



An
Bord
Pleanála

Inspector's Report ABP303336-19

Development	Demolition of 2 houses and construction of 14 Units (increased to 16 by way of further information) together with landscaping and ancillary works.
Location	Lenabower Townland, Cappagh Road, Knocknacarra, Galway City.
Planning Authority	Galway City Council.
Planning Authority Reg. Ref.	18/144.
Applicants	Declan Taite and Anne O'Dwyer.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	Michael Prendergast.
Observers	None.
Date of Site Inspection	22 nd March, 2019.
Inspector	Paul Caprani.

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1.0 Introduction

ABP303336-19 relates to third party appeal against the decision of Galway City Council to issue notification to grant planning permission for the demolition of two vacant dwellings and the construction of 14 1,2 and 3 bed apartment units on a site adjacent to the Cappagh Road in the western environs of Galway City. The grounds of appeal argue that the proposal constitutes an overdevelopment of the subject site, will give rise to adverse visual impacts, and will also give rise to traffic and parking concerns.

2.0 Site Location and Description

- 2.1. The appeal site is located on the western side of the Cappagh Road on the western outskirts of Galway City. The Cappagh Road runs in a north/south direction and links up with the R336 to the south which links Barna and Galway City. The site is located approximately 5 to 6 kilometres from Galway City Centre. The appeal site is located on the north-western side of the Cappagh Road close to the junction between the Cappagh Road and the Western Distributor Road. The site comprises of a linear strip of land adjacent to the road approximately 135 metres in length and 40 metres in width.
- 2.2. There are two derelict dwellings located on site both of which are located adjacent to the footpath which runs along the eastern boundary of the site. One of the former dwellings is located in the southern portion of the site while the other is located in the northern portion of the site. The site itself incorporates lower ground levels than the adjoining Cappagh Road. It comprises of overgrown shrubland. Part of the southern portion of the site accommodates inert waste and some building materials which are being stored on site. These materials are possibly associated with a residential development which is currently under construction to the south of the site. A low stone wall runs along the front boundary of the site adjacent to the Cappagh Road.
- 2.3. Lands to the south of the site accommodate a recently constructed sports and leisure complex together with outdoor sports pitches. To the immediate south of the access leading to the sports complex lands are currently being developed for

housing. The lands directly opposite the site on the eastern side of the Cappagh Road accommodate larger detached residential dwellings, together with higher density infill development which front directly onto the Cappagh Road.

- 2.4. The Cappagh Road is a relatively busy distributor road accommodating a lane of traffic in each direction together with footpaths and public lighting along its alignment in the vicinity of the site.

3.0 Proposed Development

- 3.1. Planning permission is sought for the demolition of the existing two dwellinghouses on the subject site and their replacement with a total of 16 two and three-storey apartments set out in two separate blocks on site. The development went through a number of revisions with the Planning Authority on the amount of units were increased from 14 to 16. The scheme that was the subject of a grant of planning permission is described below.
- 3.2. Duplex Block 1 is located in the northern section of the site and the gable ends of the units front onto the Cappagh Road. The ground floor of the block comprises of 4 one and two-storey apartments. 2 one-bed apartments are located centrally within the block at first floor level while at either end of the block two-storey/three-bedroomed apartments are located. An outdoor terrace area is located between each of the apartments above ground floor level. A similar, although not identical layout is proposed for the northern block. Only 1 three-storey element is proposed at the very northern end of the block. Both blocks are just over 50 metres in length and 9 metres in width.
- 3.3. Overall the blocks accommodate 6 one-bedroom units, 7 two-bedroom units and 3 three-bedroom units. The two-storey element of the site rise to a height of just under 9 metres. The three-storey elements rise to a height of approximately 11 metres above ground level.
- 3.4. The external finishes comprise of external stone finishes primarily at ground floor level. The upper floors comprise of a mixture of light coloured smooth sand/cement external render and a darker rendering particularly around recessed areas which are located on the gable ends of the buildings where outdoor balconies are provided.

Glass balustrades are proposed for the balcony areas and the external terraced areas at first floor level.

- 3.5. The internal access road serving the site is to be located to the immediate north of Unit No. 1 in the northern portion of the site. A shared surface area is to provide access to surface car parking which is to be located primarily to the rear of duplex block No. 1 to the north. Five car parking spaces are also located centrally within the site between the two blocks. Public open space is provided throughout the scheme and according to the drawings submitted comprise a total area of 611 square metres (15.5%) of the entire site. Much of the public open space is located on the northern side serving the apartment blocks.
- 3.6. Lands to the rear, comprising of the western portion of the site, are zoned for recreational and amenity purposes. These lands are to be kept free from development but are to be landscaped as part of the overall scheme.

4.0 Planning Authority's Decision

Galway City Council issued notification to grant planning permission for the proposed development subject to 24 conditions.

