



An  
Bord  
Pleanála

## Inspector's Report ABP 305085-19.

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<b>Development</b>	Demolition of derelict house and outbuildings and construction of Fifty-Eight residential units, shared communal open space, parking vehicular and pedestrian access from Weir Road, sighting and all site and servicing works.
<b>Location</b>	Killaloonty, Tuam, Co. Galway.
<b>Planning Authority</b>	Galway County Council
<b>P. A. Reg. Ref.</b>	18/966.
<b>Applicant</b>	Evolution Developments.
<b>Type of Application</b>	Permission
<b>Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party x Refusal
<b>Appellant</b>	Evolution Developments
<b>Observers</b>	May Gibsey. Sean O'Connell.
<b>Date of Site Inspection</b>	30 <sup>th</sup> September, 2019.
<b>Inspector</b>	Jane Dennehy.

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## 1.0 Site Location and Description

- 1.1. The application site has a stated area of 1.179 hectares and is located on the south west side of the Weir Road (L-2015) onto which it has access circa 700 metres from the junction with the Galway Road (R332) a main route in a north south axis through the town.
- 1.2. It is a greenfield site formed from agricultural land and there are dry stone wall splays at the entrance and a grass track and overhead electricity lines extend southwards from the existing entrance. There is a derelict house and its outbuildings towards the western end and dense trees and hedgerows along the west and south west boundaries to the outer side of which are residential properties located along the north west side of the Galway Road and a motor business at which several parked cars, possibly in storage and/or for sale. On the opposite side of the Weir Road there are industrial premises and residential development and on individual road frontage dwellings with a narrow lane to the rear are on the east side of the site.

## 2.0 Proposed Development

- 2.1. The written statement accompanying the application submission indicates proposals for demolition of the derelict house and outbuildings on the site, (stated floor area 255 square metres ) and construction, of a residential development of fifty-eight dwellings comprising:

- 14 no two-bed apartment,
- 14 no two bed duplex units,
- 22 no 4 bed terraced houses and,
- 8 no 3 bed semi-detached houses.

Also included is provision for shared communal and private open space, landscaping and on-site including visitor parking. Vehicular access via a single priority-controlled junction and pedestrian access onto Weir Road along with lighting, servicing and ancillary site works.

- 2.2. The application is accompanied by a drainage and water supply report, traffic and transport engineering report, planning context letter, vertical profiles and auto track analysis. traffic engineer and drainage and watermain details and layouts.
- 2.3. A multiple item request for additional information was issued to the applicant. The further information submission of 31<sup>st</sup> May, 2019 (with new public notices being issued) the total number of dwelling units was reduced to forty-six, to be constructed in four phases in a revised layout. Detached houses are shown addressing the road frontage with terraced and semi-detached dwellings
- 2.4. The submission includes an appropriate assessment screening report
- In the response to a multiple item additional information request, revisions were made to the application which provides for reduction from fifty-eight units to forty-six in total in the development in which two storey detached houses are shown facing towards the public road along with other modifications, additional submissions and clarification on details.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

By order dated, 10<sup>th</sup> July, 2019, the planning authority decided to refuse permission based on five reasons as outlined in brief below:

1. Conflict with objective T1 10 of the CDP and endangerment of public safety by reason of traffic hazard – in the absence of an available road safety audit.(RSA)
2. Lack of documentary evidence to demonstrate compliance with obligations provided for under Section 96 (Part V) of the Planning and Development Act 2000 as amended. (PDA), material contravention of Objective UBO 2 of the CDP and Objective RD 7 of the Tuam Local Area Plan. LAP.
3. Inappropriate building typologies (scale and massing of Blocks D, E, F and H) which are incompatible and fail to assimilate with the area and required standards with the area resulting in material contravention of Policy objective

UHO 7 and 8 of the CDP and UDI 1, UD3 and UD 5 of the LAP, and creation of undesirable precedent.

