



An  
Bord  
Pleanála

## Inspector's Report ABP-309636-21

### Development

Permission for construction of a discount foodstore with ancillary off-licence, two standalone retail units, five dwellings, signage, open space, pedestrian and vehicular access, alterations to existing car parking arrangement, landscaping and boundary treatment, 112 car parking spaces, 30 cycle spaces and all other site development work and services.

### Location

An Fuarán, Moycullen, Galway

### Planning Authority

Galway County Council

### Planning Authority Reg. Ref.

20/918

### Applicant(s)

Lidl Ireland GmbH

### Type of Application

Permission.

### Planning Authority Decision

Refuse permission

### Type of Appeal

First Party

### Appellant(s)

Lidl Ireland GmbH

**Observer(s)**

1-Jim Wall

2- Baile Uí Choirc Fearainn Teoranta

**Date of Site Inspection**

26<sup>th</sup> day of January 2021.

**Inspector**

Fergal Ó Bric.

## 1.0 Site Location and Description

- 1.1. The appeal site is located approximately 100 metres south of Moycullen (Maigh Cuilinn) town centre crossroads and immediately south-west (across the street) from a commercial development, a three-storey development comprising a mix of retail, office and commercial uses. The appeal site is currently fenced off with construction type fencing which has been felled in places. The site is hard cored and contains spoil heaps that are overgrown with scrub and weeds. It is in essence a vacant brownfield site. There is an open stream that flows through the south eastern section of the site and thereafter, the stream is culverted as it flows under the surface car park to the east of the appeal site. There stream is approximately a 1.5 metres wide and is shallow with a depth of no more than 0.3 metres and has a gentle flow.
- 1.2. The site has frontage onto the “An Fuarán” service road and has footpaths and streetlighting along both sides and on-street car parking and a large surface car park opposite the An Fuarán commercial development. To the south-east of the appeal site, a residential development and Primary Care Centre is nearing completion, to the south is the Slí an tSrutháin residential development comprising terraced, semi-detached and detached dwelling units, to the north-west is the Spiddal/Mountain Road, the L1320, and to the west of the appeal site on the opposite side of the L1320 is a public playground.
- 1.3. The appeal site is accessed directly from the An Fuarán service road within the 50 kilometre per hour speed control zone for the town. A footpath runs along the western, northern and eastern appeal site boundaries. The surrounding area is characterised by residential and commercial uses.

## 2.0 Proposed Development

- 2.1. The development would comprise the following:
  - 1) Construction of a discount foodstore with ancillary off-licence sales measuring 2,278m<sup>2</sup> gross floor space with a net retail sales area of 1,200m<sup>2</sup> including roof mounted solar panels and ancillary signage.
  - 2) Construction of two standalone retail units, 139 square metres (sq. m.) and 279 sq. m. and ancillary signage.

- 3) The construction of five residential dwellings, 1 x 4 bed detached and 2 pairs of three bed semi-detached dwellings, public and private open space
- 4) Shared communal and private open space, pedestrian and vehicular access, alterations to existing car parking arrangements, landscaping and boundary treatments, street furniture, an ESB sub-station, 112 car parking spaces, 30 bicycle parking spaces.
- 5) All other associated ancillary works and services.

2.2. The planning application was accompanied by a number of supporting documents and reports including: A Flood Risk Assessment, a Preliminary Workplace Traven Plan, a Landscape Design Statement, a Lighting Impact Assessment, An Appropriate Assessment Screening Report (revised as part of appeal submission), An Ecological Impact Assessment Report, A Natura Impact Statement (revised as part of appeal submission), A Planning report, a Retail Impact Assessment, a Traffic and Transportation Assessment, an Engineering Services Report (revised as part of appeal submission) and photomontages of the development proposals.

2.3. The case details were cross circulated by the Board to An Taisce, the Heritage Council and to the Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media (DTCAGSM). The Development Applications Unit within the DTCAGSM made an observation in relation to the development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Refuse planning permission for 6 reasons as follows:

1-The proposed layout does not adequately reflect or reinforce the existing urban form of the nearby village centre and therefore, does not make sufficient contribution to sense of place by logically perpetuating existing urban street patterns or creating the required standard of public urban spaces, thereby assimilating its edge of town centre setting. The layout in conjunction with concerns in relation to block typology and assimilation would therefore be contrary to the provisions of objectives UHO 7

and UHO 8 of the current Galway County Development Plan 2015-2021, the provisions of objectives UD1, UD3 and UD5 of the Maigh Cuilinn Local Area Plan 2013-2023, the provisions of Section 2. 6 and 7 of the Urban Design Manual-Best Practice Guide DEHLG 2009 and Sections 3.1 to 3.4 inclusive and 8.1 to 8.4 inclusive of Retail Design Manual-A Companion Document to the Retail Planning Guidelines for Planning Authorities (April 2012). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2- There is a high level of retail vacancy in the village of Moycullen. In the absence of satisfactory evidence to the contrary, the planning authority consider that there is an over-provision of existing and permitted retail space to serve Moycullen, and that the proposed development would, therefore, represent a significant threat to the vitality and viability of retail development within the prime pitch of the village, and that the proposed development would contravene the provisions of the national guidelines for Planning Authorities on Retail Planning issued by the Department of the Environment, Community and Local Government (2012). The proposed development would, accordingly, be contrary to the proper planning and sustainable development of the area.

3- It is considered the proposed development, by reason of its location on the proposed inner relief route west of Moycullen, if permitted, would materially contravene Objective TI17 and objective LU10 of the Maigh Cuilinn Local Area Plan 2013-2023. The proposed development would, accordingly, be contrary to the proper planning and sustainable development of the area.

4- The plans and particulars submitted do not provide for adequate on-site parking facilities to serve the development in accordance with the car parking standards set out in Development Management Standard 22 of the current Galway County Development Plan 2015-2021. The proposed development would, accordingly, be contrary to Development Management Standard 22 of the current Galway Development Plan 2015-2021 and the increased potential for on-road parking and the traffic movements likely to be generated by the development would interfere with

the free flow of traffic and endanger public safety by reason of obstruction to road users.

5-The proposed development would result in multiple entrances which could lead to driver visibility obstruction and give rise to driver confusion. Therefore, if permitted as proposed, the development would interfere with the safety and free flow of traffic on the public road, would endanger public safety by reason of a traffic hazard or obstruction of road users or otherwise and therefore, would be contrary to the proper planning and sustainable development of the area.

6-The proposal as it currently stands with respect to surface water disposal is not sufficient to ensure that they would not increase the likelihood of flooding on site and in the vicinity and therefore, if permitted, would be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission. The refusal reasons are set out in Section 3.1 above and can be summarised as follows:

Inappropriate design and layout; Proposals would lead to an over provision of existing and permitted retail space within Moycullen; Proposals would be contrary to the achievement of a specific roads objective and contravene the Transport Infrastructure land use zoning objective within the Moycullen Local Area Plan (LAP);; Under provision in on-site car parking provision; Development would result in driver confusion and interfere with the safety and free flow of traffic on the public road and that the proposals would increase the risk of flooding on site and in the vicinity of the appeal site.

#### 3.2.2. Other Technical Reports

**Road & Transportation Unit-** Made a number of comments in relation to overlapping of visibility splays onto the Inner Relief Road (IRR), seeking additional details of the proposed link road, car parking provision and surface water management.

**Environment:** No objections, subject to a number of recommended conditions.

### 3.3. Prescribed Bodies

**Transport Infrastructure Ireland-** Recommended that further information be sought in relation to the submission of a Road Safety Audit.

### 3.4. Third Party Observations

Thirty-five observations were received. The issues raised within the observations related to the following issues:

- Design and Layout.
- Increased traffic volume and congestion
- Impact upon local businesses
- Archaeology
- Adversely impact upon character of the village.
- Proposals would contravene objectives within Local area Plan.
- No recognition of the Irish language within the development.
- Increased noise from night-time deliveries.
- Proposals would assist the local economy, create employment and promote the concept of shopping local.

## 4.0 Planning History

On site:

Planning Authority reference number 12/1405 In 2012, Galway County Council granted planning permission for a mixed-use development comprising a leisure centre, four retail units, a café/restaurant and eleven office units with a total gross floor area of 14,826 square metres. This development was not constructed.

Adjoining Site

On a site immediately east/south-east of the appeal site

An Bord Pleanála reference number ABP 249365-18, In 2018, the Board overturned the Planning Authority decision made under reference number 17/1087) for a mixed-use development comprising 48 residential units and a Primary Care facility. This development is currently at an advanced stage of construction.

## 5.0 Policy Context

### 5.1. National Policy

#### 5.1.1. National Planning Framework 2040

The National Planning Framework has a population projection by 2040 to 5.7million people, which provides for one million extra people, 660,000 new jobs and 550,000 new houses by 2040.

Section 4.5 pertains to achieving urban/infill brownfield Development.

Among the specific policy objectives in this particular regard are the following:

#### ***National Policy Objective 11***

In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns, and villages subject to development meeting appropriate planning standards and achieving targeted growth.

#### ***National Policy Objective 13***

In urban areas, planning, and related standards, including in particular 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.

***National Policy Objective 27***

To prioritise walking and cycling accessibility to existing and proposed development.

***National Policy Objective 32***

To target the delivery of 550,000 additional households to 2040.

***National Policy Objective 33***

Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.

**5.1.2. Section 28 Ministerial Guidelines**

The following is a list of Section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’) (DoH&LG 2009)
- ‘Design Manual for Urban Roads and Streets’ (DMURS 2013)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (DoEH&LG 2009)
- ‘Quality Housing for Sustainable Communities’ Best Practice Guidelines (DoEHLG 2007)
- ‘Urban Development and Building Heights’ Guidelines for Planning Authorities (DHPLG 2018)

- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (DoEH&LG 2009).

5.1.3. Guidelines for Planning Authorities on Sustainable Residential Development-Urban Design Manual, Department of Environment, Community and Local Government, 2009.

A number of sections within these guidelines are pertinent to the current appeal including Section 2 (Connectivity), Section 6 (placemaking) and Section 7 in relation to the layout and creating people friendly streets.

