



An  
Bord  
Pleanála

## Inspector's Report

**ABP-310043-21**

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<b>Development</b>	Construction of twenty-two dwelling units, comprising a mix of two-, three- and four-bedroom units, car parking, signage, removal of existing unused tanks, connection to piped services and all associated site works.
<b>Location</b>	Cregg, Kilcummin Field, Oughterard, Galway.
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	20/298
<b>Applicant(s)</b>	Hyman properties Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party V. Grant
<b>Appellant(s)</b>	David Buckley
<b>Date of Site Inspection</b>	26th January 2022
<b>Inspector</b>	Fergal Ó Bric.

## 1.0 Site Location and Description

- .1.1. The appeal site is located to the rear (south) of an established residential scheme, Kilcummin Field, a modest scheme of 11 two storey detached and semi-detached residential units located on the southern side of the Main Street within the town of Oughterard in Connemara. The appeal site is bound to the south by the Creggs Road, to the southwest by one-off dwellings, to the west and northwest is the Cregg View residential development. To the north is the Kilcummin Field residential development and to the east are undeveloped residentially zoned lands. The appeal site comprises a brownfield site, with a number of above ground concrete tanks located towards the north of the appeal site, hedgerows, and shrubbery along the appeal site boundaries. The area is generally characterised by medium to low density conventional housing units.
- .1.2. The site has a stated area of 0.69 hectares. It is rectangular in shape and site levels fall gradually from south to north within the appeal site. There is a drainage ditch along the eastern boundary of the appeal site. The site boundaries include a hedgerow along the eastern and southern boundaries and mature trees and drainage ditch along the western site boundary. There is a stone wall boundary along the south-western site boundary. There is a two-metre-tall timber fence to the northwest of the appeal site along the boundary with the dwellings in Kilcummin Field.

## 2.0 Proposed Development

- 2.1. It is proposed to construct 22 two storey residential dwellings, comprising 11 two bed dwellings, 8 by three bed dwellings and 3 by four bed dwellings. Permission is also sought for car parking, signage, removal of unused tanks from the site, connection to existing piped services and all associated site works. Three house types are proposed. House Type A is a two bed, 4 person dwelling with a floor area of 84 square metres (sq. m.) House type B is a 4 bed, 7 person dwellings with a floor area of 130 sq. m and House Type C is a 3 bed, 5 person dwelling with a floor area of 101

sq. m. All houses are of traditional design with a pitched roof and a mixture of natural stone and nap plaster external finishes.

- 2.2. Access is proposed from the internal access road which serves the Kilcummin Field residential development. Some of the proposed dwellings have individual driveways with off-street car parking provision for two cars and others have communal car parking along their frontage. Three additional visitor spaces are proposed with access off the internal access road. A two-metre wide footpath with streetlighting is proposed along each side of the internal service road.
- 2.3. It is proposed that the development would connect to the public main foul sewer and mains water supply.
- 2.4. Further Information was submitted to the Planning Authority on the 5th day of February 2021 in relation to: A revised site layout for the development; the submission of a site-specific flood risk assessment; the submission of an Appropriate Assessment screening report and a Natura Impact Statement and correspondence from Irish Water regarding the feasibility of connecting to the public water services.

### 3.0 **Planning Authority Decision**

#### 3.1. Decision

Grant permission subject to 16 number conditions. The relevant conditions are noted below:

*Condition 2:* Revised layout whereby dwelling unit number two shall be omitted.

*Condition 5:* Connection agreement with Irish Water.

*Condition 8:* Public lighting.

*Condition 9:* Landscaping proposals to be submitted and agreed with Planning Authority.

*Condition 10:* Boundary treatments.

*Condition 11:* Construction Management Plan

*Condition 12:* Site Development working hours.

*Condition 14:* Best practice construction practices and mitigation measures

*Condition 15:* Submission of a bond/cash deposit or other security.

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

Planning Report (2nd day of November 2020).