4. Failure to facilitate satisfactory standards for pedestrian movement and shared space resulting in contravention of Objective T1 5 of the CDP and DMURS due to unacceptable risk of hazard to vulnerable road users and substandard quality in the public realm.
5. Failure to demonstrate that undue loss of bat species and other fauna and habitats would not occur having regard to the submitted ecological assessment and bat survey resulting in contravention of Objective NHB 2 of the CDP.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

It is concluded in the final planning officer report dated, 1<sup>st</sup> July, 2019 issued following consideration of the further information submission of 30<sup>th</sup> May 2019 that the site is subject to an appropriate zoning, has significant development potential and, that its development in the short term is desirable. However, the planning officer, having considered the further information submission identified significant residual issues which are referred to in the reasoning for the decision to refuse permission. He considers that these matters need to be addressed prior to determination of a decision in order for favourable consideration of any future proposal although he also confirms that several other matters had been resolved.

#### **3.2.2. Other Technical Reports**

The supplementary report of the Roads Transportation and Operations Division indicates a view that the proposed development would due to the additional traffic movements generated cause obstruction of road users leading to endangerment of public safety by reason of traffic hazard. It is noted that the submitted stage 1 RSA is insufficient, (A stage 1.2 RSA having been requested) Based on review of the submitted Stage 1 RSA the proposed junction with the Weir Road is stated to be unacceptable. It is also stated that it cannot be determined whether the taking in charge policies and subsequent infrastructure standards are satisfied.

### 3.3. **Third Party Observations**

Observations were lodged by the two parties who have also submitted observations on the appeal and issues raised relate to boundary treatment, building typologies and height, and open space provision adjacent to boundaries with the properties on the Galway Road.

## 4.0 **Planning History**

**P. A. Reg. Ref. 11/1749** This is an application for demolition of the house and out buildings and for construction of fifty-seven dwellings comprising five detached houses, twelve semi-detached and forty, two bed apartments in two blocks. Permission was granted but not taken up.

**P. A. Reg. Ref. 06/1409:** This is an application for demolition of the house and out buildings and for construction of fifty-seven dwellings comprising five detached houses, twelve semi-detached and forty, two bed apartments in two blocks. Permission was granted but not taken up.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

The operative development plan is the Galway County Development Plan, 2015-2021 according to which:

The site location also comes within the area of the Tuam Local Area Plan, 2018-2024. The site location is subject to the zoning objective “R1”. (Residential – Phase 1)

Policy T1 10 contains a requirement for significant development proposals to be accompanied by a TA and RSA, in accordance with the requirements of NRA Traffic and Transport Assessment Guidelines, and RSA in NRA DMRB HD 19/12 Road Safety Audit, including updated/superseding documents.

Policy Objectives NHB 1 and NHB 2 provide for the protection, conservation and enhancement of natural heritage and biodiversity including non-designated habitats and landscapes

Policy Objective UHO 7 provides for high quality/ mix and sensitive design which is responsive to the site context. And complements the existing settlement in terms of scale, height, massing, building line, urban grain and dwelling mix.

Policy Objective UHO 8 provides for promotion of sustainable urban design principles creating a high quality built and natural environment in accordance with statutory guidelines. *Sustainable Residential Development in Urban Areas, 2009*, the Urban Design Manual and the *Design Manual for Urban Roads and Streets*. (DMURS)

Policy objectives of the Tuam LAP; UD1 1, UD3 and UD5 of the LAP provide for similar objectives high quality sensitive design, Spatial Definition and Animation and Street-orientated development and responsive frontages.

## 5.2. **Regional Planning Guidelines, 2010-2022**

Tuam is designated as a hub town with a minimum target population of 9,500, in 2022. This is provided for in Variation No 2 of the CDP. (Section 2.4.4.)