5.1.4. Retail Planning Guidelines, 2012

The application of the sequential approach is recommended when selecting sites for retail development. Sections 4.4 and 4.5 set out that town centre sites are the preferred option. Smaller units, relaxation in parking requirements or use of multi-storey format should all be considered.

Five key policy objectives need to be progressed by Planning Authorities in planning for and addressing the development requirements of the retail sector. These include: To secure plan-led development; To promote greater vitality in city and town centres by promoting a sequential approach to retail development; To ensure that the planning system continues to play its part in ensuring an effective range of choice for the consumer: To secure a general shift towards sustainable travel modes through careful location and design of new retail development and to ensure that retail development plays its part in realising quality outcomes in relation to urban design.

The Guidelines also recognise the importance of 'healthy' town centres in terms of retail performance.

Section 4.9-Content of Retail Impact Assessments.

Section 4.11.5 pertains to retailing in small towns and villages. The following guidance is set out "In general there should be a clear presumption stated in favour of central or edge of centre locations for new development".

Chapter 5-Retailing and Design Quality-A high quality of design can make an important contribution to the vitality and attractiveness of city and town centre.

Section 5.3.3-Assessment of retail development under the Retail Design Manual which provides a robust framework to aid systematic analysis. Where the development is acceptable in principle from a Development Plan viewpoint, every effort should be made to resolve design problems by condition or by revised designs and if it is of such poor quality that it contravenes development plan objectives and gives rise to a substandard retail environment, permission should be refused.

#### 5.1.5. Retail Design Manual 2012

This is an accompanying document to the written text of the Retail Planning Guidelines, and they should be read in tandem. Section 3 addresses the character and context of a development, Section 4 pertains to the viability and vitality of urban settlements, Section 6 pertains to the mix of uses in urban areas, Section 7 to public realm and Section 8 to the built form. The manual sets out that the form, scale and mass should contribute to the character of its setting and contribute to its character and quality and seek to integrate the proposals into its urban context.

#### 5.2. **Galway County Development Plan 2015-2021**

At the time the Planning Authority made its planning decision on the 11th day of February 2021, the Galway County Development Plan (GDP) 2015-2021 was the operational plan. The GDP has since been superseded by the Galway County Development Plan (GDP) 2022-2028, operational since the 20<sup>th</sup> day of June 2022.

#### 5.3. **Galway County Development Plan 2022-2028**

The Galway Development Plan (GDP) was adopted by the elected members on the 9<sup>th</sup> of May 2022 and came into effect on the 20<sup>th</sup> day of June 2022.

The policy objective set out for Small Growth Towns is as follows:

SS5-Small Growth Towns (Level 5)

“To Protect and strengthen the economic diversity of the Small Growth Towns enabling them to perform important retail, service, amenity, residential and community functions for the local population and rural hinterlands”

Chapter 3 pertains to Placemaking, Regeneration and Urban Living.

#### Section 3.6.7 Town centre infill and Brownfield sites

“A number of settlements in the county offer brownfield development opportunities that could deliver the aspirations of Place Making and Compact Growth. They are very often serviceable and located along existing public transport corridors and their re-development would improve the quality of public realm in a place. In accordance with the NPF and the RSES, it is anticipated that a substantial portion of development will be delivered on brownfield and infill sites”.

Section 5.9 of the plan pertains to Retail development. Within the retail hierarchy, Maigh Cuillinn as a small town is located within level 5.

The following retail policy specific objectives are pertinent to this planning appeal:

#### CSA 1 Balanced Retail Development

Ensure that in the interest of vitality and viability, development proposals result in a balance of services and outlets, thus avoiding an over-concentration of uses.

#### CSA 2 Retail and Complimentary Uses

To encourage and support a healthy mix of retail and other appropriate complimentary uses in town and village centres and identify targeted measures to reduce the vacancy rates.

Section 15.2.3 Guidelines for residential development in Towns and Villages.

DM standard 32 sets out parking standards which require 1.5 spaces for 1-3 bed dwellings and 2 spaces for 4+ bed dwellings.

Table 15.5 sets out car parking standards for large stores >1.000 sq. m. at 1 space per 12 square metres of gross floorspace. The standard increases for smaller shops,

to 1 space per 24 sq. m. for shops <250 sq. m. gross floorspace and to 1 space per 18 sq. m. for shops between 250 and 1,000 sq. m. gross floorspace.

#### **5.4. Moycullen Local Area Plan 2013-2019**

- 5.4.1. It is noted that the Moycullen LAP expired in 2019. Under the GDP 2022-2028, which came into effect on the 20<sup>th</sup> of June 2022. Volume 2 of the Plan includes the Moycullen Small Town Growth Plan which supersedes the LAP.

#### **5.5. Moycullen Small Growth Town Plan 2022-2028**

- 5.5.1. This plan is contained within Volume 2 of the Galway County Development Plan 2022-2028 which was adopted by the elected members on the 9<sup>th</sup> day of May 2022 and is due to come into effect on the 20<sup>th</sup> day of June 2022.
- 5.5.2. At the time the Planning Authority made its planning decision on the 11<sup>th</sup> day of February 2021, the appeal site was subject to the three different zoning objectives set out below: (1) LU1, Town Centre /Commercial Objective. The northern part of the site is included. (2) LU10 Transport Infrastructure: Objective (TI) and specific road's objective 17 (b) and (3) Residential. Objective LU2.
- 5.5.3. The appeal site has a town centre land use zoning objective pertaining to it where the objective is "To promote and support the development of the Town Centre as an intensive, high quality, well landscaped, human-scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors to the town".
- The town centre and associated main streets shall remain the primary focus for retail and service activity within Maigh Cuilinn. Under the town centre zoning, the convenience store and the retail units are permissible uses, and the residential units (non-apartments) are open for consideration.

Section 8.3.1 of the Small Growth Town Plan pertains to Housing where the following is set out "A key purpose of this settlement plan will be to provide additional

housing development into the future that conforms to the principles of quality and sustainability in terms of design and layout particularly.”

The flood mapping included within the Small Growth Town Plan sets out that the site is located within Flood Zone C and therefore, at low risk of flooding.

There are a number of specific objectives set out within the plan as follows:

#### MSGT 1- Sustainable Town Centre

Promote and support the development of the Town Centre as an intensive, high quality, well-landscaped, human-scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors to the town. The town centre and associated main streets shall remain the primary focus for retail and service activity within Maigh Cuilinn.

### **5.6. Natural Heritage Designations**

In terms of Natura 2000 sites, the appeal is located approximately 1.2 kilometres west of Lough Corrib SAC (site code 000297)

The appeal site is also located approximately 1.3 kilometres west of Ballyquirke Lough pNHA (site code 000228).

### **5.7. Environmental Impact Assessment (EIA) Screening**

It is proposed to construct 5 residential units and a retail development (convenience supermarket and two standalone retail units) and would comprise a total gross floor area 2,696 sq. m. on a site area of 1.35 hectares.

An Environmental Impact Assessment Screening report was not submitted with the application.

Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use).

The site area is, therefore, below the 2 hectare threshold set out above and is located partially within and contiguous to a village centre, on what constitutes a brownfield site. The site area is also well below the applicable threshold of 10 ha or a built-up area and 20ha in the case of a site contiguous to the built-up area.

As per the criteria set out within Schedule 7 of the Planning and Development Regulations 2001 (as amended)), as to whether a development would/would not have a significant effect on the environment, the introduction of a residential and retail development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not located within an area of landscape sensitivity or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (*as discussed below in Section 7.8 of my report*) and there is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human

health. The proposed development would use the public water and drainage services of Irish Water and Galway County Council, upon which its effects would be marginal.

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory thresholds in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are governed by residential, transport infrastructure and town centre zoning objectives under the provisions of the Moycullen local Area Plan, and the results of the strategic environmental assessment of the Galway County Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of retail and residential development in the vicinity,
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).

I have concluded that, having regard to the nature and scale of the proposed development within the confines of the development boundary on zoned serviced lands, the proposed development would not be likely to have significant effects on



the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal are submitted by MKO Planning and Environmental Consultants on behalf of the first party, Lidl Ireland GmbH and can be summarised as follows:

Principle of Development and retail impact

- The second refusal reason is misleading as there is not a high level of vacancy in Moycullen. The low vacancy rate was set out within the Retail Impact Assessment (RIA).
- The RIA notes that the vacancy rate dropped from circa 25 units in 2013 to circa 12 units in 2020.
- A number of precedents of permitting discount foodstores by the Board exist in Tuam (306499-20), Longford (247105), Sligo (248455) and Fermoy (302449-18) where higher retail vacancy rates were recorded within these settlements.
- The 12 units noted as being vacant are all modest in scale and none of them could accommodate a supermarket scale of development and most of the vacant units would not be sequentially preferable to the appeal site.
- Resolving the ongoing and persistent lack of take up of units in the existing Cearnóg Nua (Supervalu) retail development should not prevent the approval of otherwise appropriate retail developments.
- No objections have been received from either of the operators of the two existing retail supermarkets in Moycullen and a number of local independent businesses have submitted letters of support for the proposal as part of their observations to the Planning Authority.

- A level of vacancy, including an above average or high degree of vacancy is not in itself a barrier to permitting a retail development, as set out within the precedents referred to above.
- There are no extant planning permissions for the development of retail floorspace within Moycullen at present.
- No preferable sites/locations are available within Moycullen and no evidence to the contrary has been provided by the Planning Authority.
- There is not an over provision of extant retail provision in Moycullen, in fact extant retail permissions have withered and are therefore, no longer relevant, while the previous planning permission on the appeal site for the development of commercial floorspace has also withered.
- The Planning Authority assessment offers no commentary as to what would be considered an appropriate level of retail space in Moycullen.
- The proposals would not significantly threaten the vitality and viability of retail development in Moycullen.
- The current proposals would provide a much sought after addition to food retailing, providing competition and diversity in the local offering.
- The proposals would not contravene the Retail Planning Guidelines, no evidence to this effect has been provided by the Planning Authority.
- The Draft CDP has elevated the status of Moycullen to a “Key Town” from its designation under the existing Plan as an “Other Village”.
- There are no extant planning permissions for the development of retail floorspace within Moycullen at present.
- The appeal site is located within the commercial zone of the village.
- The commercial development and would act as a driver of footfall within the village.
- The proposal would assist the “An Fuarán” development in reaching its commercial potential.