4.1. Documentation Submitted with the Planning Application

- 4.1.1. The application was accompanied by an application form, planning fee, public notices and drawings. Also submitted was a report from Tobin Engineers providing details in relation to wastewater drainage design, stormwater drainage design and water infrastructure proposed to serve the development.
- 4.1.2. A separate report was submitted in respect of the existing buildings on site. It notes that the existing vacant buildings on site show evidence of anti-social behaviour and graffiti. The buildings in question, particularly the northern building has also shown partial evidence of roof collapse and other structural defects. None of the buildings on site can be considered habitable.
- 4.1.3. A separate report prepared by O'Neill and O'Malley Architects set out the design rationale and overall architectural approach to developing the subject site.

4.2. Initial Assessment by Planning Authority

- 4.2.1. A report from the Environment Department sets out a number of conditions in respect of waste management associated with the development.
- 4.2.2. A report from Irish Water states that there is no objection to the proposed development.
- 4.2.3. A report from the Drainage Division stated that there is no objection to the proposal in relation to surface water drainage.
- 4.2.4. The initial planner's report requested further information in relation to the following:
- Further details in relation to the plot ratio and quantum of development to be provided on site.
 - On the basis of the new Ministerial Guidelines for Planning Authorities the applicant was invited to submit a revised proposal which would increase the density of residential development on site (the Board will note that the original application submitted to the Planning Authority sought planning permission for 14 units).
 - The additional information request also requested changes in design including changes to the elevational treatment and pedestrian access to the site.
 - Changes to the location of car parking spaces.
 - Further details in relation to the provision of open space within the site including the provision of more usable functional communal open space.
 - A reduction in the amount of car parking provided.
 - Further details in relation to roads and traffic issues including the proposal's compliance with DMURS.
 - The applicant is also requested to submit further details of public lighting to serve the development.

4.3. Further Information Submission

- 4.3.1. On 13th August, 2018 the applicant submitted further details in response to the request for additional information.

- It is stated that the scheme is now being amended and the total floor area of the residential development is 1,370 square metres.
- Furthermore, two additional units have been provided to increase the quantum of development from 14 units to 16 units. This has increased the plot ratio from 0.27:1 to 0.35:1. The number of units per hectare have been increased from 35 units to 40 units.
- The additional information submission has revised the elevation of plans towards the Cappagh Road. Details of the changes are set out in the response.
- The site layout plan has also been revised to include new pedestrian links to the south of the site.
- Revised details of the car parking layout were also submitted.
- Changes have also been made to the open space provision to create more usable functional open space. This includes the provision of a seating area, picnic area and a hardstanding area for barbecues.
- The revised layout plan also reduces the amount of cycle parking as requested.
- Tobin Consulting Engineers had amended their report to demonstrate compliance with the internal roads layout of DMURS and these are indicated in revised drawings submitted.
- Details of a public lighting layout were also submitted.

Further information was submitted on behalf of the applicants on the 18th October, 2018. It states that through preliminary site investigations and anomaly with the original survey was noted. It states that although levels appear correct across the site, the relationship with the Cappagh Road appears to be incorrect. A revised survey has revealed that the Cappagh Road was shown to be approximately 1.5 metres above its actual provision. Thus revised drawings were submitted indicating floor levels of the apartments. The revised levels greatly reduce the height of the retaining walls. Therefore, further details were submitted addressing the Planning Authority's concern raised in the original additional information request and this revised

information submitted by the applicant was based on the lower site levels on site.

- 4.3.2. The Planning Authority requested that the applicant submit revised public notices based on the further information submitted. These revised public notices were submitted on 2nd November 2018.
- 4.3.3. A further planning report was prepared on foot of the additional information submitted.
- 4.3.4. The final planning report concludes that the revised details now satisfactorily address the public road while the internal layout amendments have contributed to an improved design and address the public realm and is therefore considered acceptable.
- 4.3.5. With regard to the overall size and scale of the proposed development, it is stated that while there is a legacy of large sites within the area accommodating single dwellings, there are also multiple examples of contemporary higher density residential development in close proximity to the site. The planner's report considers that the area in question is an area in transition. However, it abuts a major road with suitable community facilities and for these reasons it is considered that the proposed development is acceptable.
- 4.3.6. In its decision dated 29th November, 2018 Galway City Council issued notification to grant planning permission for the proposed development subject to 24 conditions..

5.0 Planning History

- 5.1. There are no history files attached. Relevant planning history is referred to in the local authority planner's report and this is outlined below.
- 5.2. Under Reg. Ref. 97/709 (Galway City Council Reference) An Bord Pleanála refused permission for (a) the demolition of two houses and associated sheds and outhouses and (b) the construction of 42 residential units and (c) a new road to serve the dwelling.
- 5.3. Under Reg. Ref. 97/788 (Galway City Council Reference) An Bord Pleanála refused planning permission for the construction of 38 residential units to include detached

houses, apartments and townhouses together with the demolition of two dwellinghouses and associated sheds and outhouses.

- 5.4. Under Reg. Ref. 98/195 An Bord Pleanála refused planning permission for the construction of 36 residential units to include detached houses, apartments and townhouses together with the demolition of two dwellinghouses, sheds and outhouses.
- 5.5. Under Reg. Ref. 10/172 planning permission was refused for the development of 18 dwellinghouses and 30 apartments in 3 three-storey blocks together with ancillary works. It appears that this decision was not appealed by An Bord Pleanála.