## 6.0 **The Appeal**

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

6.2. An appeal was received from Future Analytics on behalf of the applicant on 6<sup>th</sup> August, 2019 and it includes a detailed description and comments on the planning application, planning policy context which it is contended, the revised proposal in the further information submission satisfies and, the decision of the planning authority. According to the appeal against the decision o refuse permission within the submission:

6.3. **In response to Reason 1** for the decision to refuse permission regarding endangerment of public safety by reason of traffic hazard and consistency with Policy Objective, T1 10 of the CDP it is submitted that:

- The RSA and TII were prepared and coordinated by the applicant' s consultants and included in the further information submission.
- The consideration in the reason to refuse permission regarding lack of Stage 2 RSA could have been addressed by compliance with a condition and in this regard, Section 34 (1) (a) and (b) and (4) (b) and (m) of PDA applies. Galway County Council previously attached a condition to the grant of permission with a requirement for Stage 2 RSA to be completed. Condition No 11 attached to a grant of permission under P. A. Reg. Ref. 18/1422 refers. (In it the audit to be submitted for agreement with the planning authority which is required includes examination of all pedestrian to vehicular transport methods.)
- Attachment of a condition would be consistent with practice by Galway County Council. It has also granted permission for fifty-seven units with a vehicular access configuration which is similar to that of the proposed development under P. A. Reg. Ref. 06/1409 (May 2006) and this consent was reaffirmed in 2011 under P. A. Reg. Ref. 11/ 1749.
- The suitability of the subject lands is long established through prior grants of planning permission and successive LAPs and the applicant made a concerted effort to satisfy the planning authority in providing comprehensive studies in the further information submission.
- In an accompanying statement by the applicant' s consultant engineers it is submitted that, having regard to the Transportation Infrastructure Ireland (TII) publication, GE-STY-01024) a stage 1 RSA is wholly appropriate to the scale and design stage for the development whereas a Stage 2 RSA is appropriate post planning when the detailed design is undertaken. The issues arising in the Stage 1 RSA can be resolved (by condition) in stage 2 RSA as per the precedent cited in the appeal submission. A detailed design and stage 2 RSA normally carried out post planning when problems can be designed out is the appropriate. (Appendix 2 of the appeal submission refers.) This measure is in accordance with national policy.



6.4. **In response to Reason 2** for the decision to refuse permission it is submitted that to refuse permission on grounds of lack of evidence of Part V (PDA) compliance is entirely unwarranted.

- A standard “Part V Letter of Understanding” (in which an offer of six units is accepted with final agreement being negotiable should permission be granted) relating to the original fifty-eight unit proposal issued to the applicant’s agent was issued to the applicant. (A copy is attached to the appeal.) This ‘Letter of Understanding’ should not be regarded as ‘null and void’ in view of the request for additional information.
- The revisions made in the further information submission do not necessitate a revised Letter of Understanding in that there is an automatic allocation of ten per cent for social housing under the terms of Part V of PDA. Planning authorities are requested in Guidelines issued by the Minister in January 2017 to attach standard conditions that comply with Section 96 (2) and worded in accordance with Section 96 (3) of PDA. It is requested that the refusal reason be dismissed and that a condition with a requirement for compliance with Part V obligations be attached.

6.5. **In response to Reason 3** for the decision to refuse permission it is submitted that:

- there are conflicting policy objectives in the CDP and LAP and that Permission can therefore be granted having regard to Section 37 (2) (b) (ii) of PDA.
- The significant changes to the layout and configuration of the proposed development and the omission of twelve units in the further information submission facilitated a ‘refinement’ of the proposed development which supplements urban legibility and, is sensitive to and respects the neighbouring environment and existing building typologies which inform the proposed scale and massing and the relationship with the road frontage.
- The ‘points of detail’ in the third-party observer submissions could have been resolved by attachment of appropriate conditions with requirements for compliance submissions.

- The dwelling mix, building typology and heights respect the neighbourhood, secures appropriate densities at 33.1 per hectare for the original proposal at fifty-eight units and, secures sustainable land use. The proposal responds to national policy requirements for higher densities and heights while providing for public open space and parking although density is reduced to 26.3 in the further information submission.
- The landscape masterplan included with the further information submission responds the planning authority' requirements and has full regard to the existing beech and ash trees hedgerow and wildlife on the site which it seeks to augment while delivering on the residential development objective for the site lands. It provides for permeability and public open space conducive to passive and active recreation and amenity.

