



An
Bord
Pleanála

Inspector's Report ABP 301644-21.

Development

Demolition of the existing filling station and associated structures and the two dwellings on the site and,

Construction of a mixed use residential and commercial development in a three storey over basement building comprising seventeen apartments and a commercial office at ground level, basement parking and consolidation of four entrances into one entrance and associated works.

Location

Nos 2-4 Knocknacarra, Salthill (R336)
Galway.

Planning Authority

Galway City Council.

P. A. Reg. Ref.

20/101

Applicant

M. Burns

Type of Application

Permission

Decision

Refuse Permission

Type of Appeal

First Party x Refusal

Appellant

M. Burns

Observers

Eight Parties, (See list Overleaf.)

Date of Inspection

19th October, 2021.

Inspector

Jane Dennehy.

Observer Parties.

Residents of Bruach Na Mara

Paula O'Connor, 3 Bruach Na Mara

Martina Burke, 8 Bruach Na Mara

Mary Caulfield 7 Bruach Na Mara.

Frank and Jacqueline Woods, 6 Bruach Na Mara,

Maura O'Halloran, Acres, Knocknacarra

Carmel Garrett, Knocknacarra

Mary and Brendan Forkan

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1.0 Site Location and Description

- 1.1. The site which is on the northern edge of the R336 (Coast Road), a main distributor road and public transport corridor in a suburban area to the west of the city of Galway. It has a stated area of 1,482 square metres and is that of a Statoil Filling station and associated facilities and four dwelling houses the rear boundaries of which are adjacent to the internal access road within a residential development along a cul de sac Bruach na Mara to the north. Three detached houses are located on the north site of the cul de sac opposite the site. The level rises towards the north from the level of the coastal road to the south. There is a pedestrian route between Bruach Na Mara and the Coast Road between the existing dwellings to the filling station.
- 1.2. To the west is a two-storey detached house on a large plot extending from the road frontage to Bruach na Mara to the north-west of the site. Along the eastern edge of this site there is a right of way adjoining the party boundary at the western side of the application site. To the east at the corner with Knocknacarra is a large bungalow. The surrounding area along and to the north of the Coastal Road (R336) is characterised by mix of road frontage dwellings interspersed with some apartment developments and housing estates along with local facilities and services. A holiday caravan site is on the south side of the coastal road overlooking Galway Bay,

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for: -
- Demolition of the existing filling station and associated structures and dwellings on the site the total stated floor area of which is 367 square metres and,
 - Construction of a mixed use residential and commercial development in a three storey over basement building comprising seventeen apartments (15 two bed units, one three bed unit and a one bed unit) and a commercial office at ground level, basement parking and consolidation of four entrances into one entrance and associated works. The total stated floor area is

2,821 square metres, (1,858 square metres plus 963 square metres for the basement.)

- 2.2. Further to a multiple item request for additional information the applicant revised the proposed development in a submission lodged, on 30th April, 2021 and new revised site notices were published.
- 2.3. This revised proposal is for a here storey building incorporating a penthouse level. One apartment is omitted resulting a total of sixteen apartments. The plot ratio is reduced from 1:25 to 1:1.1. and the density is reduced from 114 to 108 units per hectare; There is an increase in separation distances from adjoining dwellings at Bruach na Mara to the north providing for a setback of 2.5 metres with the submitted drawings incorporating longitudinal sections. A shadow study including site levels to demonstrate impacts on adjoining buildings of the proposed development relative to the existing buildings is provided. The proposals for communal open space provision are revised and include a landscaped amenity area for residents at the front, south side of the proposed building.
- 2.4. The application and/or further information submissions include clarification as to a right of way (confirmed to be outside the redline site boundary) ownership and legal interest, demolition and excavation methodology, a methodology for the underground tank removal in the site. right of way outside the red line boundary, Transportation assessment, road safety audit, revised layout and markings to establish consistency with DMURS standards, lighting, on-site parking at basement level, communal open space and furniture a structural and civil engineering report and an appropriate assessment screening report.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 3rd June, 2021 the planning authority decided to refuse permission based on two reasons which are reproduced in full below:

Reason 1.