6.0 Grounds of Appeal

- 6.1. The decision of Galway City Council to grant planning permission was appealed by Mr. Michael Prendergast. The grounds of appeal are outlined below.
- 6.2. The appeal commences by highlighting a number of procedural issues. Reference is made to the grant of planning permission which was issued was dated 29th November 2017 (as opposed to the actual date of 2018). Also, reference is made to the additional information submission and the reference drawings submitted. It is noted that there are no drawings with these drawing numbers on file. While drawings were furnished, they were not as referenced in the applicants' response to the grounds of appeal. It is stated that the appellant is not opposed to the original development as proposed. However, in light of the process employed and the significant amendments incorporated thereafter, the decision of Galway City Council has been appealed.
- 6.3. The applicant has also made reference to a You Tube video (reference on page 2 of submission). I have watched the video in question. It contains a video of the site and associated commentary raising many of the matters referred to in the written grounds of appeal as well as some additional traffic concerns.
- 6.4. The applicant in this instance is also the developer of a similar sized plot of land to the south on the Cappagh Road. The site to the south is currently being developed for a housing development. However, concerns are expressed that the current

appeal site is being used for storage of an inert, C&D waste and building materials associated with the on-going construction works on the site to the south.

- 6.5. The grounds of appeal go on to outline details in relation to the further information submitted on behalf of the applicant. The appellant argues that notwithstanding the fact that he submitted an observation to Galway City Council, that he was not notified of the additional information submission by Galway City Council.
- 6.6. It is argued that the site in question must be sensitively developed having regard to its location fronting onto an amenity park and recreational lands together with the semi-rural character of the area and the existing housing stock. It is argued that an overdevelopment of the site would greatly detract from the amenity value of Cappagh Road.
- 6.7. It is stated that it is incomprehensible that developers with a submitted drawing which depicted levels some 2 metres above levels shown on the OSI map.
- 6.8. The permission now granted differs significantly from that originally applied for. The development for which is granted planning permission comprises of 3 three-storey blocks rising to 11 metres above the Cappagh Road.
- 6.9. The Cappagh Road façade occupies 65% of the site frontage and presents two continuous façades approximately 50 metres in length rising to a height of over 11 metres. This it is argued creates a tunnelling effect and will overshadow existing mature residence on the Cappagh Road. The appellant submitted a number of artists' impressions designed to give an understanding of the impact of the proposal.
- 6.10. The entrance to the development is at the northern end of the site where it is located less than 25 metres from the roundabout which connects the Cappagh Road with the Western Distributor Road. This Western Distributor Road serves a large population together with numerous retail and social facilities. It is argued that the location of the entrance constitutes a traffic hazard.
- 6.11. The site itself is a sensitive visual amenity due to its location transitioning between extensive recreational lands and extensive residential development. The existing low-density developments reflect this transition.
 - In summary, the grounds of appeal argue that the proposed development constitutes an overdevelopment of the subject site.

- The site is of significant environmental and amenity value and forms a boundary between residentially zoned lands and recreational lands.
- A scheme with greater sensitivity and architectural merit is required on such a sensitive site.
- The size and scale of the proposal will create an unattractive tunnelling effect on the road.
- The development will present an unacceptable north facing three-storey façade at the western distributor roundabout.
- The development will constitute an abrupt transition from high density to recreational undeveloped lands further west.
- The proposed terraces serving the development will be of zero amenity value.
- There is insufficient car parking to cater for the development.
- The vehicular entrance to the development at 25 metres from the roundabout will constitute a traffic hazard for pedestrians and cyclists.
- The proposed development will exacerbate overflow parking on the Cappagh Road.
- The drawing submitted do not accurately reflect the visual impact of the development.
- The developer has the deposited construction waste on the site for which no planning permission has been obtained.
- The drawings submitted with the application have been inappropriately referenced.
- Documentation on file and on the on-line planning database differs significantly with both stamped and unstamped versions of the same documentation.
- The appellant was not notified of the additional information received by the applicant.
- The planning office did not inspect the site to ensure that the site notice was correctly erected.

- The further information submitted was so significant that it warranted a new application.

7.0 Appeal Responses

7.1. Planning Authority's Response to the Grounds of Appeal

It appears that Galway City Council have not submitted a response to the grounds of appeal.

