity.

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<sup>2</sup>[http://ec.europa.eu/environment/nature/natura2000/management/habitats/pdf/6210\\_Seminatural\\_dry\\_grasslands.pdf](http://ec.europa.eu/environment/nature/natura2000/management/habitats/pdf/6210_Seminatural_dry_grasslands.pdf) ( site accessed 29/11/2018)

- 8.15. Therefore, having regard to the surveys undertaken, the best available scientific information available to the applicant's and the current management methods on the site I consider that the determination of the habitat as Annex 1 Lowland Meadows (6510) is reasonable.
- 8.16. Impact on the Meadows: The subject site is 6.7ha and the proposed development includes the removal of 0.68ha from the existing meadow, representing 29% of the overall meadow. The remaining 1.67ha will stay within the ownership of the Hospice and will be maintained as a meadow for public use. The grounds of appeal consider the removal of this amount of meadow will have a detrimental impact on the important species within the meadow and will cause fragmentation and lead to deterioration. In addition, it is submitted that the reference within the Ecological Impact Assessment to the low quality habitat at the north of the site is incorrect as the entire site has been defined as Annex 1 Habitat which is all high value and the removal of any Annex 1 habitat will not support the EU requirement of ensuring "good status" is achieved.
- 8.17. The subject site is not located within a European designated SAC or SPA, further discussed below, and is not included in the Article 17 reporting to the European Union on the Status of Annex 1 habitat 6510<sup>3</sup> as it was not identified in the 2007 or 2013 survey.
- 8.18. A Biodiversity Management Plan (BMP), included in Appendix 3 of the Ecological Impact Assessment (EIA), provides measures for the protection of the remaining meadow during construction and Section 2.2 includes measures for grassland management and enhancement on completion of the works. Lowland Hay Meadow management includes cutting in August, an occasional late hay cut (e.g. 1 year in 5), restrictions on cutting in wet conditions, and management of hay bales. Condition No 2 and 4 requires the developer to implement these measures. Other biodiversity enhancement measures include tree planting, detailed below, 10 no bat boxes, bird boxes and public information signage. Having regard to the current management methods, restricted cutting, which to date appear to have enhanced biodiversity on the site, I consider the proposed measures in the BMP appropriate and therefore a condition to implement these measures is reasonable.

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<sup>3</sup> <https://www.npws.ie/sites/default/files/publications/pdf/Art17-Vol1-web.pdf> (13th of December 2018)

- 8.19. As previously stated, the local community are able to partake in recreation and amenity activities within the meadow. The location of a proposed pedestrian access was discussed at the oral hearing and the applicant referred to the drawing No 300 which includes the location of a pedestrian access and condition No 7 which requires the provision of additional pedestrian access points through the subject site into the meadows, therefore it is evident that the Hospice does not intend to restrict public access. I consider it reasonable to include a condition on any grant of permission to confirm the location and details of the pedestrian access. Whilst I note the meadow will be reduced in size I consider the remaining 1.67ha is sufficient for the enjoyment by the public and I note the site connects into Merlin Woods and other recreation and amenity lands to the east. The Landscape Plan includes the planting of an indigenous hedgerow along the entire frontage of the Hospice building, bounding the meadow which will ensure connectivity between the woodland to the east and west and protect encroachment into the remaining meadow. A condition to retain this hedgerow would be included in any grant of permission.
- 8.20. In relation to expansion of the Hospice, I note the concerns of the appellants on future removal of the remainder of the meadow and I consider the applicant has utilised the site to ensure the retention of remaining lands for recreation and amenity and any future expansion must be assessed on its individual merits.
- 8.21. Impact on the Trees: The protection of Merlin Woods is referenced throughout the development plan, including Policy 4.4.1, and Table 4.1 and 4.2 which detail the woods as an important city park and green space. The planning application was accompanied by a Tree Survey and Tree Care Plan which includes a survey of the existing trees (c. 370 which were tagged) and the proposal to remove (c. 60) trees for the proposed development or carry out maintenance works. The trees to be removed include, Ash, Sycamore and Beech. The submitted drawings indicate that the majority of the native trees removed are along the north of the site and east for the second carpark. Following the removal of c. 6 trees along the north east a tree protection fence will be erected to protected the remaining trees. This area to the east is listed as a designated landscape feature, further discussed below.
- 8.22. The landscape plan includes a list of trees for planting including Birch, Lime, Oak and Bird Berry and refers to DWG 6466-304 for tree planting and states that there will be generous infill planting along the existing woodland boundaries. I note this



drawing identifies areas for replanting rather than specific location or numbers of trees to be replanted. I consider the area identified reasonable to support the overall landscaping plan although the lack of detail on the tree planting scheme, i.e. numbers and type is insufficient to replicate the trees which are to be removed and I consider a condition requiring the replacement of similar species reasonable.