“It is the policy of the development plan to protect and enhance the urban design quality of existing areas and this site is located within an established suburban environment where there is a mix of older conventional dwellings, in such areas it is the policy of the Galway City Council Development Plan 2017-2023 as indicated in Section 2.5 to “encourage higher residential densities at appropriate locations...” while the Ministerial Guidelines “Sustainable Urban Housing: Design Standards for New Apartments; Guidelines for Planning Authorities” , March 2019 update December 2020 and the Sustainable Residential Development in Urban Areas 2009 require the provision for a sustainable high density of residential housing development/unit delivery per hectare, subject to a design , density and height which would contribute to the surrounding area. However, if permitted, the density, height and configuration of the development is considered inappropriate and excessive for this specific area while the design is such that it has poor contextual reference, therefore in combination these failings render the proposal an unsatisfactory and out of keeping addition, in terms of height, scale and mass and density, and if constructed, would result in a building that detracts from the existing high quality established urban environment at this location contrary to the Galway City Council Development Plan 2017-2023 policies, particularly those set out in Chapters 2, 8 and 11 and associated ministerial guidelines contrary to the proper planning and sustainable development of the area.”

Reason 2

“The development/apartment block, if permitted, at the height and configuration proposed, would be out of character with the surrounding area, be an overbearing structure and would overshadow adjacent residential dwellings, thereby seriously injuring the residential amenities and depreciating the value of property in the area by virtue of itself and subsequent generation of overshadowing, the development would be contrary to the proper planning and sustainable development of the area and the Galway City Council Development Plan 2017-2023 policies, particularly those set out in Chapters 2, 8 and 11.”

3.2. Planning Authority Reports

- 3.2.1. The report of the Transport, Planning and Physical Development department indicates a recommendation for a request for additional information in respect of reconsideration of the front boundary and entrance configuration having regard to proposals for the Bearna Greenway within the GTS and visibilities splays and setbacks having regard to DMURS standards, justification for the proposed parking provision, a recommendation for revisions to address a scheduled upgrade for a bus shelter at Bus stop on the R336 to the west a road safety audit and traffic transport assessment report which were submitted in the further information submission.
- 3.2.2. The supplementary report of the Transport, Planning and Physical Development on the further information submission indicates acceptance of the proposed development subject to outstanding issues being finalised and agreed by compliance with conditions.
- 3.2.3. The original report of the Parks Department indicates a recommendation for submission an ecological assessment report, clarification of information on existing trees and hedgerow, planting schemes works methodologies and proposals it being noted that submitted details were not available to the department for review, in this regard. Conditions are recommended, should permission be granted.
- 3.2.4. The supplementary report dated 12th May 2021 indicates satisfaction with the further information submission subject to finalisation of recreational facilities' details by compliance with a condition.
- 3.2.5. The report of Irish Water indicates no objection to the proposed development.
- 3.2.6. The report of the Environment Department indicates no objection subject to compliance with standard conditions.
- 3.2.7. The Planning Officer further to consideration of the documentation and reports available in connection with the original application and the response to the additional information request indicated a recommendation for refusal of permission based on the two reasons attached to the decision of the planning authority.
- 3.2.8. A submission was lodged by An Taisce, Prescribed Body, in which concerns are raised with regard to height possible impacts of views and prospects and the city skyline along the R336 in Knocknacarra; about potential traffic hazard and risk to

public safety at the entrance to the site of the R336 close to the brow of a hill, it being stated that permission for developments have been refused at the site location due to overdevelopment, negative impact on to amenities of property.

3.3. Third Party Observations

- 3.3.1. Multiple observations were lodged with planning authority, mainly from residents of Bruach na Mara to the north of the application site. Issues of concern raised are that of overdevelopment, excessive density, height, and mass for the surrounding established development and with overbearing impact on adjoining property, overlooking, overshadowing, impact on traffic safety and convenience and demand for on street parking, anti-social behaviour and objection to routing through to Bruach na Mara.

4.0 Planning History

- 4.1. There is no directly relevant recent planning history for the application site, the original grant of permission for the existing filling station development with access onto the service road serving Bruach na Mara with alterations to the existing vehicular entrance providing for pedestrian access having been granted in 1999 following appeal under P. A. Reg. Ref. 99/489. (PL 116419). Under Condition No 1 of this prior grant of permission, there is a requirement for the access is to be used solely for the house as a single residential unit and not to facilitate creation of a through route between the filling station and Bruach na Mara. Under Condition no 3 there is a requirement that on completion of the new entrance, the existing entrance be closed off and a pedestrian entrance provided.
- 4.2. There is a prior grant of permission under P. A. Reg. Ref. 03/828 for demolition of a house and construction of four apartments which was a revised proposal further to refusal of permission under P. A. Reg. Ref 03/98.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Galway City Development Plan 2017 – 2023 (CDP) according to which the site is within an area subject to the zoning objective: “R”: *“To provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods”.*
- 5.1.2. The location is within the “Outer Suburbs” and according to section 2.5 higher density development within these areas is to be encouraged subject to a range of criteria which includes a balance between reasonable protection of residential amenities and the established character and the need to provide for sustainable residential development.
- 5.1.3. Development management standards are in Chapter 11. For residential development in ‘Outer Suburbs’ there is a requirement for one parking space per dwelling and one visitor space per three dwellings or, one space per dwelling if the layout is grouped. (Section 11.3.2.(g) refers.) Maximum plot ratio is 0.46.1
- 5.1.4. Fifteen percent of the total site area is required for allocation for communal recreational and amenity space provision.
- 5.1.5. Guidance on urban design is in section 8.78 providing for high quality development and protection of existing distinctive characteristics of the city.