7.2. Applicants' Response to the Grounds of Appeal

- 7.2.1. A response was received on behalf of the applicant by O'Neill O'Malley Architecture and Project Management. The grounds of appeal set out details of the timeline relating to the application.
- 7.2.2. The applicant's acknowledge in some of the drawings submitted with the further information submitted were incorrectly referenced. However, the drawings associated with the initial application, further information submission and amended further information submitted are appropriately referenced.
- 7.2.3. With regard to the incorrect date to planning application submitted and the details contained on the website, it is stated that there may be some delays between the lodgement of the documentation and the information contained on the online planning portal. However, all references in the public notices refer to the physical hard copy file held in Galway City Council offices and these are available for public viewing during normal working hours.
- 7.2.4. It is acknowledged that the initial levels on site were indeed inaccurate and on foot of this discrepancy, the applicants wished to withdraw the further information submitted. Galway City Council replied formally that there is no facility to return further information submissions but that amended submissions could be made.
- 7.2.5. It is maintained that the photomontages submitted with the grounds of appeal do not correctly illustrate the scheme. The applicant has completed a number of appended computer generated photomontages which it is contended more accurately depict the proposal (see Appendix 4).
- 7.2.6. With regard to overdevelopment of the site, the increase in the quantum of development was a response to Galway City Council's advice that an increase in

density was necessary in order to comply with more recent national guidelines on apartment development. The provision of 16 units across the site provides just over 40 units per hectare and a plot ratio of 0.46:1 which is in accordance with the most recently published Ministerial Guidelines of March, 2018. The subject site is served by public transport and also has excellent recreational, social and community facilities within the immediate area.

- 7.2.7. With regard to the encroachment on recreation and amenity zoned lands, the applicant in conjunction with landscape architects, have endeavoured to create an amenity area harmonious with the parkland beyond. The proposed shared surfaces, paving and footpaths proposed as part of the development integrate well with the recreational amenity zoned lands.
- 7.2.8. In terms of car parking, it is stated that the provision of car parking is fully in accordance with the requirements of the most recent sustainable urban housing design standards for new apartments. 20 spaces have been provided, a space for each unit and four visiting spaces. The applicant agrees however that additional car parking spaces would be beneficial and for this reason two additional spaces are provided in a revised site layout plan submitted with the applicants' response to the grounds of appeal (see Appendix 5). The applicant would welcome a decision from the Board conditioning the inclusion of the two additional car parking spaces.
- 7.2.9. With regard to access arrangements, the access junction has been designed in accordance with DMURS. The access junction in terms of location and design has not changed from the original submission. The engineer's report confirms that the location of the access junction complies with the requirements of DMURS with regard to stopping sight distances and sightlines etc. Furthermore, it is noted that Galway City Council Roads Department did not raise any issues with regard to the proposed access.
- 7.2.10. Finally, the response defends the architectural merit of the proposal. The apartment and building form have been designed to provide dual aspect apartments and the scheme will create passive supervision over all public spaces surrounding the site. The incorporation of terraces separating apartments at first floor level greatly reduces any perceived tunnelling effect as suggested in the grounds of appeal. The building's style incorporates both contemporary and traditional elements and

incorporate a series of external finishes which will ensure that the scheme will sit harmoniously within the surrounding area.

7.3. Further Submission from the Appellant

- 7.3.1. A further submission from the appellant was received by the Board on 4th March, 2019. It is briefly summarised below:
- 7.3.2. It states that the issue of when exactly the commencement of development on the adjoining site and when exactly the applicants became aware of the digital anomaly between the online drawings and the hard copy drawings on file is not satisfactorily resolved. It is reiterated that the reference drawings create confusion for anybody within an interest in the development.
- 7.3.3. Concerns were still expressed in relation to the photomontages submitted and that the application constitutes an overdevelopment of the site.
- 7.3.4. Concerns are also expressed that at least 22 cars will be using the home zone/shared surface area which has no distinguished physical boundaries between vehicular and pedestrian use. It is noted that the applicant has included two additional car parking spaces which are to be welcomed. However, this results in a 25 square metre reduction of public open space which is less than the 15% required under the development plan.
- 7.3.5. Concerns are still expressed to the junction design and in particular that the subject site is located directly opposite and entrance/exit opposite the proposed access.
- 7.3.6. The architectural merit of the scheme is again questioned. It is suggested that the arguments set out in the applicant's response are purely subjective and in no-way address the concerns in relation to the overall design highlighted in the original grounds of appeal.
- 7.3.7. It is also noted that the applicant has failed to respond in any way to other issues such as private amenity space, overflow car parking, unauthorised use of site for storage of building materials etc. For the above reasons the Board are requested to overturn the decision of the Planning Authority and refuse planning permission for the proposed development.

8.0 Development Plan Provision

- 8.1. The site is governed by the policies and provisions contained in the Galway City Development Plan 2017-2023. The subject site is governed by two separate zoning objectives. The eastern portion of the site where the proposed residential blocks, access road and parking spaces are zoned or, residential use the objective of which is to *“provide for residential development and for associated support development which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods”*.
- 8.2. The remainder, western part of the site recreational and amenity the objective of which is to *“provide for and protect recreational uses, open space, amenity uses and natural heritage”*. This area is to be kept free from development.
- 8.3. The subject site is located in the outer suburbs of Galway City. Specific policies which relate to the outer suburbs are set out below. Knocknacarra is designated as an outer suburb. Infill development in the outer suburbs will have regard to the context of the area and will not adversely affect the character of the area. In this respect infill development will have regard to the existing pattern of development plots, blocks, streets and spaces.
- 8.4. The Sustainable Urban Housing: Design Standards for New Apartments for Planning Authorities sets out requirements for the size and design of apartments and this guidelines shall also be adhered to. The policy for the outer suburbs are set out in Policy 2.5 of the Plan and these are briefly summarised below.
- Encourage higher residential densities at appropriate locations especially close to public transport routes and routes identified in the Galway Transport Strategy as suitable for high frequency public transport services.
 - Ensure that sustainable neighbourhoods are places where houses, streets, open spaces and local facilities come together with a coherent integrated and attractive form.
 - Ensure the layout of residential developments have regard to adjoining developments.
 - Encourage a mix of housing types and sizes within the residential developments.