The Planning Officer recommended that planning permission be granted following clarification on the matters raised within the further information request. The site layout did not alter significantly as a result of the further information response.

### 3.3. ***Other Technical Reports***

No Reports received

### 3.4. **Prescribed Bodies**

**Irish Water** – No objections, subject to conditions.

### 3.5. **Third Party Observations**

Twelve third party observations were received. The majority of the observations were from neighbouring residents within the Kilcummin Field and Cregg View residential developments. The concerns raised are similar to those raised in the third-party appeal except for the following:

- Access road and safety.
- Right of access to service road.
- Safe pedestrian access to local schools.
- Right of access to water services.
- Flooding.
- Planning history in the village.

## 4.0 Planning History

Subject Site:

I am not aware of any planning history pertaining to the appeal site.

## 5.0 Policy Context

### 5.1. National Guidance

#### 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.

#### ***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”.

### ***National Policy Objective 35***

Increase residential density in settlements through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes or site-based regeneration and increased buildings.

#### **5.1.2. Sustainable Residential Development in Urban areas, Guidelines (DoEHLG, 2009):**

5.1.3. These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.1.4. Section 5.7 references Brownfield lands and notes that where significant sites exist and, in particular, are close to existing or future public transport corridors, the opportunity for their re-development to higher densities, subject to the safeguards expressed above or in accordance with local area plans, should be promoted, as should the potential for car-free developments at these locations.

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

## 5.2. Galway County Development Plan 2015-2021

The Settlement Strategy identifies the urban settlement of Oughterard as being within Tier 5 – Other Villages with a population of <1,500 persons where the following vision is set out for these settlements “They have strong settlement structures and have the potential to support additional growth, offering an alternative living option for those people who do not wish to reside in the larger key towns and do not meet the housing need requirements for the rural area”. There is a residential phase 1 land use zoning objective pertaining to the appeal site.

The relevant objectives policy statements of the Galway County Development Plan are set out below.

### Objective SS6-Development of Other Villages

“To protect and strengthen the economic diversity of the smaller towns, villages and smaller settlements throughout the County enabling them to perform important service, amenity, residential and community functions for the local population and rural hinterlands”.

Locations appropriate for new residential development in urban area include:

Section 3.4.1 Town Centre and Brownfield sites.

Section 3.4.4 Centrally located sites within small towns/villages

Objective UHO 7 – High Quality/Mix and Sensitive Design

Objective UHO 8 – Urban Design

Objective UHO 10 – Sequential Development

Section 13.3 - Guidelines for Residential Development (Urban and Rural Areas)

In relation to private open space the following is set out:

Private Open Space shall be designed for maximum privacy and oriented for maximum sunshine and shelter. In general, a minimum back-to-back distance between dwellings of 22 meters shall apply in order to protect privacy, sunlight and avoid undue overlooking

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

The Draft Development Plan was adopted by the elected members on the 9<sup>th</sup> May and is due to come into effect on the 20<sup>th</sup> day of June.

Chapter 2 of the Draft Plan places Oughterard with the Tier 5 settlements-Small Growth Towns and Volume 2 of the Draft Plan includes Small Growth Town Plans for these settlements including Oughterard.

Table 2.9 sets out the Core Strategy Table where it is envisaged that the population of Oughterard would grow by 350 persons over the plan period with 140 residential units to be developed to sustain this population growth.

Section 2.4.9 sets out the following vision for Small Growth Towns “The towns listed in this category have an important function in supporting the development of local areas. The residential development will be proportioned to the growth of the towns.

The growth strategy will focus on the localised sustainable growth that meets the needs of the local population and wider hinterland”.



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

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 Placemaking 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 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.

#### **5.4. Draft Oughterard Small Growth Town Plan 2022-2028**

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 appeal site has a town centre zoning objective pertaining to it where the objective is “To promote the development of Oughterard, 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. The town centre

and associated main street shall remain the primary focus for retail and service activity within these plans area”.