- Therefore, the proposals would not represent a significant threat to the vitality and viability of retail development within Moycullen village centre.
- The absence of meaningful competition and choice has the potential to act as a significant threat to the vitality and viability of the village,
- The proposals were subject to an RIA which referenced the sequential approach and therefore, it is considered that the proposals are in accordance with the principles and assessment criteria of the Retail Planning Guidelines.

#### Zoning and Policy:

- The central part of the appeal site is subject to Transport Infrastructure land use zoning objective LU10 and also an associated objective of TI17, Transport Network Improvements. The principle of the zoning objective arose during the assessment of proposals on the site immediately south-east of the current appeal site under Board reference number 249365. That development provided for an internal access road which broadly conformed to the Transport Infrastructure zoning corridor. However, the road design proposed did not conform to the Local Authority's prescribed Inner Relief (IRR) road design in terms of alignment or specification. That decision was successfully appealed to the Board on the basis that the LAP was flawed in its interpretation of the IRR objective and the associated land use zoning objective.
- The applicants in that instance set out that there are discrepancies between the wording of specific Objective TI 17(b) and the route indicated within the LAP objectives maps.
- The proposed development is specifically designed to address the aspirations of specific objective TI17 (b), to provide adequate access points to adjacent lands with adjacent street orientated development. Objective Ti17(b) is not indicated as a specific route corridor but by a symbol within the Maigh Cuilinn LAP specific objectives Maps, 2A and 2B.
- The IRR corridor does not connect the northern approach of the N59 to the southern approach of the N59 eastwards of the village.

- Objective TI17(a) includes provisions for the by-pass scheme to the east of the village centre from the south of the application area to the north of the application area including a route reservation and junctions on the specific objectives map.
- The Board inspector under Board reference number 249365 noted that the TI land use zoning does not provide for direct connectivity to the N59 and that the LAP does not contain a specific objective for a route corridor for the IRR.
- The Inspector set out that the lack of a clearly indicated corridor which has the benefit of a statutory basis and “results in a lack of clarity which is regrettable”, She noted the conflicting objectives within the LAP and recommended that the Board could grant planning permission in accordance with their powers under Section 37 (2) (b) (ii) of the Planning and Development Act 2000, (as amended).
- The residential development permitted by the Board under reference number 249365 does not provide a direct vehicular link to the current appeal site. Instead, a cul-de-sac is provided, however, a potential future road link to the appeal site is identified.
- The specification of the road permitted by the Board under reference number 249365 is significantly below what would be considered acceptable for a relief or distributor road. Therefore, the IRR as envisaged within the LAP cannot be delivered, although a possible vehicular connection between the two sites is achievable.
- Given the construction of the Moycullen by-pass is due to commence, it is questionable as to whether there remains a need for the IRR.
- The applicants Consultant Engineers (Tobin’s) state that the internal access road within the residential development south-east of the appeal site is not constructed in accordance with DMURS standards for an arterial or link street. The internal access road would be classed as a “local street” under DMURS classifications, given its width of 5.5 metres with perpendicular car parking provided along its edge, reduced corner radii and speed ramps included along its length, as traffic calming measures.

- To provide the IRR linking into the proposed development as envisaged under the LU10 objective, would increase the number of junctions in this vicinity onto the Mountain Road, which already has 8 junctions over a distance of 460 metres.
- The applicants have set out that the vehicular linkages to the residential development to the south-east (currently under construction) and to the Slí an Sruthán residential development to the south can be omitted if the Board deem necessary.

#### Design and Layout:

- The development is largely two-storey's tall with three storey height book end features on the corners of the retail elements. The height is consistent with the building heights already permitted and developed within Moycullen and particularly the "An Fuarán" commercial development, on the opposite (north) side of the street.
- The "An Fuarán" development is a three-storey commercial development which comprises a series of buildings, which replicates the curvature of the street with a three metre wide footpath along its frontage, some parallel street parking along both sides of the street and surface car parking on the opposite side of the street.
- Other two and three storey commercial developments exist along the Main Street (N59) in Moycullen, including the Supervalu development at the town centre crossroads.
- Galway County Council have previously permitted other three storey commercial developments within the town centre and therefore, must have considered them to be appropriate from a design perspective and in accordance with the urban design policies and objectives set out within the GDP and Moycullen LAP.
- The development would provide for a mixed-use development responding to its context. The southern side is of low scale, two storey and consistent with the scale of the neighbouring Slí an Sruthán residential development.

- The proposals provide for a public realm space which currently is not provided for within the town.
- Seating areas are provided within the hard and soft landscaped areas as well as a wandering pathway and provision for a covered market area, in order to enhance the public realm offering within Moycullen.
- The height, scale and external finishes are proposed to be complementary to the larger commercial developments within the town.
- The commercial development is raised and projects forward on the corners. The street level facade provides for shopfronts with windows on the upper floor levels. The car parking is kept to the rear in order to promote the primary streets along an Fuarán and Mountain/Spiddal road, the L1320.
- A linear pocket park is proposed adjacent to the residential element of the scheme. The public realm and pocket park areas will benefit from overlooking from neighbouring development and the proposed development to ensure passive surveillance is optimised.
- The design has been developed having regard to its context on the commercial edge of the settlement, alongside the “An Fuarán” development.
- The proposals will provide much needed commercial activity at this point within the village.
- The design represents a modern interpretation of a traditional Irish urban form.
- Building forms and shapes were the primary considerations with the blocks accentuating the key corners.
- The buildings are two and three-storey in scale and have pitched parapet roofs reflective of the pitched roofs within the village centre.
- This direct interaction with the village is enhanced by the public realm design which extends along the Mountain Road frontage and along much of the “An Fuarán” street frontage.
- The scheme has been designed as a direct response to specific objectives UH07 and UH08 of the current Galway Development Plan.

- The proposals have been developed in direct reference to the guidance set out within the Sustainable Residential Development in Urban Area 2009 and the Design Manual for Urban Roads and Streets (2013).
- The design proposals are as a direct response to the Retail Design Manual Sections 3.1 to 3.4 inclusive and Sections 8.1 to 8.4 inclusive. The design and layout has had regard to their context, would enhance the quality and character of the area, contribute to the coherence and legibility of the urban structure, contribute to the character and quality of the built form, scale and mass, and would deliver a quality and distinctive design.

#### Car Parking and Access:

- The quantum of car parking is more than adequate to cater for the proposed development.
- A review of car parking provision for Lidl stores throughout Galway has been submitted and the ratio of car parking space to the scale of the sales area has been provided. The Moycullen store would an average ratio of 0.07 parking spaces per square metre of sales area, below the ratio for the Ballinasloe, Gort and Tuam stores but above the ratio provided in the Galway (Doughiska), Oranmore and Clifden stores.
- The car parking standards as set out within the Galway CDP are not reflective of actual car parking demand associated with the proposed development.
- The provision of excessive levels of car parking only perpetuates the reliance on the private motor car as the primary mode of travel and would be contrary to national planning policy in terms of encouraging sustainable patterns of travel and development.
- It is proposed to close off access points which service the surface car park east of the appeal site onto the proposed internal access road, by means of installing bollards. The adjoining landowner has consented to the placing of the bollards at these two locations and to the making of the planning application.
- This will result in one remaining access/egress point from the neighbouring site.

## Surface Water Management:

- The attenuation and discharge strategy for the development has been designed in accordance with the provisions of the Greater Dublin Area Strategic Drainage study (GDSDS), which is recognised as the most appropriate and accepted design guidance.
- The proposals would involve the discharge of storm water at a rate of 4 litres per second. Additional on-site attenuation is proposed to reduce the discharge below the greenfield run off rate to the open drain which traverses the south eastern section of the site.
- The drain continues downstream under the N59 towards the Uilinn Housing estate (north of the village centre). The drain is then diverted to a 600mm pipe towards the Ballyquirke Canal.
- Surface water management tools in the form of attenuation holding tanks and permeable paving are proposed as mitigation measures and in accordance with SuDS best practice principles to hold storm waters until the floodwaters downstream have abated.

## 6.2. Planning Authority Response

None received.

## 6.3. Observations

Two observations were received from third parties, the first from Mr Jim Wall, resident in Straffan, County Kildare. The second observation was received from MKO Planning and Environmental Consultants on behalf of Baile Uí Choirc Fearrainn Teoranta in support of the development proposals. The issues raised within the observations relate to the following:

Planning policy:

- The central part of the appeal site has the benefit of a TI-Transport infrastructure land use zoning objective.



- Zoning objective LU10 of the Moycullen LAP pertaining to the provision of essential transportation infrastructure would be materially contravened.
- Large scale convenience development is not normally permitted as per the land use zoning matrix as per the DM guidelines. Therefore, the LU12 (zoning matrix) objective would be materially contravened in relation to the TI land use zoning objective within the central part of the appeal site.
- The current proposal ignores the TI zoning objective, however the development permitted by the Board under reference number 249365 to the south-east of the current appeal site respected the TI zoning strip.
- Specific objective TI17(b) of the LAP would be materially contravened by the current proposals.

#### Retail Impact:

- No survey detailing the level of vacancy within the settlement was conducted by the applicants.
- In particular, the two standalone retail units at this edge of centre location would adversely impact upon the vitality and viability of the existing commercial units within the commercial core.
- The edge of centre location is acknowledged within page 4 of the applicants appeal submission.
- Galway County Council are inconsistent in their approach to assessment of commercial/retail development. They refused planning permission under Planning Authority reference number 20/1005 on the grounds of a lack of commercial/retail space within Moycullen and a short period of time later refused planning permission under Planning Authority reference number 20/1918 on the grounds that there was too high a vacancy rate within Moycullen to justify the extent of retail development proposed.