5.2. Strategic Guidance.

- 5.3. The relevant strategic guidelines issued under Section 28 of the Planning and Development Act, 2000 as amended are:

“Sustainable Residential Development in Urban Areas” (2009) and the accompanying, *“Urban Design Manual, 2009”*. SUD Guidelines)

Sustainable Urban Housing Design Standards for New Apartments, 2020, (Apartment Guidelines) (Updated from 2018.)

Urban Development and Building Heights: Guidelines for Planning Authorities”, 2018. (Urban and Building Height Guidelines)

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was lodged by James O'Donnell on behalf of the applicant on 25th June, 2021 in which it is contended that the proposed development is in accordance with several identified sections and objectives within the National Planning Framework (NPF) and the Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly (RSES), in particular the Galway Metropolitan Area (MASP), is in the interests of sustainable density and neighbourhoods, effective use and consolidation on an infill/brownfield serviced underutilised lands, urban renewal and rejuvenation, is a high quality design contribution to the visual amenities and streetscape and, is in the interest of proper planning and sustainable development.
- 6.1.2. The submission includes, for consideration in the event that the further information proposals which the applicant contends are appropriate are not accepted, alternative proposals in which an additional element of the block at the third-floor level is omitted. (A “D12” three bed duplex unit is replaced with a two-bed unit.) It is stated that this option entails a significant reduction in perceived height in views from the public realm and adjoining properties, is a more conservative contextual reference to existing development to the east, achieves reduced overshadowing to the east which would be comparable to the shadow cast by the existing building. Included are revised drawings, 3D images and a shadow study.
- 6.1.3. According to the appeal:
- The proposed development is compliant with the criteria for ‘Sustainable Neighbourhoods’ (Chapter 2) Urban Design (Chapter 8) and Land use objectives and standards (Chapter 11) of the CDP.
 - With regard to higher density, it is not the policy of the CDP to discourage higher density as appears to be the interpretation in the reasoning for refusal of permission. It recognises the wide ranging mix of typologies and national policy moves away from over-protection of existing character towards efficient use of zoned serviced built-up areas.

- The planning officer accepts that the development enhances the design quality at the area having regard to the provisions of section 8.7 of the CDP on urban design. There is overreliance on section 2.22 of the Apartment Guidelines which allows for discretion to be exercised on a case-by-case basis having regard to quality by the planning authority, positive consideration especially where there is high quality design should not be inhibited by Section 2.22 of the Apartment Guidelines especially in that the planning authority considers that the urban design criteria in the CDP is met in the proposal.
- The decision to refuse permission contradicts comments in the planning officer report favouring demolition and replacement of existing poor quality low intensity development with a more intensive multi-level apartment development, and in an area in which other similar apartment developments are acknowledged. The proposal is fully compliant with Section 2 of the CDP providing for three broad neighbourhood area categories in the city, including “Outer suburbs” in which the site is located, and within it, Section 2.5 which encourages higher density at appropriate locations.
- The proposal responds to the amenities and the coastal setting with the scaling back revisions at the upper levels and in height. It benefits pedestrian linkage to surrounding areas, the mixed-use neighbourhood which is not a typical residential area on the R336. There is good public transport access as identified in the GTS and good pedestrian connectivity and availability of services and facilities. There is an appropriate balance between higher density sustainable development and complementarity with the prevailing character and protection of existing residential amenities and the design provides for energy efficiency and Part L and Part M.
- The proposal is compliant with the provisions of the Apartment Guidelines, namely section 2.2 and section 2.4 and, as indicated in the planning officer report the location can be identified as being within an “Intermediate Urban Location” as provided for in section 2.4.2. The subject urban area is suitable for apartment development, is on transport corridors including a higher frequency route and “red cross city route” in the GTS and CDP (including section 3.2 on land use and transportation) overlooks the park and waterfront

setting, is close to Salthill and its amenities and employment and to several recreational amenities and facilities and retail and commercial services on Shangort Road in the vicinity. There is sufficient precedent for higher density development in Intermediate Urban Locations in the city and as such the proposed density at 108 units per hectare is reasonable, and in conjunction with the density, higher quality design where minimum standards are exceeded are considerations.