The zoning matrix sets out that residential development is open for consideration on town centre zoned lands subject to complying with the SGT2 policy objective which is that “Residential infill development within existing towns, smalls scale limited infill housing development will be considered on appropriate sites. These infill sites shall have regard to the existing character of the street respecting the existing building line, scale, proportions, layout, heights and materials of surrounding developments The site must have a safe means of access and egress and comply with development management standards for new dwellings”.

The flood mapping included as part of the Draft Oughterard Town Plan indicates the site as being within Flood Zone C and therefore, suitable for residential development.

#### **5.5. Natural Heritage Designations**

The closest Natura 2000 sites is the Lough Corrib Special Area of Conservation (SAC), site code 000297, which at its closest point by land is located approximately 180 metres north of the appeal site boundary, though the hydrological separation distance is approximately 520 metres.

The closest Natural Heritage Area (NHA) is the Oughterard District Bog NHA, (site code 002431), which at its closest point is located approximately 1.7 kilometres south-west of the appeal site boundary.

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

It is proposed to construct 22 residential units. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.69 ha and is located contiguous to the built-up area of Oughterard. The site is not located in a business district and currently constitutes a brownfield site.

An Environmental Impact Assessment Screening Report was not submitted with the appeal.

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, 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 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 7.7 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 threshold 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 a town centre zoning objective under the provisions of the Oughterard 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 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, scale and location of the subject site within the confines of the settlement boundary on serviceable lands, the proposed development would not be likely to have significant effects on the environment. On preliminary examination, there is no real likelihood of significant effects on the environment, arising from the proposed development. The need for Environmental Impact Assessment Report (EIAR) can, therefore, be excluded at preliminary examination.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third-party appeal was received from a neighbouring resident, Mr David Buckley who resides at Number 4, Kilcummin Field, which is located immediately north of the appeal site. The issues raised within the appeal submission relate to the following:

- The applicants have failed to demonstrate that they have a right of way to gain access to the appeal site/
- The applicants have failed to demonstrate that they have a right of way to connect to the water services.
- The existing services on site are not connected to the Irish water network of water services.
- Increased traffic levels would be generated by the development and present a significant hazard to young children who often play on the local internal service road.
- Flooding in the area particularly during the winter period does not appear to have been duly considered by the Planning Authority in its planning decision.

## 6.2. Applicant's response to appeal submission

A response to the grounds of appeal was received from the applicant's Planning Consultants, on 24<sup>th</sup> day of May 2021, which can be summarised as follows:

- Legal documentation has been submitted stating that the applicants purchased the lands from Corrib Supreme Management which also included easements in favour of the applicants over the common areas including the right to use the estate roadway in common with all other authorised persons using the estate services.
- The legal documentation submitted confirms that the applicants have an easement over the entrance road and the associated water services in their client's favour. This will enable the connection of the proposed development to these services. The Irish Water documentation confirms that the development could be facilitated within their networks. The connection works and any associated works required to facilitate a connection will be carried out by the developer.
- The development will not generate increased traffic flow in front of the existing houses within Kilcummin Field by virtue of the configuration of the existing residential development, comprising two cul-de-sacs off a spine road. The

modest scale of the development proposal in addition to the speed ramps on the spine road assists in slowing vehicles along the spine road.

- In terms of the private open space, the existing Kilcummin Field development have generous private garden amenity spaces and the proposed development will provide two centrally located areas of public open space which will be accessible to the Kilcummin Field residents.
- A site-specific Flood Risk Assessment (FRA) was submitted as part of the further information response to the Planning Authority and concluded that the “risk of flooding to the proposed development will be minimal. It is also predicted that the proposed development will not impact flood risk elsewhere in the area”. The issue of flood risk has been given due consideration by the applicants and the Planning Authority.
- The applicants request that condition number 2, relating to the omission of unit number 2, be removed from the planning decision in order to maximise the efficient use of zoned serviced lands at a density in accordance with national planning guidance.