6.6. **In response to Reason 4** for the decision to refuse permission it is submitted that:

- The revised site layout and landscaping proposals in the further information submission provide for additional open space at the north facing onto Weir Road, mature trees on the south boundary and additional landscaping and semi mature trees on the south boundary in place of four parking space; there is a balance of pedestrian crossing and at natural desire lines in the revised proposal . Inclusion of hardscaped elements as previously proposed can be secured with an appropriate condition. There are safe secure movement routes in and out of the devleopent without adverse effect on adjoining property. There are constraints to east and south due to pre-existing development on the Galway Road so there is orientation towards Weir Road. Upgrading of a pedestrian access road to the derelict farmhouse from Weir Road which is widened to provide for safe pedestrian and vehicular access accord with DMURS standards. There is 2,341 square metres, (13 per cent of the site area) of public distributed through the development including a large central space complemented by pockets.

6.7. **In response to Reason 5** for the decision to refuse permission it is submitted that:

- All hedgerows and trees on boundaries wherever possible, will be retained and an appropriate condition would be welcomed. Supplementary tree and

hedgerow planting in accordance with Objective NHB 11 (b) of the CDP will also be undertaken.

- The supplementary planting to the trees and hedgerow to be retained on the site throughout construction, as reflected in the bat survey. Delivery of a double boundary hedgerow does not undermine private open space of proposed dwellings or those of adjoining properties. The applicant is willing, by compliance with a condition, to demonstrate that the level of artificial light is appropriately managed to address ambient conditions for bat patterns. The two metres high boundary on the perimeter will have significant impact on such retention. The concern in the reason of the planning authority is not insurmountable and does, not (along with the other reasons attached to the decision) warrant refusal of permission.

It is submitted that the proposed development is suitable for a grant of permission with the application of some standard conditions for compliance facilitating the delivery of housing for Tuam.

#### **6.8. Planning Authority Response**

There is no submission from the planning authority on file.

#### **6.9. Observations**

There are two submissions on file each of which is outlined below.

##### **6.9.1. Mr Sean O'Connell, Galway Road.**

Mr O'Connell is owner of a property for which permission was granted under P. A. Reg. Ref. 00/248 accessed via a private driveway from the Galway Road. It was built at the rear of the original family home.

It is accepted, having regard to the zoning objective that the lands will be developed but it is submitted that the current proposal is inappropriate to the environs and the protection of residential amenities of adjoining properties. It is submitted that:

- The ridge heights of Blocks F and H at are excessive at 2.8-4.8 metres higher than the bungalows on Galway Road and the appellant's property and is contrary to the LAP. A more graduated approach to height would have been

appropriate. Blocks F and H have potential to be three storey as the attic is suitable for conversion which would give rise to overlooking of Mr. O'Connell's property. The standard minimum twenty-two metres separation distances apply to two storey developments with further distance being necessary for three story structures such as Blocks F and H. As Mr. O'Connell's property is built at the rear of the original family home the front garden is the private garden for the house and there are genuine overlooking concerns. A reduction in height for Blocks F and H does not reduce density per hectare and increased height will not increase the property yield. Appropriate typologies should have been required.

- Anomalies in the mitigation proposals in the landscaping plan and in the bat survey which have not been resolved. Figure 6.2 of the bat survey shows (in yellow) trees to be retained which are predominantly on the perimeters of the site whereas the landscaping and site layout plans do not refer to this strategy. There has been no proposal to address the anomaly. The statement that all trees and hedgerows will be retained on boundaries wherever possible is not backed up on a drawing and does not have any firm indication as to the specific trees and hedgerows to be retained. This lacks clarity and substantiates ambiguity which remains unless defined.
- Boundary treatment is of particular concern to Mr. O'Connell and boundary treatment details need to be specifically established for all boundaries. The revised site layout drainage which shows a two-metre-high block wall faced in stone with an additional 600 mm trellis mounted on it should be reference in relation to the property of Mr O'Connell if permission is to be granted.
- The residual open space shown adjacent to Mr O'Connell's property on the original and further information site layout plans should be designed out. They will give rise to anti-social behaviour, trespass and shortcutting across Mr O'Connell's property in order to access the Galway Road.