- Encourage the use of home zones within residential developments (these consist of shared surfaces, indirect traffic routes, areas of planting and features to encourage the use of the street for amenity).
- Require residential developments of over 10 units to provide recreational facilities as an integral part of the proposed open space.
- To ensure balance between the reasonable protection of residential amenities in the outer suburbs and the protection of the established character and the need to provide for sustainable residential development.
- Encourage the integration of energy efficiency in the design and layout of residential development.
- Encourage the promotion of universal design principles and lifetime adaptability in the design and layout of residential development.
- Promote the use of appropriate placenames for new residential development in accordance with the policy of An Coiste Logainmneacha.
- Chapter 11 of the City Development Plan sets out general development standards and guidelines for residential developments in the outer suburbs.

8.5. National Planning Framework

8.6. Section 2.6 of the National Planning Framework highlights the importance of securing compact and sustainable growth. In this regard National Policy Objective 3(a) seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements.

8.7. National Policy Objective 3(b) seeks to deliver at least half of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford within their existing built-up footprints.

8.8. The NPF recognises that one of the principle benefits of more compact growth and development is that it will reduce harmful impacts on the environment by:

- Reducing landtake, preserving agricultural land and habitats.

- Utilising existing infrastructure, buildings and sites and reducing the need to travel long distances which will reduce energy consumption and carbon emissions.
- Improving the viability of public transport and services.
- Enhancing public health by encouraging and facilitating more active lifestyles by creating more walkable and cycle friendly urban environment.

8.9. National Policy Objective 13 states that in urban areas, planning and related standards including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

9.0 **EIAR Screening Determination**

Having regard to the nature of the development comprising of 16 residential units in an urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

10.0 **Planning Assessment**

I have read the entire contents of the file, visited the site and its surroundings and have particular regard to the issues raised in the grounds of appeal. I consider the critical issues in determining the current application and appeal before the Board can be assessed under the following headings:

- Procedural Issues
- Principle of Development
- Overdevelopment of the Subject Site
- Impact on the Visual and Environmental Amenity of the Area

- Open Space and Amenity Value
- Traffic and Transport Considerations
- New Issue

10.1. Procedural Issues

- 10.1.1. The applicant in the grounds of appeal highlights a number of procedural issues in dealing with the application at local authority level. These procedural issues are assessed as preliminary matters prior to dealing with the more substantive issues raised in the grounds of appeal.
- 10.1.2. The grounds of appeal highlight that Galway City Council in its notification of the decision under the provisions of Section 34 of the Act makes reference to the decision being dated 29th November 2017. This is of course a clerical error and an error which should not be considered fatal to the overall application. It is clear from the letter and from the documentation submitted on file that the application was lodged in 2018 and not 2017. Furthermore, a letter to the appellant informing him of Galway City Council's decision was correctly dated 3rd December 2018. I do not consider that any third-party rights have been infringed upon as a result of this clerical error and as such, such an error should not be deemed to be fatal to the overall application.
- 10.1.3. In a similar context any incorrect references on the drawings submitted to the Planning Authority on the 18th October 2018 are not in my view significant or material for the purposes of the Board adjudicating on the current application and appeal. While reference was made in the covering letter to drawings referenced 17199-3202FI etc. where in fact the drawings should have referred to 1799-3202FI2 (my emphasis) etc. This again in my opinion is a minor issue, which was not in my considered opinion, designed to mislead or confuse members of the public. In relation to the information being submitted, notwithstanding the minor error contained in the referencing of the drawings, the critical issue relates to subject matter contained in the drawing as opposed to the numbering of the said drawings.
- 10.1.4. The grounds of appeal also refer to the fact that there was some discrepancies and timelines between the application documentation submitted with the application and the documentation scanned onto Galway City Council's online planning portal. The

Board cannot verify whether or not there were delays or discrepancies with regard to the information in relation to the application uploaded on the online planning portal. It appears that the appellant in objecting to the application had access to all the information available in preparing the third-party appeal. I therefore do not consider that any discrepancies or timeline between the hard copy information and the online information made available by Galway City Council has in any way prejudiced the appellant's case in terms of making the appeal and raising valid planning issues.

10.1.5. The grounds of appeal also suggested that the planning office did not inspect the site notice to ensure that the said notice was erected correctly. I visited the site in question and inspected the revised site notice erected on site. It clearly indicated that the site notice was erected on 2nd November (on a yellow sheet as per the requirements of the Regulations) in accordance with the Planning Authority's requirements and the heading of the site notice clearly makes reference to the fact that further information/revised plans have been submitted. I therefore consider the revised site notice to be in order.