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

None received.

## 7.0 **Assessment**

7.1. The main issues are those raised within the grounds of appeal and the Planning Report, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Legal Issues.
- Services.
- Flood Risk.
- Access and traffic.

- Other Issues.
- Appropriate Assessment

## **7.2. Principle of Development**

- 7.2.1. The appeal site is located on lands zoned for residential purposes as per the Oughterard Local Area Plan and therefore, I am satisfied the principle of residential development is acceptable in this instance. I consider that the proposed development is acceptable from a layout and design perspective and would accord with the proper planning and sustainable development of the area.
- 7.2.2. The proposal would accord with NPO 11 of the National Planning Framework regarding “a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns, and villages”, and within the Sustainable Residential Development in Urban area Guidelines, 2009 the following is set out in relation to brownfield sites “the opportunity for their re-development to higher densities, subject to the safeguards expressed above or in accordance with local area plans, should be promoted. Section 3.4 of the Galway Development Plan (GDP) 2015 sets out locations suitable for residential development in urban areas as follows “Town Centre and Brownfield sites. And Centrally located sites within small towns/villages”.

## **7.3. Legal Issues**

- 7.3.1. The first issue raised in the appeal relates to the access to the spine road and the site services.
- 7.3.2. The applicants have submitted legal documentation, including detail of property folios. I consider that they have demonstrated sufficient legal interest in terms of access to the internal spine road and the water services within the spine road. I am satisfied that the current proposals should be assessed on their merits. I note that the current proposals would be consistent with the pattern of residential development in this vicinity and would therefore, accord with the principles of proper planning and sustainable development.

7.3.3. I refer to Section 34(13) of the Planning and Development Act 2000 (as amended) which sets out the following: "A person shall not be entitled solely by reason of a permission under this section to carry out any development". I am satisfied that the provisions outlined above give the Board sufficient comfort to permit the residential development.

#### 7.4. **Services**

7.4.1. It is stated by the appellant that the Management Company which comprises the Corrib Supreme Management and the residents within Kilcummin Field are the owners of an access road/right of way over which existing watermains, surface water and foul sewer mains are laid from the proposed development. I note the applicants have submitted legal documentation (included within the appellants response to the third-party appeal) providing details of easements in favour of the applicants, including over the common areas and the right to use the estate roadway in common with all other authorised persons using the estate services. I consider that they have demonstrated sufficient legal interest in terms of access to the water services within the spine road

7.4.2. A condition was attached to the final grant of permission by the Planning Authority stating that final surface water management details be submitted for the written agreement of the Planning Authority including details of on-site attenuation. Neither the Area Engineer nor Irish Water outlined objections to the servicing proposals. The Irish Water report sets out that connection to their networks can be facilitated at this moment in time. From the planning documentation submitted, I am satisfied that access to the public water services is possible and available.

7.4.3. Section 5.13 of the Development Management Guidelines for Planning Authorities advises that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Section 34(13) of the Planning and Development Act 2000 (as amended) states: A person shall not be entitled solely by reason of a permission under this section to carry out any development. I am satisfied that the provisions outlined above give the Board sufficient comfort to permit the residential development.



- 7.4.4. 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, the preparation of a justification test is not specifically required as per the FMG's.
- 7.4.5. I refer to the Office of Public Works (OPW) website 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.
- 7.4.6. I note that the applicants submitted a site-specific Flood Risk Assessment (FRA) as part of their further information response. The FRA concludes that the proposals will not increase the risk of flooding on site or within the neighbouring lands.
- 7.4.7. 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.