#### 6.9.2. **Ms Mary Gibsey, Galway Road.**

Ms Gibsey is owner of a property at the southern end of the application site and it has frontage onto the Galway Road. It is stated that Ms Gibsey conveyed some land to the applicant to facilitate the development on condition that a two metres high

block wall faced in stone with 600 mm high trellis mounted on it be provided. The application drawings show no details of these details including measurements  
According to the submission,

- The design does not sensitively respect the adjoining properties as contended in the appeal. The ridge height of Block H is excessive and almost double that of her single storey dwelling. This is in in contravention of the LAP. Block H is suitable for conversion a three-storey block giving rise to overlooking and negative impact on the amenity at her property. A height reduction for Block F and H will not result in reduced density per hectare so the increase in height is not appropriate and it will not increase property yield.
- Open space shown in both the original and further information submissions adjacent to Mr Gibsey's property will attract anti social behaviour

## 7.0 Assessment

7.1. The issues central to the determination of a decision can be considered, taking into account the observer parties concerns, with reference to each of the reasons attached to the decision to refuse permission as follows:

- Traffic safety and convenience and entrance arrangements. Objective T1 10 CDP
- Social and Affordable Housing – Section 96. Part V PDA2000 as amended.
- Building Typologies, Dwelling Mix, Scale and Massing. (Impact on residential amenities of adjoining properties.)
- Layout – Permeability, Public Realm pedestrian movement.
- Ecology
- Other issues.
- Environmental Impact Assessment.
- Appropriate Assessment.

## **7.2. Traffic safety and convenience and entrance arrangements. Objective T1 10 CDP**

- 7.2.1. There is a case for a similar approach to be taken with regard to the current proposal that which was established in prior grants of planning permission for residential development, (fifty-seven units) on the site. This approach is considered reasonable in that permitted arrangements relating to traffic generation and vehicular access are similar to those in the current application. Furthermore, the reduction in the total number of dwellings to a total of forty-six as proposed in the further information results in reduced trip generation relative to that indicated in the traffic and transport report on the original proposal for fifty-six units. It would be reasonable for a Stage 2 RSA, to be provided for and submitted for agreement with the planning authority, post planning, in accordance with conditions as provided for in Section 34 (1) (a) and (b) and Section 34 (4) (b) and (m) of PDA.
- 7.2.2. However, in this instance, having regard to Policy Objective T1 10 of the CDP with its requirement for a Traffic and Transport Assessment and Road Safety Audit to be included with applications for significant developments and the observations of the Roads Design Office as to inappropriateness of reliance on the Stage 1 RSA due to unresolved issues and inconclusiveness on the type of junction to be provided at the entrance onto the public road as a result of which an “exception report” is necessary, it cannot be established without doubt that the proposed development would not endanger public safety by reason of traffic hazard. To this end, the reason for the decision to refuse permission is acceptable.

## **7.3. Social and Affordable Housing – Section 96. Part V PDA.**

It is agreed with the applicant that availability of further, replacement standardised ‘Letter of Understanding’ (which is available among the applicant’s submissions) in respect of the revised proposal for forty-six units in total indicated in the further information submission, is inessential prior to determination of a decision. The original ‘Letter of Understanding’ was issued by the planning authority prior to the determination of its decision on the original proposal for fifty-six units, in which a total of six units was accepted as fulfilment of Section 96 requirements. (A copy was included with the appeal.) Furthermore, in the event of disagreement, an option is open to the parties for referral of the matter to the Board in accordance with the

provisions of Section 96 (5) of PDA. It would be unreasonable for the application to be deemed in material contravention of the CDP, (Objective UBO 2), and, the Tuam LAP, (Objective RD7) in this regard.