10.1.6. It is clear that the southern portion of the site is presently accommodating some building material for storage purposes. It could be argued that the temporary storage of building material on the subject site does constitute a change of use albeit on a temporary basis. Whether this change of use can be deemed material, is debatable having regard to the transient nature of the storage activity. Were development to proceed on the subject site, it would be reasonable and appropriate that building materials associated with the construction would be stored on the site in question. However, on the other hand, the grant of planning permission issued by Galway City Council has been the subject of a third-party appeal; thus as it currently stands, the subject site does not have the benefit of planning permission and as such it may be argued that a change of use has taken place on a portion of the site. If any such unauthorised development has taken place on the site, it is respectfully submitted that this is a matter for Galway City Council as the enforcement authority and is not a matter for An Bord Pleanála.

10.2. Principle of Development

10.2.1. A key consideration in determining the current application and appeal before the Board relates to whether or not the principle of residential development is acceptable

on the subject site. The subject site is zoned R in the current City Council Development Plan to provide for residential development and associated support development which shall ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods. The western portion of the site is zoned RA the objective of which is to provide for and protect recreational uses, open space, amenity uses and natural heritage. The Board will note that the current application before it seeks to develop residential units only in that part of the site which is governed by the zoning objective R. As this zoning objective seeks to provide for residential development the principle of residential development is therefore acceptable in principle on the subject site. A further question arises as to whether or not the proposal will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods. These aspects of complying with the zoning objective is assessed in more detail below.

10.3. Overdevelopment of the Subject Site

- 10.3.1. The grounds of appeal suggest that the proposed development constitutes an overdevelopment of the subject site and is not reflective to the prevailing pattern of residential development in the area in terms of scale and density. The Cappagh Road is located on the western limits of Galway City c.5 to 6 kilometres from Galway City Centre. It is characterised by more traditional one-off suburban type development comprising of detached dwellings on relatively generous plots of land together with some higher density infill suburban type developments in the form of higher density suburban estates and smaller scale infill development comprising of smaller scale infill higher density development. Having inspected the site and its surroundings and the nature of development along the Cappagh Road, I do not consider that an exclusive low-density character prevails.
- 10.3.2. The Board should note that the applicant, as part of a further information request, was specifically requested to increase the density of development on the subject site so as to ensure compliance with the density standards set out in Sustainable Urban Housing: Design Standards for New Apartment Guidelines for Planning Authorities dated March, 2018. These guidelines suggest that the provision of apartments in peripheral and less accessible urban locations are generally suitable for limited and small scale higher density development that may wholly comprise of apartments or residential development of any scale that will include a minority of apartments at

low/medium densities. The densities at such locations will vary but broadly should be in the region of 45 dwellings per hectare.

- 10.3.3. On foot of these guidelines, the applicant has responded to Galway City Council's additional information request by increasing the number of units from 14 to 16 giving an increased density from 35 units per hectare to just over 40 units per hectare. The density proposed under the current application therefore accords with the broad density guidelines set out for peripheral and less accessible urban locations such as the subject site.
- 10.3.4. There are also numerous policy statements contained in the National Planning Framework which highlights the need for securing compact and sustainable growth. The NPF highlights that one of the principle benefits of more compact urban development reduces landtake while preserving agricultural land and habitats. It also allows for more efficient utilisation of existing infrastructure and reduces the need to travel long distances. Higher density development along public transport corridors improves the viability of public transport services and in this regard it is noted that the Cappagh Road accommodates four separate public transport routes (Bus Nos. 411, 412, 413 and 414) along its alignment. It is therefore appropriate and justifiable in public transport terms to approve a higher quantum of development on the subject site which may not have been historically characteristic of suburban development on the lands surrounding the site.
- 10.3.5. It is not appropriate as suggested in the grounds of appeal that continued low density type development be permitted to dissipate and sprawl out along the peripheral and peri-urban areas of Galway City. The continuation of such low density sprawl is completely contrary to sustainable and strategic land use planning and is also inappropriate in urban design terms. Strong urban defined boundaries providing a clean and obvious demarcation between urban and rural development is more appropriate. The quantum of development proposed on the subject site would in my view contribute to such an objective.

10.4. **Impact on the Visual and Environmental Amenity of the Area**

- 10.4.1. In relation to visual impact, concerns are expressive that the scale and quantum of development is too high and represents a significant departure from the prevailing form and character in the area. As referred to above, there are many strategic land

use considerations as why the board should consider granting a higher quantum of development on the subject site. In addition to these land use considerations, the proposed development at a maximum of three storeys, cannot be considered of significant scale and height even in an outer suburban area such as Knocknacarra.

10.4.2. Furthermore, the design approach has endeavoured to break up the overall scale of the blocks by incorporating single storey elements along the elevation to create a saw-tooth effect along the building line of the front elevation. This architectural approach undermines the appellants assertion that the proposal will result in a 'corridor effect' along the Cappagh Road. I do acknowledge that the Blocks in question are long, c.50m in length, however in order to get an appropriate quantum of development, which is not excessive in height, within such a confined depth, it is in my view, necessary to incorporate long blocks such as that proposed.