## 7.5. **Access and Traffic**

- 7.5.1. The issue of access and use of the spine road was addressed in Section 7.1 further above in my report. In terms of traffic safety, I note that the Kilcummin Field spine road would be used to access the proposed residential development. The access would not pass in front of any of the dwellings within the Kilcummin Field residential development. The existing footpaths and service road within Kilcummin Field would be extended to serve the residential scheme.
- 7.5.2. The access to the housing estate is located within the town speed limit control of 50 kilometres per hour. There are also traffic calming measures included within the spine road in the form of speed bumps. I am satisfied that the scale of the development would not result in excessive traffic levels being generated and that the proposals are designed in accordance with the Design Manual for Urban Roads and

Bridges standards (DMURS) best practice standards and therefore, safety of pedestrians and drivers is optimised.

## **7.6. Other Issues**

- 7.6.1. Condition number two of the planning decision requires the omission of unit number 2 and that the footprint of the said unit and its ancillary areas be incorporated into the public open space areas. The Planners report sets out that unit number 2 does not meet the standard requirements in terms of private open space as it has no back garden. Drawing number 200103-03-101 sets out that unit number 2 has a rear and side private amenity space of 78 square metres and exceeds the private amenity space associated with unit number 1 by approximately 3 sq. m. I am satisfied that the private open space associated with unit number 2 conforms with the DM standards as set out within Section 13.3 of the current Galway Development Plan 2015-2021 relating to private open space being afforded maximum privacy, avoiding overlooking and shadowing and that 22 metre back-to-back separation distances are achieved.
- 7.6.2. I note that there is also 1,045 sq. m of public open space in the form of two separate areas along the eastern site boundary, which equates to 15% of the total site area and many of the dwellings have a direct aspect onto the public open space. In terms of optimising the sustainability of a brownfield site on zoned serviced lands, I am of the opinion that the density and layout as proposed by the applicants is acceptable and that unit number 2 should not be omitted.

## **7.7. Appropriate Assessment Screening**

- 7.7.1. 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**

- 7.7.2. 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.

- 7.7.3. 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.
- 7.7.4. 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”.
- 7.7.5. Having reviewed the documents and submission from a neighbouring resident, 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.
- 7.7.6. 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).
- 7.7.7. 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.
- 7.7.8. 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.

### **Description of Development Site**

7.7.9. The proposed development is located on a brownfield site to the south of the Main Street/Clifden Road (N59) Oughterard, within the development boundary and would comprise 22 residential units and would be connected to the public foul and surface water sewer networks. The appeal site 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). The site is located approximately 180 metres south of the Owenriff watercourse (520 metre hydrological separation distance) which is part of the Lough Corrib SAC.

7.7.10. The appeal site is wet underfoot and muddy with areas of poached ground with some low-quality wet sward. The site is bordered by poor-quality hawthorn and holly hedgerow and a drainage ditch along its eastern boundary and Alder and Willow trees and a drainage ditch along its western boundary. There is also a treeline of Ash and Holly along the southern site boundary. A drainage ditch exists along the western site boundary. It is up to 1.5 metres wide and comprises stagnant water.

### **Submissions/Observations**

7.7.11. 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:**

7.7.12. 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:

7.7.13. Among the potential effects identified are based on the existing drainage channel along the site boundaries that ultimately drain into the Owenriff River with potential for indirect impacts through deterioration of water quality and subsequent effect on water based habitats and bird and aquatic species identified under the qualifying

interests for the designated sites. In the case of proposed development, it is considered that there is a possibility of effects in regard to changes in water quality and such merit further assessment.