**7.4. Building Typologies, Dwelling Mix, Scale and Massing. (Impact on residential amenities of adjoining properties.)**

- 7.4.1. The proposed development of the site lands is consistent with the sequential and phased development and expansion of the town as provided for both by way of the 'R1' zoning objective and Policy Objective LU3 of the Tuam LAP which promotes a phased, sequential approach to residential development.
- 7.4.2. The density as shown in the further information submission at 26.3 per hectare although relatively low should be functional to incentivising the potential for households to opt to reside within the settlement thus releasing pressure on demand for housing in unserviced areas outside settlements as provided for in the statutory guidelines: *Sustainable Residential Development in Urban Areas*, (2009.) It is reasonable and comparable to that of residential estates although higher than the single house on road frontage plots in the vicinity in Tuam.
- 7.4.3. The building typology and mix are generally acceptable for both the site and the location. The site has the capacity, owing to its size, to dictate its own typology, which has homogeneity rendering it recognisable as a distinct residential scheme. The blocks and their heights are significant relative to dwellings, especially bungalows along Weir Road. However, it is agreed with the planning officer that this is acceptable in that the presentation is in the form of two storey detached houses, taking into account the ground and finished floor levels proposed to facilitate the development.
- 7.4.4. The view of the planning officer as to the dominance in mass and height of the three storey terraced units at Blocks D and E, which rise to a height of twelve metres are incompatible for the site location and more appropriate for a town centre at settlements outside of the main cities. The adverse visual impact of the centrally positioned blocks, could be addressed through substitution of two storey detached dwellings for Blocks D and E which could be addressed, by condition, but it should be borne in mind that the dwelling mix would be altered. (The details for the

elevations in the further information drawings for these central blocks appear erroneous but an amendment drawing can be submitted b condition if required.

- 7.4.5. Contrary to the view of the planning officer it is considered that the site location has capacity to accommodate Blocks F and H which are shown towards the rear of the site, which rise to ten metres in height and are higher than the two storey houses towards the front.
- 7.4.6. The dwellings shown adjacent to the boundaries (Type F and G) are two storey dwellings, all of which exceed twenty-two metres separation distance from adjoining properties outside the site, the closest of which is not positioned directly back to back with any of the proposed dwellings. To this end, it is considered that the twenty-two metres separation distance between directly opposite first floor windows generally applied is more than adequate to ensure that undue overlooking reciprocally between rear elevation windows would not occur.
- 7.4.7. With regard to the contentions as to potential for conversion to habitable accommodation at attic level necessitating greater separation distances, it would appear that there is insufficient space with adequate headroom within these dwellings. A condition can be included for the purposes of clarity, in the event of future proposals, with or without the addition of dormers, providing for a requirement for a prior grant of planning permission, should permission be granted. It is also not accepted that any undue degree of overlooking would arise, bearing in mind, configuration, footprints, separation distances and design.

**7.5. Layout – Permeability, Pedestrian Movement, Public Realm.**

- 7.5.1. The proposed layout is reasonable, in providing for good quality road frontage presentation with two storey detached houses set behind semi linear open space, with the duplex units at the rear facing towards open space to which there is good direct visual connectivity from front elevations of half of the dwellings.
- 7.5.2. While, as stated in the planning officer report, there is predominance of perpendicular parking throughout the proposed development at the opportunity cost of a more creative layout and a greater balance with pedestrian and cycling facilities, the site size and forty-six unit scheme is modest in size and dwellings and public open space are well integrated. Notwithstanding the recommendation within Design Manual for Urban Roads and Streets (DMURS) which discourages dominance of



parking, it is considered that for the location, refusal of permission over the proposed parking layout is unwarranted in that the quality of the internal layout and circulation proposed within the scheme is acceptable for all road users. A condition can be included with a requirement for communal cycle parking facilities for use by visitors.

7.5.3. There are two pockets of incidental or secondary open space within the scheme, one at the eastern end and the other midway along the rear of the site which are adjacent to properties on the Galway Road and is subject to objection by the observer parties. Potential for passive surveillance of the space at the eastern end which is peripheral within the overall scheme is relatively limited but, it is not accepted that there is a sufficient case on grounds of potential for anti-social behaviour, for reconsideration of the proposed layout in this regard subject to good quality landscaping, maintenance and boundary treatment.