10.4.3. Furthermore, the subject site or its surroundings do not attract any designated views or prospects listed in the development plan. As such the site cannot, as suggested in the grounds of appeal, be considered visually sensitive. It constitutes a typical peri-urban/ suburban site which is governed by a residential zoning objective.

10.4.4. Finally, I note that there are planning precedents in the immediate vicinity where 3-storey blocks have the benefit of planning permission. Specifically, I refer the Board to the duplex development directly opposite the site 'An Silin' (see photo number no.11).

10.4.5. With regard to the assertion that the site in question is one of environmental sensitivity, I note that the site is not located within an area designated as such. While part of the subject site is located within an area zoned for recreation and amenity, this portion of the site is to be kept free from development and is to be landscaped, which in my opening would constitute a significant planning gain. While it is true that residential development is to be located contiguous to the area designated for recreation and amenity, such residential development is in accordance with the zoning objective for the site and is therefore in my view totally appropriate.

10.5. **Open Space and Amenity Value**

10.5.1. The grounds of appeal argue that the overall amenity value provided as part of the scheme is poor and of little recreational benefit. The drawings submitted with the application indicate that the applicant has complied with the minimum requirements

set out in the development plan in dedicating a little over 15% of the entire site to open space and amenity. In quantitative terms therefore, the applicant has complied with the requirements set out in the development plan.

- 10.5.2. In terms of quality of open space the Board should take the following into consideration in assessing the application.
- 10.5.3. The area to the rear of the site which constitutes c.50% of the entire site is given over to recreation. This recreational area which is to be landscaped as part of the proposed development will be available for the residents of the scheme. The remainder of the space provided as part of the proposal comprises of incidental open space which may not serve any functional purpose. However, with the landscaping proposed it will significantly add to the visual amenities of the area and contribute to the aesthetics of the overall scheme.
- 10.5.4. In terms of private open space, the provision of a small garden to the rear of the dwellings together with balconies and terraced areas at first floor level results in satisfactory and sufficient private open space has been provided.
- 10.5.5. The Board should also take note of the fact that the subject site is located to the immediate north and within walking distance of Cappagh Recreational Park which includes expansive areas of open space together with football pitches and indoor leisure complex. For these reasons I consider that the proposed development is well catered for in terms of social and active recreational amenity facilities.

10.6. Traffic and Transport Considerations

- 10.6.1. The You Tube video referred to in the grounds of appeal (prepared by the appellant - for reference see page 2 of appeal submission) argues that the incline on the Cappagh Road is such that it constitutes a traffic hazard. While there is a slight incline on the Cappagh Road leading northwards towards the roundabout on the Western Distributor Road, this incline does not constitute a traffic hazard by way of restricting sightlines etc. The photo's attached indicate that adequate sightlines are afforded in both directions along the entirety of the road frontage of the site. The proposed entrance to the subject site is located approximately 70 to 80 metres to the south of the junction between the Cappagh Road and the Western Distributor Road. The subject site is located within a built-up area where the 50kph speed limit applies. Therefore, adequate sightline distances in excess of 70 metres are provided at the

proposed access point. It should also be borne in mind that the junction between the Cappagh Road and the Western Distributor Road accommodates a roundabout. This inevitably requires traffic to slow down on approaches to the roundabout which will further assist from a road safety perspective. I note that no concerns were raised by Galway City Council's Road Department with regard to access arrangements.

- 10.6.2. The fact that the proposed access is located directly opposite an entrance to a dwelling does not in my view constitute a traffic hazard. There are numerous examples in the wider area and along the Cappagh Road and elsewhere, where entrances to private dwellinghouses and small infill developments are located opposite each other or in close proximity to each other on the opposite side of the road. It would be inappropriate in my opinion to refuse planning permission on such grounds.
- 10.6.3. A total of 20 car parking spaces have been provided to serve the proposed development. This in accordance with the parking standards required in the development plan which requires one on-site space per dwelling and one grouped visitor space per three dwellings. This would amount to a total of 21 spaces to serve the proposed development in accordance with Section 11.3.2(c) of the development plan. The applicant has indicated that he is willing to provide an additional two car parking spaces should the Board consider it appropriate. The appellant however raises concerns that the provision of an additional two car parking spaces would result in a net reduction of public open space serving the development.
- 10.6.4. In order to comply with the development plan standards, I would recommend the Board insert a condition requiring the applicant to provide 21 spaces on the subject site allocating one space per dwelling and five grouped visitor spaces. The location of the additional car parking spaces can be agreed in writing with the Planning Authority. The impact of providing an additional two car parking spaces would be negligible on the open space provision associated with the development.
- 10.6.5. Finally, the applicant suggests that it would have been more appropriate for the Planning Authority to refuse planning permission for the above scheme rather than alter the scheme by way of additional information and that any new scheme submitted would be evaluated on its merits.