- 7.7.14. The drainage ditches along the eastern and western site boundaries provide potential for amphibian breeding habitat, although no presence of frog or newt within them was apparent.
- 7.7.15. No watercourse flows directly through the appeal site; however, drainage ditches run parallel to the eastern and western boundaries of the appeal site. The Owenriff river, which is part of the Lough Corrib SAC and SPA is located approximately 0.18 kilometres (by land) north-east of the appeal site boundary. Water quality results from two locations north-east and north-west of the appeal site were recorded along the Owenriff River where the water quality status was recorded at both locations as being Q4/5 Good to High. (Source EPA Water Framework Directive monitoring 2013-2018). Within the 3rd Cycle Draft Corrib Catchment Report (HA 30) Catchment Science & Management Unit Environmental Protection Agency August 2021 Version no. 1, the Lough Corrib surface waterbody is described as not at risk in terms of water quality deterioration and that the change from the 2<sup>nd</sup> to the 3<sup>rd</sup> cycle of River Basin Management Plans (RBMP, S) has seen an improvement in the risk, rather than a deterioration.
- 7.7.16. The potential for construction noise disturbance to the Qualifying Interests (QIs) of the Lough Corrib SPA to arise as a result of construction activities have the potential to adversely impact upon the feeding grounds and the habitats of the winter bird population within those adjoining European sites.
- 7.7.17. The construction and operational phase of development would potentially result in a loss of foraging habitat on site which could potentially adversely impact upon the Qi's of European sites.

Operational Phase:

- 7.7.18. The operational phase of the development could also result in impacts in terms of surface water deterioration or discharges from the foul sewer network into the waters that feed into the adjacent European sites. Irish Water has advised that the proposed development can be facilitated with a connection to the existing services, located to the north of the appeal site. Storm drainage from the development would discharge

to an existing surface water sewer. The proposed surface water drainage system has been designed in accordance with the Greater Dublin Regional Code of Practice for Drainage Works.

- 7.7.19. 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**

- 7.7.20. 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.
- 7.7.21. 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, Cloughmoyne SAC, Maumturk Mountains SAC, Ballymaglancy Cave, Cong SAC, Lough Carra/Mask Complex SAC, Connemara Bog Complex SPA (site code 004181) or the Lough Mask 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 the European sites listed above in view of the site's Conservation Objectives and Appropriate Assessment (and the submission of a Natura Impact Statement) is not therefore, required.
- 7.7.22. 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:

European Site	Qualifying Interests	Distance from Appeal Site	Potential Connections (source-pathway-receptor)	Further Consideration in Screening
Lough Corrib SAC (Site Code 000297)	<p>Lough Corrib SAC (Site Code 000297)</p> <p>Qualifying Interests:</p> <p>Oligotrophic waters 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>	180 meters to the north and east of the appeal site, (520 metre hydrological separation distance).	<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. 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/operational phase of the development.</p>	Yes.

	<p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils</p> <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 <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i></p> <p>Petrifying springs with tufa formation.</p> <p>Alkaline fens.</p> <p>Limestone pavements.</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles.</p> <p>Bog woodland.</p> <p>Freshwater Pearl Mussel).</p> <p>White-clawed Crayfish.</p> <p>Sea Lamprey.</p> <p>Brook Lamprey.</p>			
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	<p>Salmon.</p> <p>Lesser Horseshoe Bat.</p> <p>Otter.</p> <p>Slender Naiad.</p> <p>Slender Green Feather-moss.</p>			
<p>Galway Bay Complex SAC 000268</p>	<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> <p>Salicornia and other annuals colonising mud and sand.</p> <p>Atlantic salt meadows.</p> <p>Mediterranean salt meadows.</p> <p>Turloughs.</p>	<p>21.8 km south of the appeal site (33.5 km hydrological separation distance)</p>	<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. 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 phase of the development.</p>	<p>Yes.</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 davallianae</i>.</p> <p>Alkaline fens.</p> <p>Limestone pavements.</p> <p>Otter</p> <p>Harbour Seal</p>			
Lough Corrib SPA 004042	<p>Lough Corrib SPA 004042</p> <p>Qualifying Interests:</p> <p>Gadwall.</p> <p>Shoveler.</p> <p>Pochard.</p> <p>Tufted Duck.</p> <p>Common Scoter.</p> <p>Hen Harrier.</p> <p>Coot.</p>	1km east and north-east of the appeal site.	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. Proposed works have potential to cause deterioration in water quality during construction and operation and to potentially adversely impact on	Yes.