#### Design and Layout:

- Proposed design fails to provide for an appropriate streetscape,
- Proposals contrary to the UD3 and UD5 objectives of the Moycullen LAP.

- Proposals are contrary to the provisions of the Retail Design Manual, in particular Section 7.2.
- The proposals fail to respect the building lines and height of the An Fuarán development.
- An appropriate streetscape intervention was previously permitted on the site under planning reference number 08/10.
- The design as read from the Slí and Srutháin development would comprise a narrow, residual and unusable and poorly supervised public open space.
- Connectivity to the Slí and Srutháin development would be by means of an unsupervised laneway which is poorly designed and would lead to anti-social behaviour.
- The development permitted by An Bord Pleanála reference number 07.249365 was designed and permitted to provide connectivity towards the appeal site.

Traffic and car parking:

- The car parking provision is less than that required under DM standard 22, Table 13.5 of the Galway Development Plan 2015-2022.
- The commercial element of the scheme requires 206 car parking spaces, only 112 spaces are provided.
- The retail provision is excessive and would result in a 45% shortfall in parking spaces and would generate a traffic hazard.
- Given the lack of public transport services serving the settlement, a significant shortfall in parking provision would not be acceptable.
- There is no information provided on cumulative parking demand in the area, in terms of replacing existing parking space that would be lost to provide for the development proposals.
- The availability of adequate sightlines for traffic/exiting the Slí and Sruthán development onto the Mountain Road is not clear.

- The intensification of the Slí an Sruthán access would result in the creation of a dangerous crossroads junction, given this junction also serves the Cnocán Rua residential development on the opposite side of the Mountain Road.

#### Surface Water Management:

- The applicants have submitted revised surface water management proposals as part of their appeal submission. However, they have failed to update their Flood Risk Assessment or Natura Impact Statement to take account of the revised surface water management proposals,

#### Other Issues:

- The observers are supportive of the retail development proposed and the expansion of the Moycullen settlement.

### 6.4. Further Responses

6.4.1. The Development Applications Unit submitted a response following the circulation of the case details by the Board to them. The issues raised within their observation are as follows:

- The development site lies within a groundwater vulnerability zone which has been assessed as having “Extreme vulnerability”.
- The stream that traverses the site is hydrologically connected to the Ballyquirke Lough, which is part of the Lough Corrib SAC (site code 000297).
- Wastewater from the Moycullen Wastewater treatment plant also discharges into the Ballyquirke Lough, thereby providing another hydrological link to the Lough Corrib SAC.
- The EPA reported the water quality within the Ballyquirke Lough as “poor” in 2019.
- The Natura Impact Statement did not identify two adjacent permitted developments when reviewing the cumulative impact of the development. All three developments are hydrologically connected to the Lough Corriib SAC.
- The landscaping and design should be sufficient to mitigate the loss of natural and semi-natural habitats currently on site as they currently provide suitable foraging and commuting opportunities for bat species.

- The lighting design should not adversely impact on wildlife and most notably, bat species.
- The Board should satisfy themselves that the Moycullen wastewater treatment plant has adequate capacity to cater for the wastewater generated by the development.
- The development should be assessed against the natural heritage and biodiversity policies and objectives of the current Galway Development Plan.

#### 6.5. First party response to observations received

MKO Planning and Environmental Consultants on behalf of the applicants responded to the third party observations and the observation from the DAU as follows:

- Documentation from the applicants Consultant Engineers, Tobin's, includes correspondence from Irish Water regarding a pre-connection enquiry which states that a connection to the Irish Water networks can be facilitated at this moment in time.
- The applicants submitted revised surface water drainage proposals as part of their appeal submission. These proposals would involve the installation of a new 100mm storm drainage pipe from the appeal site to within the An Fuarán service road and along the N59 (by-passing the existing surface water culvert under the road) as far as the existing surface water manhole location at the top of Ballyquirke Lane. All works as set out within the revised surface water proposals are on lands within the applicants control or lands owned by Galway County Council. The Natura Impact Statement has been amended to take account of the revised surface water management proposals.
- The Transport infrastructure (TI) land use zoning objective no longer affects the appeal site as per the Draft Galway County Development Plan 2022-28.
- An amended landscaping plan, prepared by the applicant's landscape architects has been submitted to provide additional planting to enhance the linear ecological north/south and east/west corridors within in the appeal site.
- The AA screening report and the NIS have been amended to take account of the revised surface water drainage proposals and the revised landscaping design proposals.

## 7.0 Assessment

7.1.1. The appeal refers to the proposed development submitted to the Planning Authority on the 11<sup>th</sup> day of December 2020. The following assessment focuses on that proposal with reference to revised development proposals, where appropriate. The main issues in this appeal relate to the principle of the development, urban design, vacancy, vitality and vibrancy of retail development in Moycullen, roads access, car parking and surface water management. Appropriate Assessment requirements are also considered. I am satisfied that the issues of water supply and foul water services were addressed satisfactorily within the planning application and were not raised within the appeal/observations submitted to the Board. No other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Urban Design
- Retail Vacancy, vibrancy and vitality
- Roads Access and car parking
- Surface Water Management
- Ecological assessment
- Appropriate Assessment

### 7.2. Principle of Development

7.2.1. At the time the Planning Authority made its planning decision on the 11<sup>th</sup> day of February 2021, the appeal site had the benefit of three land use zoning objectives as per the Moycullen Local Area Plan (LAP) 2013-2019. The northern portion of the site was zoned town centre, and a strip of land further south was zoned for the provision of Transport Infrastructure (TI), with a specific roads objective, TI17 (b), pertaining to the delivery of an Inner relief Road (IRR). Further south of the TI zoning was a strip of residentially zoned lands, immediately adjoining and north of the Slí an Sruthán residential development.

7.2.2. The Galway County Development Plan (GDP) 2015-2021 has recently been superseded by the Galway County Development Plan (GDP) 2022-2028, which was adopted on the 9<sup>th</sup> day of May 2022 and became operational on the 20<sup>th</sup> day of June 2022. Under the Moycullen Small Growth Town Plan 2022-28, as included within Volume 2 of the GDP 2022-28, the zoning objective for the whole of the appeal site is solely for Town Centre Development. This zoning objective allows for both retail and residential development as proposed. The Transport Infrastructure (TI) zoning objective that pertained to the central part of the site is now removed as are the specific objectives TI17 (b) and LU10, regarding the delivery of the IRR through the appeal site to the west of the village.

Retail Development:

7.2.3. The appeal relates to the development of a new convenience food store (2,482m<sup>2</sup>) and two individual retail units with floor areas of 139 sq. m. and 277 sq. m each. Shop (convenience and comparison) are both permissible uses on Town centre zoned lands.

Residential Development:

7.2.4. The southern portion of the appeal site is located on lands zoned for residential purposes as per the Maigh Cuilinn LAP 2013. Residential uses (non-apartments) are open for consideration on town centre zoned lands.

7.2.5. Therefore, I am satisfied the principle of residential development is acceptable on the appeal site. I consider that the proposed development would accord with the proper planning and sustainable development of the area.

### 7.3. **Urban Design and layout**

7.3.1. The first reason for refusal relates to urban form and design, that the proposals would not make a sufficient contribution to the sense of place and would be contrary to urban design policy objectives set out within the Galway County Development Plan (GDP) 2015-21, Moycullen LAP 2013-2109 and to the provisions of the both the Urban Design and Retail Design Manuals.

Retail Development:

7.3.2. The proposal provides for the development of a Lidl convenience store and two standalone retail units. The car parking is arranged along the north and east of the

site, partially where the existing surface car park is located and set back from the An Fuarán service road and behind the proposed public realm area to be developed under the proposals. The overall design of the foodstore is of a contemporary style with a monopitch roof form, white rendered walls and cut stone within elements of the elevations, extensive full height glazing panels, providing animation onto the elevations facing the car park area, the public realm space and the Mountain Road. The two standalone commercial units are incorporated within the one commercial block, as is the foodstore.

- 7.3.3. The signage comprises large cooperate signs and the development includes a totem sign on the north western corner of the appeal site at the junction of the An Fuarán service road and the Mountain Road. The extent of the corporate signage is questionable; however, this is a matter that could be addressed by means of an appropriate planning condition. The public realm space includes hard and soft landscaping features and also makes provision for a covered market area, would provide for a softened linkage and connectivity between the proposed retail development and the An Fuarán development, which presently displays a hard urban edge. I am of the opinion that the public realm proposals would assist in assimilating the development into the local context and provide improved permeability and connectivity within the town centre within a more aesthetic urban streetscape.
- 7.3.4. The Moycullen Small Growth Town Plan promotes the use of best practice design guide criteria which forms part of the national guidance for sustainable residential development, where the design and use of materials should reflect the character of the area. Specific objective MSGT1 seeks to “Promote and support the development of the Town Centre as an intensive, high quality, well-landscaped, human-scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors to the town. The town centre and associated main streets shall remain the primary focus for retail and service activity within Maigh Cuilinn”
- 7.3.5. I am satisfied that the proposals provide for a mix of commercial, retail and residential uses, a quality design and provides for a public realm space including provision for an open market space, that is lacking in Moycullen to date and provides an amenity space that will serve the commercial development and the residents of

Moycullen alike. Photomontage images of the proposed commercial development illustrate the existing and proposed units in the vicinity of the site, as being of similar height and style. I consider the design and layout of the development would complement the existing pattern of commercial development within Moycullen.