- 8.23. Therefore, having regard to importance of Merlin Woods in providing the green network throughout Galway City and as a recreation and amenity area I consider the planting scheme should replicate the tree removal. I consider this planting scheme can reasonably be included as a condition and will prevent any long term adverse effects on Merlin Woods.

### **Impact on the Built Heritage**

- 8.24. The subject site is within the original demesne of the country house after which the townland is named. The house no longer exists and Merlin Park University Hospital occupies the site. The planning application is accompanied by an Archaeological Impact Assessment (AIA) containing information on the archaeology and protected structures as detailed below.
- 8.25. Archaeology: The AIA states that the site contains a recorded monument GA094-024- a designated landscape feature, classified as a “tee ring feature”. The recorded monument is located on the north east corner of the site, just outside the boundary. I note the site area outlined within the Archaeological Impact Assessment and the site area for the proposed development are not exactly the same although I do not consider this discrepancy alters the assessment of the impact. The AIA details works previously undertaken in the vicinity of the site and recommends that any development would integrate the “designated landscape feature” (GA094-24) into any future landscaping plan. In addition, archaeological monitoring was recommended. A submission from the Department of Culture, Heritage and the Gaeltacht to the planning application recommended archaeological monitoring included within condition no 11 &12. I note the location of the proposed building, the distance from the designated landscape feature and the plan for tree removal and I do not consider the proposed development will have a negative impact on the character of this landscape feature. I consider the inclusion of a condition for archaeological monitoring reasonable.

8.26. Protected Structures: The AIA also includes an assessment of the four protected structures in the general vicinity of the site. I note the closest protected structure is 466m from the subject site and is separated by the existing Merlin Hospital site and a residential development. Having regard to the features of the site and distance from the protected structure I do not consider there will be any impact on these structures.

### **Access and Parking**

8.27. Merlin Park University Hospital Campus is accessed directly off the main R338 Dublin Road and the proposed development includes the use of the existing hospital access. The proposed development is for both a Hospice, day care centre and supporting homecare operations and includes two carparks for 157 no. car park spaces. The planning application was accompanied by a Traffic and Transportation Assessment and a Workplace Travel Plan. I have assessed the information contained within these documents and addressed the issue of parking and access separately below.

8.28. Parking: The proposal includes 157 no. car parking spaces and 2 bus parking spaces divided between two car parks, the first adjoining the existing HSE buildings to the north at the entrance and the second at the rear of the building south east, close to the Dublin Road. Table 11.5 of the development plan includes parking requirements for hospitals and nursing homes with 1 space per bed. The proposal includes 36 inpatient en-suite bedrooms. Additional facilities are proposed as part of the day care services including 209m<sup>2</sup> of office space for staff, physiotherapy etc.

8.29. Section 5.3.1 of the traffic assessment references preplanning meetings which note the hospice use is bespoke in terms of car parking requirements. Appendix 2 of the traffic assessment includes a breakdown of the parking requirement with 136 spaces for staff and volunteers, 36 for visitors and 3 for outpatients. Reference is included for the need to provide 13 spaces for fleet vehicle spaces for homecare workers which is the justification for a higher number of parking spaces on the site than the development plan standards. It is noted that 87% of staff travel by car.

8.30. The Workplace Travel Plan states that the current travel to the current Renmore Site is 82% lone driver and section 2.3.10 includes a target of reducing work-related commuting by car from 65% to 45% mode share. Section 6.3.5 states that given the high percentage of staff travelling by car it will prove challenging to achieve any

targets for other modes of transport aside from the car although may be reviewed once the new facility is operational. The recommended workplace travel action plan included targets for reducing reliance on the car for travel to work.

8.31. I note the provision of car parking is in excess of the development plan standards as c. 5 spaces per 1 bed is provided rather than 1 space per bed, although it is of note that the current Renmore site includes a provision of 4 spaces per bedroom. It is also of note that almost half the proposed building is for homecare office space and day care facilities. This aside I consider the reliance on the car for staff travel to work excessive and I consider a Mobility Management Plan should be included in any grant of permission to reduce the modal shift in line with the 45% target. In addition, the southern carpark should be reduced to no more than 13 spaces to accommodate the fleet parking 2 mini bus spaces and should include restricted access for the same.