	<p>Golden Plover.</p> <p>Black-headed Gull.</p> <p>Common Gull.</p> <p>Common Tern.</p> <p>Arctic Tern.</p> <p>Greenland White-fronted Goose.</p> <p>Wetland and Waterbirds [A999]</p>		<p>habitats/species, either alone or in combination, due to pollution or sedimentation arising from the construction/operational phase of the development.</p> <p>Potential for noise disturbance arising from construction activities and loss of foraging habitat.</p>	
<p>Inner Galway Bay SPA 004031</p>	<p>Black-throated Diver (Gavia arctica) [A002]</p> <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>23km southeast of the appeal site (in excess of 39 km hydrological separation distance)</p>	<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. 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 phase of the development.</p>	<p>Yes.</p>

	Redshank.			
	Turnstone.			
	Black-headed Gull.			
	Common Gull.			
	Sandwich Tern.			
	Common Tern.			
	Wetland and Waterbirds.			

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**

7.7.23. 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).

7.7.24. 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.

7.7.25. I have examined the information before me. The Lough Corrib SAC and SPA and 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. Other impacts that would potentially arise within the Galway Bay and Lough Corrib SAC's and SPA's would include noise impacts from construction activities within the appeal site and a loss of foraging habitat which could adversely impact upon the winterbirds within the Lough Corrib SPA and the Inner Galway Bay SPA.

7.7.26. 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 development site does not provide suitable foraging or breeding habitat for the otter species.

### **Screening Determination**

7.7.27. 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.

7.7.28. 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**

### **7.8. Introduction**

7.8.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V [or S 177AE] 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.

7.8.2. 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.

7.8.3. 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**

7.8.4. 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**

7.8.5. 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 180 metres (by land) to the north and east of the appeal site. (520 metres hydrological separation distance)
Lough Corrib SPA	004042	Approximately 1 kilometre east and north-east of the appeal site.
Galway Bay Complex SAC	000268	Approximately 21.8 kilometres south of the appeal site (approximately 33.5 kilometres via hydrological connectivity)
Inner Galway Bay SPA	004031	Approximately 23 kilometres south-east of the appeal site (in excess of 39 kilometres via hydrological connectivity).

### Natura Impact Statement

- 7.8.6. The application included a Natura Impact Statement (NIS) for the proposed development south of the Main Street, Oughterard, 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 4.2.2 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.

7.8.7. The NIS concludes 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.

7.8.8. 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**

7.8.9. 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.

7.8.10. 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).



7.8.11. 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					
Summary of Key issues that could give rise to adverse effects					
<ul style="list-style-type: none"> <li>• Water Quality and water dependant habitats</li> <li>• Habitat degradation/loss</li> <li>• Disturbance of QI species</li> </ul>					
Conservation Objective: To maintain or restore the favourable conservation status of habitats and species within the Lough Corrib SAC.					
		<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>
Oligotrophiiic 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	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to	No significant in-combination adverse effects	Yes

		site and potentially adversely impacting upon protected habitat	surface water drains		
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 upon protected habitat	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes
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	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes

		protected habitat			
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.	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes
Slender Naiad	To restore the favourable conservation condition of Slender Naiad	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.	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes
White Clawed Crayfish	To maintain the favourable conservation condition of	Deterioration in water quality arising from	Silt fencing adjacent to land drains. storage and	No significant in-combination	Yes

	White Clawed Crayfish	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	handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	adverse effects	
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 and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected species	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes
Brook Lamprey	To maintain the favourable conservation condition of Brook Lamprey	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons,	No significant in-combination adverse effects	Yes

		water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected species	erecting silt fencing and providing geotextile membrane adjacent to surface water drains		
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 impacting upon protected species	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes
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	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane	No significant in-combination adverse effects	Yes

		construction activities on site and potentially adversely impacting upon protected species	adjacent to surface water drains		
<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>					