7.5.4. It is agreed that the second, centrally positioned incidental space is relatively close to the adjoining dwelling which is setback towards the site boundary and is at a considerable distance from the Galway Road frontage. However, but this area is well exposed to passive surveillance from the internal access roads dwellings and centrally located open space. Similarly, it is not accepted that this space could give rise to undue concerns as to anti-social behaviour, or adverse impact on the residential amenities and the security of the adjoining property.

7.5.5. The remarks of the planning officer that that the proposed two metres high masonry walling on boundaries may be unsuitable for purposes of pedestrian linkage are noted but it is considered that the at hand is as to whether construction of boundary walls could result in risk to the tree retention and survival at any location along the boundaries.

## 7.6. **Ecology.**

7.6.1. Due to the proposed demolition of the derelict house and outbuildings on the site, the request by the planning authority for a bat survey to be conducted by a competent person is considered reasonable and in accordance with Objective NHB for protection of bats and bats habitats within the CDP. In response an ecological assessment and bat survey report based on appropriate and comprehensive methodologies for survey and analysis were lodged with the planning authority.

- 7.6.2. With regard to bats the presence of bat species (Annex IV species) but not horseshoe bats (an Annex II species) or any roosting bats is noted along with the loss of other flora and fauna species including a grassland habitat supporting several species for which a replacement wildflower meadow should be planted on an appropriate soil composition as a means of mitigation.
- 7.6.3. It is of note that in the absence of the effective implementation of the mitigation measures, as proposed within the report, erection of 'schwengler' '1ff' bat boxes, tree, (the majority of which are indigenous species) felling within the period 1<sup>st</sup> September – 15<sup>th</sup> November in accordance with a tree felling licence, tree retention and management of lighting, significant negative 'low' impact would occur whereas with effective implementation of the measures, negative impact on bat species would be low.
- 7.6.4. However, as pointed out in the planning officer report the landscaping proposals do not accommodate the mitigation measures recommended within the ecological and bat survey report owing to proposals (shown for landscaping in the further information submission (on drawing 3001 3008 and 1912-01) for extensive removal of treelines the retention of which is required in the interests of protection and sustaining bat species.
- 7.6.5. It is agreed with the planning officer that conflicting proposals for mitigation within the ecological and bat survey report and in the landscaping proposals with regard to treeline retention and removal mitigation and other ecological matters should be resolved prior to determination of a decision so as to provide an opportunity or clarity and assurance with regard to impact and mitigation in this regard.

**7.7. Other Issues.**

With regard to the contention on the part of one of the Observer Parties, Ms. Gibsey, as to encroachment onto her property, the matter can be resolved through the legal remit. An appropriate condition being included providing for the construction of two metres' high wall on the inner side of the boundary with her property and an additional note drawing attention to the provisions of section 34 (13) PDA regarding entitlement to implement a permitted development.

## **7.8. Environmental Impact Assessment.**

- 7.8.1. The submissions made in connection with the application and the appeal do not include an EIAR screening report. The proposed development comes within Class 10 (b) (i) of Schedule 5 of the Planning and Development Regulations, 2001 as amended and is sub threshold. Mandatory and discretionary EIA would not be required in that the project is a low-density residential development within the settlement of Tuam and removed from any sensitive locations.
- 7.8.2. Based on the preliminary examination, it can be concluded that no Environmental Impact Assessment Report is required in that there is no real likelihood of significant effects on the environment owing to the nature, size and location of the proposed development.
- 7.8.3. Having regard to the minor nature of the proposed development and its location in a serviced inner urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **7.9. Appropriate Assessment.**

- 7.9.1. An appropriate assessment screening report was included with the further information submission on the application which has been consulted for the purpose of screening.
- 7.9.2. The closest European site to the site of the proposed development is the Lough Corrib SAC (000297) which is circa 1.509 km to the north west of the site location. The qualifying interests are water-based habitats and terrestrial habitats and flora and fauna species. The main threats involving negative impacts are related to interventions to landscape and habitats through agriculture, leisure and recreational activity, planting, quarrying and construction related activity. There is a comprehensive range of conservation objectives which facilitate the favorable conservation status of the habitats for this site.
- 7.9.3. Other European sites screened out are: Levally Lough SAC which is 9.50 kilometers from the site and the, Shrulle Turlough SAC which is fifteen kilometres in that they lack connectivity, their locations being upstream. The Lough Corrib SPA which is

22.5 km from the site is thirty-five kilometers from the site downstream via the pathway of the Clare river which has hydrological connectivity.