Residential Development:

- 7.3.6. There is an established residential estate development immediately to the south (Slí and Sruthán) and south-west (An Cnocán) of the application site at the edge of the core of the village. There is also a residential scheme at an advanced stage of construction immediately south-east of the appeal site. There are no specific objectives in the village plan with regard to views across the site or with regard the landscape sensitivity and character within the appeal site that give rise to concern.
- 7.3.7. Therefore, having regard to the location and design of the dwellings and the characteristics in the vicinity of the site, I consider subject to conditions relating to the provision of a landscaping scheme, boundary treatment, the proposed development would have a positive impact on the public realm of Moycullen and providing for an appropriate transition between the town centre and the edge of the development boundary.
- 7.3.8. The residential layout provides for a gradual transition between the two and three storey retail elements to the two storey Slí and Sruthán residential development to its south which comprises detached, semi-detached and terraced two storey dwellings. Site levels rise gradually within the neighbouring residential development above those within the appeal site. Access to the detached dwelling would be directly off the Mountain Road and to the other two pairs of semi-detached dwellings from the internal access road serving the Slí and Sruthán residential development, all within the 50 kilometre per hour speed control zone. The access route is overlooked by a group of dwellings within the Slí an Sruthán development.
- 7.3.9. The proposed development represents an appropriate and sequential add-on from the town centre within the development boundary with the benefit of a town centre zoning objective. The simple and modest design, heights, scale and the selection of materials and finishes are consistent with the scale and heights of neighbouring dwellings. I consider the residential element of the proposals as being appropriate for a mixed use development at the edge of the village core having regard to the



county's settlement strategy and existing and future provision for expansion for Moycullen.

7.3.10. I am satisfied that the design and layout is satisfactory in that the detached dwelling is consistent with the building line of the Sli an Sruthán residential development further south and creates a strong urban street frontage. The residential element provides an appropriate transition between the residential and commercial development along the Mountain/Spiddal Road. The two pairs of semi-detached dwellings would be accessed from the Slí and Sruthán internal service road and would be consistent in character, style, scale and massing to the adjoining Sli and Sruthán development. I am satisfied that the development management standards in terms of external finishes, private open space, car parking standards are in accordance with the development management standards as sets out within Table 15.5 of the GDP. In conclusion, I am satisfied that the residential development is acceptable from a layout and design perspective and would accord with the proper planning and sustainable development of the area.

#### **7.4. Retail Vacancy, Vitality and Viability**

7.4.1. The second reason for refusal sets out that the retail development would adversely impact on the vitality and viability of Moycullen town centre. A Retail Impact Assessment was submitted as part of the planning documentation which set out that the scale of the retail proposals is below the threshold of "significant", having regard to the assessment criteria set out in the Retail Planning Guidelines, 2012. I am of the opinion that a sequential test is not required in this instance, as the principle of commercial/retail development is established on site, as per the planning history pertaining to the site and having regard to the town centre zoning that pertains to the site. In addition, the retail vacancy rate in Moycullen town centre is predominantly associated to one development (the Cearnóg Nua commercial development) located immediately adjacent to the town centre crossroads. This development includes a small number (three) vacant commercial units, none of which are of a scale that could accommodate the proposed supermarket development. Section 4.4 of the Retail Planning Guidelines relates to the "Sequential Approach to the location of retail development" and states that the order of priority for the sequential approach is to locate retail development in the city/town centre. I am satisfied, having regard to the main zoning objective that pertains to the site, the site location within the town

centre, albeit the edge of town centre that the site is suitable for the retail uses proposed. I note the information provided within the Retail Impact Assessment, which I consider reasonable. I do not consider the retail development would have a significant adverse impact on the role and function of Moycullen town.

- 7.4.2. Having regard to the nature of the previously permitted commercial uses on the site, the scale of the proposed development, the town centre zoning that pertains to the appeal site and the information contained in the national retail guidance, the low level of retail vacancy within Moycullen, the lack of retail space available under extant planning permissions, I consider that the proposals would not adversely impact upon the vitality or vibrancy of Moycullen, and in my opinion, would add to the retail choice for local consumers.

#### **7.5. Roads Access and Car Parking**

- 7.5.1. Further to review of the Moycullen Local Area Plan (LAP), 2013-2019, it can be confirmed that the Corridor for the Moycullen by-pass, which was approved by An Bord Pleanála under PL07.HA0036 in November 2012, is located to the east of the existing N59. Construction of the by-pass commenced in early 2022. Village. Objective T1 17A Map 2B and the indicative by-pass corridor route on Maps 1 (a) and (b) of the LAP refer. It is considered that the by-pass corridor is not at issue regarding the proposed development.
- 7.5.2. The third reason for refusal set out by the Planning Authority related to the LU10 Transport Infrastructure land use zoning objective that pertained to the central part of the site, and the TI17(b) specific objective regarding the delivery of an Inner relief Road to the west of the town centre as set out within the Moycullen LAP 2013-2019. Under the Moycullen STGP 2022-2028, the Lu10 zoning and the TI17 (b) specific objective have been removed and therefore, the third reason for refusal is no longer applicable to the appeal site.
- 7.5.3. I note the comments of the Roads and Transport Unit within Galway County Council made no reference to the realisation of the Inner Relief Route, and therefore, I would deduce that the IRR does not represent a priority for the Local Authority at this moment in time, given that no specific objective or route corridor for its realisation is set out within the town plan. The construction of the Moycullen By-pass route to the east of the town, the opposite side of the town to the appeal site which commenced

in early 2022 and is due for completion within a two year period alleviates the need for the delivery of an IRR. Should the foregoing be accepted, the preparation of the application and design of the proposed scheme is not informed by, or based on, a specified route corridor.

- 7.5.4. The layout of the proposed development is reasonable in allowing for connectivity to/from Slí an Sruthán and the An Fuarán service road. The design and layout of the development provides for direct connectivity with the N59 through the village is also achievable through via the “An Fuarán” service road, linking the Mountain Road with the N59, east of the Main village crossroads junction and pedestrian connectivity with the neighbouring Slí and Sruthán residential development and the residential development, immediately south-east of the appeal site which is presently at an advanced stage of construction.
- 7.5.5. The fourth reason for refusal set out that the proposals do not provide for adequate on-site facilities to serve the development and would lead to increased potential for on-road parking and would interfere with the safety and free flow of traffic on the adjoining roads. The car parking provision standards are set out within Table 15.5 of the current Galway Development Plan. The standards require the provision of 1 car parking space per 12 sq. m. GFA for larger shops >1,000 sq. m, smaller shops of <250 sq. m. require 1 space per 24 sq. m. and shops between 250 sq. m. and 1,000 sq. m. generate a requirement of 1 space per 18 sq. m.
- 7.5.6. I note the site is located within the town centre zoning area and is well served with pedestrian links to/from the village centre and to surrounding residential areas and the town’s main bus stop within 300 metres of the appeal site, on a route linking Clifden with Galway city. Services run seven times daily during the week and six times each way at the weekends and on Bank Holidays. The proposal includes for two basic bicycle stands which would accommodate 30 bicycles, which I consider reasonable. I consider the inclusion of a condition to provide covered bicycle stands reasonable.
- 7.5.7. The applicants submitted details of a Workplace Travel Plan (as part of the Traffic and Transportation Assessment, Section 8) whereby staff would be kept informed of the sustainable options of gaining access to their place of work. Among the measures set out within this plan include covered and secured bicycle parking

facilities as well as details of the bus services to be provided to staff. The bus service is on the main Galway to Clifden bus route, the bus stop being located approximately 300 metres from the appeal site within the town centre at the Coach House. There is strong walking and cycling connectivity to the site from within the settlement of Moycullen itself. Car-pooling will also be promoted amongst staff, and it is hoped to increase the use of sustainable modes of transport amongst staff from 11% to 29% within the first five years of trading, through the promotion of walking, cycling and public transport modes. The applicants have stated that they would be willing to implement the Workplace travel plan and appoint a mobility co-ordinator and a steering group for the development and promotion of the Workplace travel Plan. I consider that this is a matter that can be addressed by means of an appropriate planning condition if the Board deem appropriate.

7.5.8. In conclusion, I am satisfied that the location of the appeal site within the town centre zoning, within a short walking distance of the town centre and with strong connectivity w(existing and proposed) with neighbouring residential developments including Slí and Sruthán, An Cnocán and the residential development to the south-east of the appeal site which is at an advanced stage of construction, and having regard to the proposals included within the Workplace Travel Plan, which can be included as pas a planning condition, that the car parking proposals are adequate and would accord with the Development Pan policy in terms of adopting a flexible approach to parking provision within town centres. Therefore, I am satisfied that the car parking proposals are acceptable and adequate to cater for the scale of the retail development proposals in this instance.

7.5.9. The fifth reason for refusal related to the creation of multiple entrances that could lead to driver visibility obstruction that would interfere with the safety and free flow of traffic on the public road and endanger public safety by reason of a traffic hazard. The appeal site has frontage onto the Mountain Road, the Slí an Sruthán internal access road and to the An Fuarán service road. Access to the retail development would be from the An Fuarán service road. The applicants state that they are proposing to close of two existing access points to the existing surface car park opposite the An Fuarán commercial development and they state that they have been given consent from the land owners to close off the existing two access points. The applicants submitted a revised roads layout to the Board on the 9<sup>th</sup> day of March

2021. Under these revisions the applicants are proposing to provide a ghost island to the east of the junction of the new service road with its junction with the “An Fuarán” service road. Sightline splays of 2.4 metres x 45 metres have been illustrated at the junction of the internal service Road with the An Fuarán development. I have assessed the use of the existing access, the sight lines proposed and having regard to the speed limits (50kph), I do not consider the proposed development would have a significant negative impact of the pedestrian or traffic flow in the vicinity of the site. I am satisfied that the proposal are compliant with the standards as set out within DMURS and that vehicular and pedestrian safety is optimised.

7.5.10. The access to the retail development would be from a single vehicular access and pedestrian access would be gained from the Mountain Road, the An Fuarán road and from a pedestrian gate from the Slí and Sruthán residential development to the south as submitted in the accompanying traffic assessment. I, therefore, note that the retail development would use an existing access point from the “An Fuarán” service road which is used to access the existing surface car park. The only additional entrance points would be those created to access the five residential units. I am satisfied that the five residential units would generate modest traffic levels. The access points to the retail and residential development, and all would be located within the 50 kilometre speed control zone and therefore, I am satisfied that neither would endanger traffic safety nor interfere with the free flow of traffic.

7.5.11. In conclusion, I have assessed the use of the existing access, the sight lines proposed and having regard to the location of the access within the town speed control zone, I do not consider the development would have a significant negative impact of the pedestrian or traffic flow in the vicinity of the site.