10.6.6. In response to this issue, I consider that the Planning Authority are perfectly entitled to seek changes by way of additional information should it deem it necessary or appropriate. In submitting the further information, the applicants were required to produce new notices to inform the public of the changes being made. The public in general, and the appellant specifically, were given the opportunity to comment on the any changes proposed and the applicant in this instance was fully aware of the changes incorporated by way of revised drawings. The applicant's position therefore has not been prejudiced in any way in relation to objecting commenting on the application and appeal before the Board. It is therefore considered neither necessary or appropriate to require a new application as suggested in the grounds of appeal.

10.7. New Issue – Part V

10.7.1. I note that a total of 16 residential units are proposed on a plot of residentially zoned land 0.7 ha in size. The provision of Part V of the Act would therefore in my opinion apply. There are no references to Part V in the planners report or the conditions attached to the planning authority's decision. The Board prior to determining the application may wish to seek further information on this prior to issuing a decision. I have attached a standard Part V condition as condition No.24, should the Board consider it appropriate to grant permission and attach such a condition.

11.0 Conclusions and Recommendation

Arising from my assessment above, and having particular regard to the zoning objective pertaining to the site, I consider the proposed development to be acceptable and in accordance with the proper planning and sustainable development of the area and I therefore recommend that the decision of Galway City Council be upheld in this instance and that planning permission be granted for the proposed development.

12.0 Appropriate Assessment

The subject site is not located within or contiguous to a designated Natura 2000 site. At its closest point the subject site is located approximately 200 metres to the north-east of the Galway Bay Complex SAC (Site Code: 000268). The Cappagh Park and

Sports Complex is located between the boundary of the SAC and the subject site. There is no direct hydrological or hydrogeological connection between the subject site and the SAC in question. There is a stream that runs south-westward towards the Connemara Bay Complex SAC to the north of the site however, this stream is located over 60 metres to the north of the subject site and therefore is not physically connected with the site and therefore does not provide a potential pathway for contaminants from the site, particularly during the construction period, that could potentially affect the SAC in question. Therefore, having regard to the nature and scale of the proposed development the nature of the receiving environment together with the proximity 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 or projects on a European site.

13.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

14.0 Reasons and Considerations

Having regard to the residential zoning objective relating to the site it is considered that the proposed development, subject to the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

16.0 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 information received by the planning authority on the 13th day of August, 2018 and the 18th day of October, 2018, and received by the Board on the 31st Day of January 2019, 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 the 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. Details of the materials, colours and textures of all external finishes to the proposed residential units shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

3. 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.

Reason: in the interest of public health.

4. Prior to the commencement of development, exact design details of the finishes for all hard surfaces including the home zone area for the residential development shall be submitted to and agreed in writing with the planning authority.

Reason: To protect the visual amenities of the area.

5. The internal road serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such works.

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

6. 21 car parking spaces shall be provided within the site, the location and layout of these spaces shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

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

7. Public lighting shall be provided in accordance with a scheme which shall include lighting along pedestrian routes and through open spaces details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

9. Proposals for an appropriate name for the residential development together with house numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Thereafter, all signs and apartment numbers shall be provided in accordance with the agreed scheme. No advertisement/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

10. The exact finish of the stone facing for the treatment of boundaries shall be submitted for the agreement in writing with the planning authority prior to the commencement in development. The developer shall submit a sample brochure indicating same.

Reason: In the interest of residential amenity and the proper planning and sustainable development of the area.

11. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, contoured, soiled and seeded and landscaped in accordance with the landscape scheme submitted to the planning authority on the 18th day of October 2018. This work shall be completed before any of the residential units are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of public open areas and their continued use for this purpose.

12. Site development and building works shall be carried out only between the hours of 0800 hours to 1800 hours Monday to Friday and between 0900 hours and 1300 hours on Saturday and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

13. The 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. A drop kerb shall be provided to the footpath for the full width of the proposed vehicular entrance. The footpath shall be reconstructed at the vehicular entrance with material to match the existing footpath.

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

14. Any 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 of the planning authority or any other public body responsible for such utilities before any such alterations are carried out.

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

15. 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 (1998) unless required

otherwise by Galway City Council in which case Galway City Council standards shall apply.

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

16. Details of the layout, design and configuration of the junction of the access road with the public road shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of traffic and public safety.

17. The car parking spaces provided within the development shall be reserved for the exclusive use of the residential occupiers or visitors to the residential units of the development.

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

18. The applicant shall be responsible for installing and maintaining to a satisfactory standard, a vehicular wheelwash facility on-site during the construction phase of the development.

Reason: To prevent any dirt being transferred onto the public roadways arising from the construction phase.

19. All retaining walls shall be designed and their construction be supervised and certified by a suitably qualified bonded structural engineer. A structural certificate shall be forwarded to the local authority.

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

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

21. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

22. The applicant shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of development.

Reason: In the interest of orderly development.

23. The developer shall pay to the planning authority a financial contribution of €129,746 (one hundred and twenty-nine thousand seven hundred and forty-six 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.

24. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

Paul Caprani,
Senior Planning Inspector.

8th April, 2019.