- 7.9.4. The site has some derelict buildings at the north western corner but otherwise it is greenfield, is 1.179 hectares in area and is on the north western side of Tuam approximately eight hundred metres from the town centre. The Dublin Road is to the south west of road front development adjacent to trees at the southwestern side of the site which has frontage onto the Weir Road. The project is a relatively low-density residential development with internal access roads, parking and landscaped amenity spaces and a drainage network through which foul water is collected and transferred to the Town's waste treatment plant for treatment and disposal and surface water drainage is collected on site via a soakaway system the design for which incorporates arrangements for on-site storage, treatment.
- 7.9.5. The site is not directly connected by source pathway linkage to the Lough Corrib SAC by watercourses through which there would be direct connectivity by water flow emanating from the development.
- 7.9.6. There are two locations, one within and one to the south west of the site recorded as having a risk of pluvial flooding/groundwater flooding if the water table rises while there is a low risk of fluvial flooding towards the site from the Nanny River to the north as identified in the flood risk assessment report included with the application but flooding risk attributable to the development proposal on the application site would not occur.
- 7.9.7. With the on-site arrangements for foul water emanating from the development to be treated and disposed of at the Tuam Wastewater treatment plant which has sufficient capacity prior to accept it, and the proposed arrangements for surface water collection, storage and disposal via, soakaways to the ground, along with measures for treatment, attenuation and incorporation of permeable surfaces and satisfactory ongoing maintenance, no significant adverse effects for European sites would arise.
- 7.9.8. Having regard to the scale and nature of the proposed development, to the location in Tuam and, availability of public foul drainage infrastructure facilities the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on the Lough Corrib SAC (000297) or any

other European site, in view of the Conservation Objectives for these sites or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

### **8.1. Conclusion and Recommendation.**

The proposed development is fully consistent with the national, regional strategic settlement policies and the local zoning objectives and policies for sequential, phased residential development. While it is agreed that some of the outstanding issues can be addressed by condition, other matters should be clarified and resolved prior to the determination of a decision in that they are significant and there is no absolute assurance based on the information available that they can be satisfactorily addressed post permission. Draft Reasons and Considerations for Refusal of Permission follow, but it would be open to the Board to consider the option of issuing a section 132 notification inviting the applicant to submit proposals to address the outstanding matters allowing for further consideration.

## **9.0 Reasons and Considerations**

1. Due to unresolved issues and inconclusiveness as the type of junction to be provided at the proposed entrance onto the Weir Road the Board is not satisfied, based on the information available in connection with the application and the appeal, that the proposed development would not result in conflicting traffic movements, obstruction of road users and endangerment of public safety by reason of traffic hazard at the Weir Road and would accord with Policy Objective T1 of the Galway County Development Plan, 2015-2021 according to which there is a requirement for significant development proposals to be accompanied by a transport and traffic assessment report and a road safety audit in accordance with the requirements of NRA Traffic and Transport Assessment Guidelines, and RSA in NRA DMRB HD 19/12 Road Safety Audit, including updated/superseding documents.
- 2 The Board is not satisfied based on the information available in connection with the application and the appeal, that the proposed development would not result in extensive tree removal at the boundaries, the retention of which is

required to mitigate potential undue loss of habitat and species present at the site and environs. The proposed development would therefore be contrary to Policy Objective NHB 2 of the Galway County Development Plan, 2015-2021 which is provide for the protection, conservation and enhancement of natural heritage and biodiversity including non-designated habitats and landscapes

**Jane Dennehy**  
Senior Planning Inspector  
21<sup>st</sup> October, 2019.