Residential Development:

7.5.12. The access to the two pairs of semi-detached houses would be from the existing Slí an Sruthán residential development internal access road. The access to the detached dwelling is directly off the Mountain Road, the L1320. Both access points are located within the 50 kilometre per hour speed control zone of Maigh Cuilinn. I am satisfied that the residential units will not result in the creation of a traffic hazard, given their location within the settlement boundary and within the town speed control zone.

## **7.6. Surface Water Management**

- 7.6.1. The sixth reason for refusal pertained to the surface water proposals not being sufficient to ensure the proposals would not increase the likelihood of flooding on site or in the vicinity of the site.
- 7.6.2. The applicants submitted revised surface water drainage proposal as part of their appeal submission. These proposals would involve the installation of a new 100mm storm drainage pipe from the appeal site to within the An Fuarán service road and along the N59 (by-passing the existing surface water culvert) under the road) as far as the existing surface water manhole location at the top of Ballyquirke Lane. All works as set out within the revised surface water proposals are on lands within the applicants control or lands owned by Galway County Council.
- 7.6.3. A residential use is one that is identified as being highly vulnerable as set out within Table 3.1 of the Flood Management Guidelines 2009 (FMG's). Given the location of the site within Flood Zone C, the fact that a highly vulnerable use (residential) is proposed on part of the site, the preparation of a justification test is not specifically required as per the FMG's.
- 7.6.4. I refer to the Office of Public Works (OPW) website [floodinfo.ie](http://floodinfo.ie) where the appeal site is not identified as being within an area of flood risk and neither is there a history of flood events on site or within this area.
- 7.6.5. I note that the applicants submitted a site-specific Flood Risk Assessment (FRA) as part of their planning documentation. The FRA concludes that the proposals will not increase the risk of flooding on site or within the neighbouring lands.
- 7.6.6. Based on the flood information available within the Development Plan, on the OPW website and as per the site-specific information provided by the applicants within their Flood Risk Assessment, I am satisfied that subject to the inclusion of the surface water management proposals, including on site attenuation that the development proposals will not increase the risk of flooding on site or within the neighbouring lands.

## **7.7. Ecological Impact Assessment.**

- 7.7.1. An Ecological Impact Assessment (EclA) was submitted by the applicants as part of their planning documentation. I am satisfied that the information contained within the EclA is sufficient to allow me to undertake an assessment of the proposed development.
- 7.7.2. The EclA identified three Natural Heritage Areas (NHA's) as being within the potential zone of influence, namely the Ballyquirke Lough pNHA, the Lough Corrib pNHA and the Galway Bay Complex pNHA, given a hydrological pathway exists between the appeal site and these two NHA's. Other pNHA's were not considered to be within the zone of influence by virtue of the absence of hydrological connectivity between the appeal site and the adjacent boglands, woodlands and Turlough.
- 7.7.3. The appeal site is located within the Corrib water catchment and the Ballyquirke sub-basin catchment. Three EPA water quality stations are located along watercourses within the vicinity of the appeal site. Two of the stations are located along Ballyquirke Lough stream, one upstream of the watercourse where the water quality status is poor and downstream of the Ballyquirle Lough stream where water quality status is moderate. One EPA water quality station is located on Loughskip, upstream of Ballyquirke Lough, where water quality status was recorded as being good.
- 7.7.4. No Annex 1 species or Annex 2 fauna associated with the Lough Corrib SAC or SPA were recorded within the appeal site. No invasive Alien Species was recorded within the site either. The EclA concluded that "Provided that the development is constructed and operated in accordance with the design described within this application, significant effects on biodiversity are not anticipated at any geographic scale".
- 7.7.5. In conclusion, I concur with the findings of the EclA which are supported by the National Parks and Wildlife Service (NPWS) datasets and the datasets made available by the National Biodiversity Data Centre (NBDC).

## 7.8. **Appropriate Assessment Screening**

- 7.8.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, Section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

### **Background to Application**

- 7.8.2. An Appropriate Assessment Screening Report and Natura Impact Statement were submitted as part of the planning documentation. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used. The information contained within the submitted reports is considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development. The screening is supported by an associated report, including a Site-Specific Flood Risk Assessment as well as a review of National Parks and Wildlife Survey (NPWS) datasets, Ordnance survey mapping and aerial photography.
- 7.8.3. The AA Screening Report states that this assessment was reached without considering or taking into account mitigation measures or protective measures included in the construction management plan prepared for the proposed development.
- 7.8.4. Section 4.2 of the applicants AA Screening Report concludes “It cannot be excluded beyond reasonable scientific doubt, in view of best scientific knowledge, on the basis of objective information and in light of the conservation objectives of the relevant European sites, that the proposed development, individually, or in combination with other plans and projects, would be likely to have a significant effect on the Lough Corrib SAC and SPA, the Galway Bay Complex SAC and the Inner Galway Bay SPA. As a result, an Appropriate Assessment is required, and a Natura Impact Statement shall be prepared in respect of the proposed development”.
- 7.8.5. Having reviewed the documents and the observations received by the Planning Authority, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- 7.8.6. The project is not directly connected with or necessary to the management of a European Site and therefore, it needs to be determined if the development is likely to have significant effects on a European site(s).
- 7.8.7. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.



### **Description of Development Site**

- 7.8.8. The proposed development is located on a brownfield site to the south of the Crossroads in the centre of Moycullen on the N59, within the development boundary and would comprise 5 residential units and a retail development. The development would be connected to the public foul and surface water sewer networks. The appeal site is directly connected to by means of a surface water channel, or necessary to the management of any European site and therefore, is subject to the provisions of Article 6(3). The appeal site is located approximately 1.2 kilometres south-west of the Lough Corrib SAC.
- 7.8.9. A watercourse flows through a short section to the south-east of the appeal site and thereafter is culverted as it passes under the adjoining surface car park. The watercourse is approximately 1 metre wide at its widest point and approximately 0.3 metres deep with a gentle flow.

### **Submissions/Observations**

- 7.8.10. I have reviewed the submissions made and I note that the submissions did not raise any particular issues in terms of biodiversity or potential adverse impact upon Natura 2000 sites.

### **Characteristics of Project:**

- 7.8.11. A number of characteristics of the project have the potential to impact upon a number of European sites, both during the construction and operational phases.

#### **Construction impacts:**

- 7.8.12. The potential effects that I have identified include:

- Deterioration of water quality and subsequent effect on water based habitats and bird and aquatic species.
- Potential for construction noise disturbance.
- Potential loss of foraging habitat Operational Phase:

#### **Operational Impacts:**

- Discharges from the foul sewer network into the waters.
- Storm water surcharge to the surface water channel.

7.8.13. The ‘source-pathway-receptor’ model was used to determine potential links between sensitive features of the natura sites and the source of the effects.

**Designated Sites and Zone of Influence**

7.8.14. A potential zone of influence has been established having regard to the location of European sites, the Qualifying Interests (QIs) of the sites, the source-pathway-receptor model and potential environment effects of the proposed project.

7.8.15. A number of European sites have not been considered within the screening as no hydrological pathway between them and the appeal site or due to the significant hydrological separation distances between them and the appeal site. Therefore, they have not been considered as being within the zone of influence. These sites include the following: Connemara Bog Complex SAC, Gortmandaragh Limestone Pavement SAC, Ross Lake and Woods SAC or the Connemara Bog Complex SPA in view of their Conservation Objectives. I have therefore, concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on these particular 4 European sites listed above in view of the site’s Conservation Objectives and Appropriate Assessment (and the submission of a Natura Impact Statement relating to the impact on these specific 4 sites) is not therefore, required.

7.8.16. The subject site is not located within any designated European site; however, the following Natura 2000 sites are located within the potential zone of influence and have a potential connection to the appeal site.

Table 1:

<b>European Site</b>	<b>Qualifying Interests</b>	<b>Distance from Appeal Site</b>	<b>Potential Connections (source-pathway-receptor)</b>	<b>Further Consideration in Screening</b>
Lough Corrib SAC (Site Code 000297)	Lough Corrib SAC (Site Code 000297)  Qualifying Interests:  Oligotrophic waters	1.2 kilometre hydrological separation distance to the north and east of	Yes. Requires further assessment due to there being potential hydrological connectivity between the appeal site and the SAC via groundwater and land drains and via	Yes.

	<p>containing very few minerals of sandy plains</p> <p>Oligotrophic to mesotrophic standing waters with vegetation</p> <p>Hard oligo-mesotrophic waters with benthic vegetation</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (important orchid sites)</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils</p>	<p>the appeal site.</p>	<p>the storm water collection network.</p> <p>Potential for release of hydrocarbons to surface waters during construction activities.</p> <p>Potential for foul effluent discharges from operational phase of development.</p> <p>Proposed works have potential to cause deterioration in water quality during construction and operation and to potentially adversely impact on habitats/species, either alone or in combination, and on the conservation status of aquatic habitats and species dependent on the water quality within such habitats due to pollution or sedimentation arising from the construction and/or operational phases of the development.</p>	
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	<p>Active raised bogs</p> <p>Degraded raised bogs still capable of natural regeneration</p> <p>Depressions on peat substrates of the Rhynchosporion</p> <p>Calcareous fens with Cladium mariscus and species of the Caricion davallianae</p> <p>Petrifying springs with tufa formation.</p> <p>Alkaline fens.</p> <p>Limestone pavements.</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles.</p> <p>Bog woodland.</p> <p>Freshwater Pearl Mussel).</p>			
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	<p>White-clawed Crayfish.</p> <p>Sea Lamprey.</p> <p>Brook Lamprey.</p> <p>Salmon.</p> <p>Lesser Horseshoe Bat.</p> <p>Otter.</p> <p>Slender Naiad.</p> <p>Slender Green Feather-moss.</p>			
Galway Bay Complex SAC 000268	<p>Qualifying Interests:</p> <p>Mudflats and sandflats not covered by seawater at low tide.</p> <p>Coastal lagoons.</p> <p>Large shallow inlets and bays.</p> <p>Reefs.</p> <p>Perennial vegetation of stony banks.</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts.</p>	8.4 kilometres south of the appeal site.	<p>Yes. Requires further assessment due to there being potential hydrological connectivity between the appeal site and the SAC via groundwater and land drains and via the storm water collection network.</p> <p>Potential for release of hydrocarbons to surface waters during construction activities.</p> <p>Potential for foul effluent discharges from operational phase of development.</p> <p>Proposed works have potential to cause deterioration in water quality during construction and operation and to</p>	Yes.