8.32. Access: The proposal will utilise the existing access into Merlin Park University Hospital, directly off the Dublin Road. Section 2.3 of the Traffic and Transport Assessment references a scoping exercise undertaken between the applicant and the Council where consideration should be given to the proposed network improvement schemes in the vicinity. The TIA noted the future Road Improvement Schemes for the Ardaun Corridor were at early design stages and no details were available to include within the traffic assessment. The Traffic Impact Assessment indicates that analysed junctions within the vicinity of the site, including the main junction into the hospital campus (junction 3) are operating over capacity and will continue to do so into the base forecast scenario year 2020, and states that the proposed development includes only a slight increase to this capacity. The TIA also included a new junction proposed for the Merlin Park Hospital which includes a new 4<sup>th</sup> signalised arm along the existing R333 Dublin Road/ Galway Crystal junction (junction 3) and the traffic analysis shows that the junction is above capacity for arms 1, 3 and 4 in the AM and Arm 3 in the PM for the 2035 forecasted Base scenario. I note this junction is not included in the site area and not within the control or ownership of the applicant. The report of the Traffic Section of the Council indicates no objection to the overall proposal subject to an alignment/ setback for the Dublin Road Bus Corridor included as condition No 9. This alignment was discussed during the oral hearing and the Council confirmed that the design of a bus corridor was only

at preliminary stage and would be subject to the normal Part VIII procedures. In consideration of the prematurity of the design of the bus corridor I do not consider it reasonable to include a condition on any grant of permission and consider that the Part VIII process and any subsequent route selection can adequately address lands required for a proposed bus routes.

- 8.33. Having regard to the proposed scheme of works to the hospital entrance and Dublin Road bus corridor, by Galway City Council, and the location of the entrance I do not consider the overall development would have a significant negative impact of the flow of traffic in the vicinity or endanger public safety by reason of traffic hazard.

### **Appropriate Assessment**

- 8.34. The site is located c. 300m the north of the Galway Bay Complex SAC (site code 000268) and c. 400m north of the Inner Galway Bay SPA (site code 004031). The planning application was accompanied by an Appropriate Assessment Screening Report which lists the characteristics of the existing environment, discussed in detail above in relation to the impact on the biodiversity. The screening assessment listed two European Sites which may be impacted by the development, namely the Galway Bay Complex SAC (site code 000268) and the Inner Galway Bay SPA (site code 004031) and concluded that based on the location of the proposal on a serviced site, the inclusion of soakaways etc. and the distance of the site, separated by a road and with no hydrological connectivity, there would be no significant impact on either European Site.
- 8.35. The features of interest of Galway Bay Complex SAC <sup>4</sup>include 15 habitats, including Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (\* important orchid sites) [6210], and 2 species. The appeal site does not contain any habitats listed as features of interest within the Galway Bay Complex SAC and I do not consider there is any source and/ or pathway to connect the proposed development with the SAC.
- 8.36. The Inner Galway Bay SPA supports an excellent diversity of wintering wetland birds<sup>5</sup> and 21 species are listed as features of interest. Activities and disturbances which affect the species listed include habitat loss, change in water quality, fisheries

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<sup>4</sup> <https://www.npws.ie/protected-sites/sac/000268>

<sup>5</sup> <https://www.npws.ie/sites/default/files/protected-sites/synopsis/SY004031.pdf>

and aquaculture and recreation and disturbance in particular walking along the beaches and coastline. Section 4.2.3.2 of the Ecological Impact Assessment refers to those bird species recorded on the site which do not include any species listed of conservation interest to the Inner Galway Bay SPA.

- 8.37. Therefore, having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, 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 and projects on the conservation objectives of any European site.

#### **Other**

- 8.38. Design: The design of the building is a mix of single storey and two storey with the main entrance north towards the carpark and the building is orientated south overlooking onto the meadows. The design is contemporary with a flat roof and a mix of coloured render which will be in keeping with the adjoining HSE buildings, Unit 5 & 6. I note the internal layout and provision of out patients facilities complies with those requirements in the Design Guidelines for Specialist Palliative Care Settings— Department of Health and Children (2014). 3D views of the proposed building accompanied the application which I note and consider reasonable. The images illustrate indicative advertising on the front of the building although no exact details are included. Having regard to the prominent location along the Dublin Road I consider any further advertising details should be submitted for a separate permission.
- 8.39. Unsolicited Further Information: The applicant submitted unsolicited further information with the planning application which the planning authority did not deem this information as significant and therefore it was not advertised or circulated. The grounds of appeal consider this process unjust as they were not afforded the opportunity to comment. The applicant responded to the grounds of appeal to state that no new information was submitted in the unsolicited further information and the response of the planning authority referred to Section 5.10 of the Development Management Guidelines which states that unsolicited information may be received should it relate to non-contentious issues such as clarification of details already submitted. I note the unsolicited further information related to information contained

with the submitted documentation including habitat identification, management and promotion of the biodiversity and reference to the site specific zoning in the development plan and I do not consider any new issues where raised. Therefore, having regard to Section 5.10 of the national guidelines on development management, I consider the submission of unsolicited further information was acceptable.