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>• Loss of foraging ground</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>					
		<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 Waterbirds	To maintain or restore the favourable conservation condition of the wetland Habitat of lough Corrib as a resource for the regularly occurring	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt	No significant in-combination adverse effects	yes

	<p>migratory waterbirds that visit the lake.</p>	<p>arising from construction activities on site and potentially adversely impacting upon protected wintering waterfowl. Loss of foraging ground and a potential resultant disturbance of the wintering waterbirds due to loss of foraging areas. However, the appeal site is already subject to disturbance given that there is existing residential development to the north and west. 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 Oughterard with its associated traffic and human activity.</p>	<p>fencing and providing geotextile membrane adjacent to surface water drains</p>		
<p><b>Overall conclusion: Integrity test</b></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.

**Table 5**

**Site 3:**

<b>Name of European Site, Designation, site code:</b> Galway Bay Complex SAC 000268					
Summary of Key issues that could give rise to adverse effects					
<ul style="list-style-type: none"> <li>• Water Quality and water dependant habitats</li> <li>• Habitat Loss</li> <li>• Disturbance of QI species</li> </ul>					
<b>Conservation Objectives:</b> To maintain or restore the favourable conservation condition of the protected habitats and species within Galway Bay.					
		<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>
Mudflats and sandflats not covered by water at low tide.	To restore the favourable conservation condition of the protected Mudflats and Sandflats not covered by seawater at low tide 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	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes



		protected habitat			
Large shallow inlets and bays		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	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes
Reefs		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	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes
Otter	To restore the favourable	Deterioration in water	Silt fencing adjacent to	No significant in-	Yes

	conservation condition of Otter in Galway Bay.	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.	land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	combination adverse effects	
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 impacting upon protected species	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-combination adverse effects	Yes
Coastal lagoons	To restore the favourable conservation condition of Coastal	Deterioration in water quality arising from sedimentation	Silt fencing adjacent to land drains. storage and handling of	No significant in-combination	Yes

	lagoons in Galway Bay.	and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon water quality	harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	adverse effects	
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.	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing geotextile membrane adjacent to surface water drains	No significant in-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	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt fencing and providing	No significant in-combination adverse effects	Yes

		groundwater arising from construction activities on site and potentially adversely impacting upon water quality.	geotextile membrane adjacent to surface water drains		
<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>					

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>• Loss of foraging ground</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 winterbirds.</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 Winterbirds	To maintain or restore the favourable conservation condition of the wetland Habitat of Galway Bay as a resource for the regularly occurring	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water	Silt fencing adjacent to land drains. storage and handling of harmful materials including hydrocarbons, erecting silt	No significant in-combination adverse effects	yes

	migratory waterbirds that visit the bay.	channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected wintering waterfowl. Loss of foraging ground and a potential resultant disturbance of the wintering waterbirds due to loss of foraging areas.	fencing and providing geotextile membrane adjacent to surface water drains		
<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>					

7.8.12. 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 this site. 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**

7.8.13. The residential development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.

7.8.14. 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.

7.8.15. 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

I recommend that permission be granted subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the location of the site within the 'existing built up area' of Oughterard on a brownfield site, the provisions of the Galway County Development Plan, 2015-2021, the Draft Galway County Development Plan 2022-2028 and the

Oughterard Small Growth Town Plan 2022-2028, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not result in the creation of a traffic hazard nor seriously injure the amenities of the area. 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 and as amended by the further plans and particulars submitted on the 5th day of February 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. Details of the materials, colours, and textures of all the external finishes to the proposed development, including external lighting throughout the development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenities.

5. (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.

6. 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.

- 7 (a) Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity

8. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

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

9. 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.

- 10 The landscape masterplan shown on drawing number 104, as submitted to the planning authority on the 11th day of September 2020, 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.

11. 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.

12. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

14. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority full details of the proposed public lighting, including the lighting levels within open areas of the development.

**Reason:** In the interests of public safety and residential amenity.

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

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

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer

or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

17. 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

9th June 2022