	<p>Salicornia and other annuals colonising mud and sand.</p> <p>Atlantic salt meadows.</p> <p>Mediterranean salt meadows.</p> <p>Turloughs.</p> <p>Formations on heaths or calcareous grasslands.</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates.</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davalliana</i>.</p> <p>Alkaline fens.</p> <p>Limestone pavements.</p> <p>Otter</p> <p>Harbour Seal</p>		<p>potentially adversely impact on habitats/species, either alone or in combination, due to pollution or sedimentation arising from the construction/operational phases of the development.</p>	
Lough Corrib	Lough Corrib SPA 004042	2.6 kilometres	Yes. Requires further assessment due to	Yes.

SPA 004042	Qualifying Interests:  Gadwall.  Shoveler.  Pochard.  Tufted Duck.  Common Scoter.  Hen Harrier.  Coot.  Golden Plover.  Black-headed Gull.  Common Gull.  Common Tern.  Arctic Tern.  Greenland White-fronted Goose.  Wetland and Waterbirds [A999]	north-east of the appeal site.	there being potential hydrological connectivity between the appeal site and the SAC via groundwater and land drains and via the storm water collection network. Potential for release of hydrocarbons to surface waters during construction activities. Potential for foul effluent discharges from operational phase of development. Proposed works have potential to cause deterioration in water quality during construction and operation and to potentially adversely impact on habitats/species, either alone or in combination, due to pollution or sedimentation arising from the construction/operationa l phases of the development.	
Inner Galway Bay SPA 004031	Black-throated Diver (Gavia arctica) [A002]	9.3 kilometres southeast of the appeal site.	Yes. Requires further assessment due to there being potential hydrological connectivity between	Yes.

	<p>Great Northern Diver</p> <p>Cormorant.</p> <p>Grey Heron.</p> <p>Light-bellied Brent Goose.</p> <p>Wigeon.</p> <p>Teal.</p> <p>Red-breasted Merganser.</p> <p>Ringed Plover.</p> <p>Golden Plover.</p> <p>Lapwing.</p> <p>Dunlin.</p> <p>Bar-tailed Godwit.</p> <p>Curlew.</p> <p>Redshank.</p> <p>Turnstone.</p> <p>Black-headed Gull.</p> <p>Common Gull.</p> <p>Sandwich Tern.</p> <p>Common Tern.</p> <p>Wetland and Waterbirds.</p>		<p>the appeal site and the SAC via groundwater and land drains and via the storm water collection network.</p> <p>Potential for release of hydrocarbons to surface waters during construction activities.</p> <p>Potential for foul effluent discharges from operational phase of development.</p> <p>Proposed works have potential to cause deterioration in water quality during construction and operation and to potentially adversely impact on habitats/species, either alone or in combination, due to pollution or sedimentation arising from the construction/operational phases of the development.</p>	
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I do not consider that any other European Sites fall within the zone of influence of the project, based on a combination of factors including the intervening distances, the lack of suitable habitat for qualifying interests, and the lack of hydrological or other connections. No reliance on avoidance measures or any form of mitigation is required in reaching this conclusion.

### **Identification of Likely Significant Effects**

7.8.17. Given the location, nature and scale of the proposed project, it is apparent that a number of qualifying interests have the potential to be impacted upon within the following European sites:

- Lough Corrib SAC (Site Code: 000297)
- Lough Corrib SPA (Site Code: 004042)
- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031).

7.8.18. I am therefore, of the opinion that the designated sites, namely the Lough Corrib SAC and SPA, the Galway Bay Complex SAC and the Inner Galway Bay SPA require further consideration.

7.8.19. I have examined the information before me. The Lough Corrib SAC and SPA, the Galway Bay Complex SAC and the Inner Galway Bay SPA are being screened in due to my concerns that there is a possibility of habitat degradation due to a risk of potential pollution impacts associated with the surface water drainage discharging to Lough Corrib and Galway Bay resulting in potential adverse impacts upon water quality, alone or in combination, with other pressures on transitional water quality. I am satisfied that due to the separation distances between the appeal site and the 4 European sites identified above that the issue of construction noise activities would not arise in this instance and similarly the appeal site given its brownfield status would not provide for suitable foraging grounds for any of the winter birds associated with the SPA sites. I am also satisfied that there is adequate capacity within the foul sewer network to cater for the foul effluent arising from the development and that the surface water management proposals are adequate to serve the development and would not result in adverse impacts upon the European sites during the operational

phase of the development. Therefore, I am satisfied that these particular potential impacts do not require further assessment in the context of Appropriate Assessment.

7.8.20. From an examination of the NPWS datasets, I am satisfied that none of the habitats or species within the appeal site are qualifying interests for any European sites within the vicinity. I am conscious of the possibility of indirect effects on aquatic and winter bird species of the European sites. No evidence of the otter species for which European site within the vicinity has been designated, were recorded within the appeal site (as per the National Biodiversity Data Centre datasets) and I note that the appeal site does not provide suitable foraging or breeding habitat for the otter species.

### **Screening Determination**

7.8.21. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could potentially adversely impact on four European Site, namely the Lough Corrib SAC and SPA, the Galway Bay Complex SAC, and the Inner Galway Bay SPA in view of the Conservation Objectives of the sites could not be ruled out, and Appropriate Assessment and the submission of a Natura Impact Statement is therefore, required.

7.8.22. This determination is based on:

- Potential surface water drainage and groundwater pathways.
- Proximity to European sites in terms of separation distances.
- Potential impacts upon Qualifying interests and Conservations interests of the 4 European sites listed above.

### **Stage 2- Appropriate Assessment**

#### **7.9. Introduction**

7.9.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as

amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site.

7.9.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

7.9.3. The proposed development is not directly connected to, or necessary to the management of any European site, and therefore, is subject to the provisions of Article 6(3).

#### **Screening the need for Appropriate Assessment**

7.9.4. The development has been screened in relation to any possible interaction with European sites designated as Special areas of Conservation (SAC, s) or Special Protected Areas (SPA, s) to assess whether the development may give rise to significant effects on any European site(s).

#### **Screening Determination**

7.9.5. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed residential development, individually or in-combination with other plans or projects will have a significant effect on the following European Sites:

Table 2:

Site Name	Site Code	Separation distance
Lough Corrib SAC	000297	Approximately 1.2 kilometres to the north- east of the appeal site. (520 metres hydrological separation distance)
Lough Corrib SPA	004042	Approximately 1.3 kilometres north-east and north-east of the appeal site.
Galway Bay Complex SAC	000268	Approximately 8.4 kilometres south of the appeal site
Inner Galway Bay SPA	004031	Approximately 9.3 kilometres south-east of the appeal site

### Natura Impact Statement

- 7.9.6. The application included a Natura Impact Statement (NIS) for the proposed development at “An Fuarán”, Moycullen, Co. Galway. The NIS provides a description of the project and the existing environment. It also provides a background on the screening process and examines and assesses potential adverse effects of the proposed development on a European Site (identified above). Section 4.2.1 outlines the characteristics of the relevant designated sites. Section 5 sets out the potential impacts arising from the construction and operational phases of the development on the four European sites and includes details of mitigation measures that would be incorporated as part of a Construction Management Plan. In combination effects are examined within Section 7 and it is concluded that significant in combination effects of the proposed project with other projects and plans are not likely.
- 7.9.7. The NIS concludes within Section 7.3 that with the implementation of the mitigation measures included in the design of the development and the implementation of preventative measures during the construction phase included within Section 5.2 of the Natura Impact Statement report, significant negative effects on the conservation objectives or site integrity of the European sites alone, or in combination with other plans and projects are not likely.
- 7.9.8. Having reviewed the documentation available to me, I am satisfied that the information allows for a complete assessment of any adverse effects of the

development on the conservation objectives of the European site listed above, alone, or in combination with other plans and projects.

### **Appropriate Assessment of implications of the proposed development on the European Site**

7.9.9. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the Lough Corrib SAC and SPA, the Galway Bay Complex SAC and the Inner Galway Bay SPA using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

7.9.10. I have relied on the following guidance as part of this assessment:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009).
- Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002).
- Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011); •
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

7.9.11. A description of the designated sites and their Conservation Objectives and Qualifying Interests, including any relevant attributes and targets, are set out in the screening assessment above, and outlined above as part of my assessment. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

#### **Potential Impacts on identified European Sites**

Table 3

Site 1:

<b>Name of European Site, Designation, site code:</b> Lough Corrib SAC, 000297
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Summary of Key issues that could give rise to adverse effects

- Water Quality and water dependant habitats
- Habitat degradation/loss.
- Disturbance of QI species

Conservation Objective: To maintain or restore the favourable conservation status of habitats and species within the Lough Corrib SAC.