- 8.40. Procedural Issues: The observations and submissions raise concern over the absence of any response internally in the City Council from the Parks Department and the Heritage Section. The report of the area planner notes the absence of any response and on cross examination at the oral hearing it was confirmed that although sent for consultation no input from either section was received. Having regard to the information contained within the AIA and EIA, I do not consider the absence of any response from either the Parks Section or the Heritage Section precluded a full assessment on the impact on biodiversity, the meadows or Merlin Woods.
- 8.41. Other procedural issues in the submissions and during the oral hearing related to unscanned submissions on the planning authority web page. The planning authority where unaware of this issue but confirmed that this issue would be checked and full consideration where given to submissions. I note full copies of all submissions on the appeal file for consideration in my assessment.
- 8.42. Development Contribution Scheme: Part 4 of the Galway County Development Contribution Scheme 2016 provides exemptions for developments which are carried out on or on behalf of a voluntary organisation or used for social, recreational, educational or religious purposes which is not for profit. There is currently no up to date separate development contribution scheme for Galway City. The Galway Hospice Foundation is a registered charity and I note no development contributions where included in the planning application. Whilst I note the scheme does not specifically refer to health as a theme for exemption, I consider it reasonable that a hospice facility provides community support and having regard to its charitable status I consider it reasonable that no development contributions should apply.
- 8.43. Environmental Impact Assessment (EIA): The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the

Planning and Development Regulations and therefore is not subject to EIA requirements.

## 9.0 Recommendation

- 9.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

## 10.0 Reasons and Considerations

Having regard to the objectives of the National Development Framework and the site specific zoning objective and policies of the Galway City Development Plan 2017-2023, the location of the site within the Merlin Park University Hospital Campus and the nature and scale of the proposed development , it is considered that subject to compliance with the conditions below, the proposed development would not seriously injure the residential or visual amenity of the area, have a significant negative impact on the architectural or archaeology of the site or endanger public safety by reason of traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 out in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. The site shall be landscaped in accordance with the landscaping scheme

using only indigenous deciduous trees and hedging species:

(a) Submission of a revised layout plan/ landscape plan to show a pedestrian access point to the southwest of the most northern car park and in the southeast corner of the most southern car park (where the pedestrian route is shown on Drawing No. 300, meets the southern site boundary).

The access points shall be maintained at all times for public accessibility to the lands to the south. A Way finding and Road Marking Strategy for these pedestrian access points shall be shown on the revised plans.

(b) Submission of final details of the public information signage, bat and bird boxes etc. and all other measures included in the landscaping scheme

(c) the establishment and retention of the hedgerow along the south and side boundaries of the site, and

(d) planting of replacement trees at 1 per removed tree shall include deciduous native trees and shall be planted at not less than two metres in height and evergreen species at not more than 750 millimetres in height.

(e) A phasing plan providing for the protection and creation of suitable habitat for the preservation and protection of the trees and hedgerows.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Information in accordance with details above shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

3. The developer shall facilitate the preservation, recording and protection of



archaeological materials or features that may exist within the site. In this regard, the developer shall -

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

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

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

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

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

4. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the buildings or within the curtilage of the site, unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

5. The car parking facilities, hereby permitted, shall be reserved solely to serve the proposed development and shall provide for the following:

(a) A reduction in the total of number car parking spaces to no more than 13 no car park spaces and 2 no mini bus spaces in the south eastern carpark shall be reserved to serve the homecare fleet. Access to this carpark shall be restricted to this use.

**Reason:** To ensure that adequate parking spaces are permanently

available to serve the commercial uses within the development and also to prevent inappropriate commuter parking.

6. Prior to the opening of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the owner for the entire Hospice and day care centre. Details to be agreed with the planning authority shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

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

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

Reason: In the interest of public health

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Karen Hamilton  
Planning Inspector

17<sup>th</sup> of December 2019