		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded ?
Oligotrophic waters containing very few minerals of sandy plains.	To restore the favourable conservation status of the waters containing very few minerals.	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All	No significant in-combination adverse effects	Yes

		site and potentially adversely impacting upon protected habitat	instream works would be completed in accordance with Fisheries Ireland best practice guidance.		
Oligotrophic to Mesotrophic waters standing waters with vegetation	To restore the favourable conservation status of the standing waters with vegetation	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in	No significant combination adverse effects	Yes

		upon protected habitat	accordance with Fisheries Ireland best practice guidance.		
Petrifying Springs with Tufa formation	To maintain the favourable conservation condition of petrifying springs.	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected habitat	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.	No significant combination adverse effects	Yes



Alkaline Fens	To maintain the favourable conservation condition of Alkaline fens	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially resulting in habitat degradation or loss. Bunding around hydrocarbon storage area	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.	No significant in-combination adverse effects	Yes
Slender Naiad	To restore the favourable	Deterioration in water quality	Culverting of water channel that	No significant in-	Yes

	conservation condition of Slender Naiad	arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially resulting in habitat degradation or loss.	traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.	combination adverse effects	
White Clawed Crayfish	To maintain the favourable conservation condition of White	Deterioration in water quality arising from sedimentation and release of	Culverting of water channel that traverses appeal site. storage and handling of	No significant combination adverse effects	Yes

	Clawed Crayfish	hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected species	harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.		
Sea Lamprey	To restore the favourable conservation condition of Sea Lamprey	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbon	No significant in-combination adverse effects	Yes

		and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected species	s, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.		
Brook Lamprey	To maintain the favourable conservation condition of Brook Lamprey	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage	No significant combination adverse effects	Yes

		activities on site and potentially adversely impacting upon protected species	area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.		
Salmon	To maintain the favourable conservation condition of Salmon	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be	No significant combination adverse effects	Yes

		impacting upon protected species	completed in accordance with Fisheries Ireland best practice guidance.		
Otter	To maintain the favourable conservation condition of Otter	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected species	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries	No significant combination adverse effects	Yes

			Ireland best practice guidance.		
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**Overall conclusion: Integrity test**

Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.

Table 4

Site 2:

<p><b>Name of European Site, Designation, site code:</b> Lough Corrib SPA 004031</p> <p>Summary of Key issues that could give rise to adverse effects</p> <ul style="list-style-type: none"> <li>• Water Quality and water dependant habitats</li> <li>• Disturbance of QI species</li> </ul> <p><b>Conservation Objectives:</b> To maintain or restore the favourable conservation condition of the wetland Habitat of lough Corrib as a resource for the regularly occurring migratory waterbirds that visit the lake.</p>					
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		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded ?
Wetlands and Waterbirds	To maintain or restore the favourable	Deterioration in water quality arising from	Culverting of water channel that traverses	No significant in-combination	yes

	<p>conservation condition of the wetland Habitat of lough Corrib as a resource for the regularly occurring migratory waterbirds that visit the lake.</p>	<p>sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected wintering waterfowl. However, the appeal site is already subject to disturbance given that there is existing residential</p>	<p>appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.</p>	<p>adverse effects</p>	
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		<p>development to the north and west of the appeal site. The winter birds in the southern part of the Lough Corrib SPA, that nearest the appeal site, would currently experience disturbance by virtue of proximity to the urban settlement of Moycullen with its associated traffic and human activity.</p>			
Overall conclusion: Integrity test					

Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.

**Table 5**

**Site 3:**

**Name of European Site, Designation, site code:** Galway Bay Complex SAC 000268

Summary of Key issues that could give rise to adverse effects

- Water Quality and water dependant habitats
- Habitat Loss
- Disturbance of QI species

**Conservation Objectives:** To maintain or restore the favourable conservation condition of the protected habitats and species within Galway Bay.

Qualifying Interest feature	Conservation Objectives Targets and attributes	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded?
		Potential adverse effects	Mitigation measures	In-combination effects	
Mudflats and sandflats not covered by water at low tide.	To restore the favourable conservation condition of the protected Mudflats and	Deterioration in water quality arising from sedimentation and release of hydrocarbons to	Culverting of water channel that traverses appeal site. storage and handling of harmful materials	No significant in-combination adverse effects	Yes

	Sandflats not covered by seawater at low tide in Galway Bay.	surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected habitat	including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.		
Large shallow inlets and bays		Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding	No significant in-combination adverse effects	Yes

		and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected habitat	around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.		
Reefs		Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage	No significant in-combination adverse effects	Yes

		from construction activities on site and potentially adversely impacting upon protected habitat	area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.		
Otter	To restore the favourable conservation condition of Otter in Galway Bay.	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would	No significant combination adverse effects	Yes

		site and potentially adversely impacting adversely impacting upon protected species.	be completed in accordance with Fisheries Ireland best practice guidance.		
Harbour Seal		Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in	No significant in-combination adverse effects	Yes

		impacting upon protected species	accordance with Fisheries Ireland best practice guidance.		
Coastal lagoons	To restore the favourable conservation condition of Coastal lagoons in Galway Bay.	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon water quality	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries	No significant in-combination adverse effects	Yes

			Ireland best practice guidance.		
Mediterranean salt meadows	To restore the favourable conservation condition of Mediterranean salt meadows in Galway Bay	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon water quality.	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.	No significant combination adverse effects	Yes



Atlantic salt meadows	To restore the favourable conservation condition of Atlantic salt meadows in Galway Bay	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon water quality.	Culverting of water channel that traverses appeal site. storage and handling of harmful materials including hydrocarbons, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.	No significant in-combination adverse effects	Yes
<b>Overall conclusion: Integrity test</b>					

Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.

Table 6

Site 4:

<p><b>Name of European Site, Designation, site code:</b> Inner Galway Bay SPA 004031</p> <p>Summary of Key issues that could give rise to adverse effects</p> <ul style="list-style-type: none"> <li>• Water Quality and water dependant habitats</li> <li>• Disturbance of QI species</li> </ul> <p><b>Conservation Objectives:</b> To maintain the favourable conservation condition of wetland habitat in Inner Galway Bay as a resource for the regularly occurring and visiting migratory winter birds.</p>					
		<b>Summary of Appropriate Assessment</b>			
<b>Qualifying Interest feature</b>	<b>Conservation Objectives Targets and attributes</b>	<b>Potential adverse effects</b>	<b>Mitigation measures</b>	<b>In-combination effects</b>	<b>Can adverse effects on integrity be excluded ?</b>
Wetlands and Winter birds	To maintain or restore the favourable conservation condition of the wetland Habitat of Galway Bay as a	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface	Culverting of water channel that traverses appeal site. storage and handling of harmful materials	No significant in-combination adverse effects	yes

	<p>resource for the regularly occurring migratory waterbirds that visit the bay.</p>	<p>water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected wintering waterfowl. due to loss of foraging areas.</p>	<p>including hydrocarbon s, Bunding around hydrocarbon storage area. All instream works would be completed in accordance with Fisheries Ireland best practice guidance.</p>		
<p><b>Overall conclusion: Integrity test</b></p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					

7.9.12. Following the Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the integrity of the Lough Corrib SAC and SPA, the Galway Bay Complex SAC, and the Inner Galway Bay SPA in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

**Appropriate Assessment Conclusion**

- 7.9.13. The mixed use development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 7.9.14. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on four European Sites, the Lough Corrib SAC, Lough Corrib SPA, the Galway Bay Complex SAC and the Inner Galway Bay SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the European site in light of its conservation objectives.
- 7.9.15. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Lough Corrib SAC and SPA, the Galway Bay Complex SAC nor the Inner Galway Bay SPA, or any other European site, in view of the site's Conservation Objectives.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of the aforementioned designated sites.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals, and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Lough Corrib SAC and the Galway Bay Complex SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Lough Corrib SPA and the Inner Galway Bay SPA.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

Having regard to the scale and nature of the mixed use retail and residential development on the edge of village centre site; to the site location within the development area of Moycullen, the zoning objective-town centre and policies and objectives in the Moycullen Small Town Growth Plan 2022- 2028, and, to the established pattern and character of existing development in the vicinity it is considered that the proposed development would not adversely affect the vitality and viability of Moycullen town centre, would not seriously injure the visual amenities of the area, would 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

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 11th day of December 2020 and by the further plans and particulars received by An Bord Pleanála on the 9th day of March, 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. 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. Prior to the commencement of development, proposals for increased on-site attenuation in accordance with the *Greater Dublin Regional Code of*

*Practice for Drainage Works*, shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of public health.

3. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

**Reason:** In the interest of public health.

4. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs and car parking bay sizes shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii within the development shall be in accordance with the guidance provided in the National Cycle Manual.

(b) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

Revised drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of pedestrian, cyclist, and traffic safety.

5. All of the mitigation measure cited in Section 5.2.1 of the Natura Impact Statement submitted to the Planning Authority on the 5<sup>th</sup> day of February 2021 shall be implemented in full.

**Reason:** In the interest of the natural heritage of the area and protecting the environment.

6. 30 number bicycle parking spaces shall be provided within the site within covered stand(s). The layout and demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation

7. 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.

8. The landscape masterplan shown on drawing number 065320-PP-01, as submitted to the planning authority on the 9th day of March 2021, shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of [five] years from the completion

of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

9. All of the houses with on-curtilage parking shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

10. Prior to the commencement of development, the developer shall submit revised proposals for the on-site commercial signage for the written agreement of the Planning Authority.

**Reason:** In the interest of visual amenity

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



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

12. 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.

13. All of the houses with on-curtilage parking shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

14. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public

holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

16. 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.

17. No goods, raw materials or waste products shall be placed or stored between the retail building and the roadways.

**Reason:** In the interest of public health and the visual amenities of the area.

18. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, internal common areas (residential and commercial), open

spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to and agreed in writing with the planning authority, before any of the residential or commercial units are made available for occupation.

**Reason:** To provide for the future maintenance of this [private] development in the interest of residential amenity and orderly development.

19. Final details of the Workplace Travel Plan as submitted to the Planning Authority on the 11th day of December 2020 shall be agreed in writing with the Planning Authority. It shall be the responsibility of the school authorities to manage all school's related travel in accordance with the Mobility Management Plan. The Workplace Travel Plan shall, at a minimum, incorporate the following measures:

b) It shall be the responsibility of the retail operators to monitor and record all work related travel on an on-going basis.

c) It shall be the responsibility of the retail operators to achieve compliance with modal targets and objectives of the Workplace Travel Plan and report compliance details of same to the Planning Authority at the appropriate agreed intervals.

d) Traffic and parking arrangements, including cycle parking shall comply with the requirements of the planning authority.

**Reason:** In the interest of public safety and sustainable transportation.

20. The developer shall pay to the planning authority a financial contribution 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. Details of the application of the terms of the Scheme 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 the proper application of the terms of the Scheme.

**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.

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Fergal Ó Bric  
Planning Inspectorate

14<sup>th</sup> day of July 2022