- The proposal is compliant with the provisions of the SRDs regarding higher densities and higher quality as provided for in Section 5 for zoned brownfield lands (section 5.7.(b), 5.8. (c) and 5.9. (d) I in that the site is a small gap infill site assembly, suitable for higher density development compatible with surrounding development, in that it is the site of an outdated petrol station and substandard houses with city and town centres, on public transport corridors on the R336 and a route designated in the GTS or the cross-city bus route/red route and existing bus route Nos 402 and 410 and strikes an appropriate balance with existing development and inner suburban infill locations. It exceeds all relevant requirement for quality in design avoiding overdevelopment issues. Section 8.7 provides for efficiency with sustainable higher density in appropriate locations and it is noted that plot ratio provisions of the CDP are superseded by the provisions in the Apartment Guidelines.
- The proposal is compliant with the provisions for suburban/edge locations in the Building Height Guidelines in which three and four storey developments are recommended for existing neighbourhoods. The suburban location at the edge of the city, mix in design size and uses of existing developments in the area, the proposed small gap infill site and the R336 to the front, the coastal setting and amenities and the availability of public transport facilities are indicative of the appropriateness of the proposal in form and height and in density. The development response to SPPR the Building Height Guidelines 4 in design and integration to the existing character of the area.
- The three-storey building has good contextual reference to Bruach na Mara to the north from which the houses in which there is twenty-nine metres separation distance at third floor level, and to the two-storey house to the west which as at a higher finished floor level. The development, having regard to

the second reason for refusal of permission would not be overbearing. The scale, mass and height and design are high in quality and appropriate for the location, contrary to the view of the planning officer as reflected in the reasons for the decision to refuse permission. In views from the Promenade to the southeast looking northwest the compatibility with the mix of heights and with the open amenity areas is demonstrated.

- It is not agreed with the planning officer that the proposed development would overshadow and devalue adjoining properties. The shadow studies included in an appendix to the appeal which have been reviewed demonstrate that overshadowing impacts of the proposals in the further information submission, to the west on 21st March at 9.00 hrs and 21st September are limited, that the mixed residential and commercial development to the east pre development has moderate overshadowing impact at 18.00 hrs on June 21st and at 1500 hrs and 1800 hrs on September 21st and that the proposed development would add an insignificant amount of overshadowing of this development at these times.

6.2. Planning Authority Response

There is no submission from the planning authority on file.

6.3. Observations

6.3.1. Submissions were lodged by the following eight parties.

Residents of Bruach Na Mara

Paula O'Connor, 3 Bruach Na Mara

Martina Burke, 8 Bruach Na Mara

Mary Caulfield 7 Bruach Na Mara.

Frank and Jacqueline Woods, 6 Bruach Na Mara,

Maura O'Halloran, Acres, Knocknacarra

Carmel Garrett, Knocknacarra

Mary and Brendan Forkan

6.3.2. Some of the issues of concern are shared by two or more parties and others are specific to individual parties and are outlined below.

- Overshadowing would be greater than indicated in the further information submission. The top floor in entirety, not the partial omission of it is necessary.
- Nos 3, 4 and 5 Bruach na Mara would be overlooked and overshadowed especially in winter and these properties will lose access to solar heat. Forty windows in the proposed block will overlook these houses and the amenity space at Bruach na Mara will also be overlooked.
- The proposal has an excessive and inappropriate scale which is out of context with surrounding development. The height is excessive and incompatible with adjoining development. The block should be reduced to two storeys in height. The proposal does not meet any of national and local policy criteria that allows for increased building height.
- There is no regard for surrounding development as required for “Outer Suburbs” in section 2.5 and 2.6 of the CDP, “Established Suburbs”
- The development in design and form and height and is at an elevated location is totally out of character with the established development on the R336 which is mostly two storey housing. Sea Court and Gentian Hill on the south side and below the road level are not comparable in visual impact.
- A two-storey development with a reduced scale and mass, elimination of the access onto Bruach Na Mara may be acceptable on the site.
- The site is not suitable for demolition of existing houses and filling station in favour of higher density development.
- The density proposed is not required for fulfilment of population growth targets in the National Planning Framework and at regional level, the NWRSES-GMASP and the CDP. Sufficient provision has been made elsewhere in an identified land bank. It should be 35 units and not above 50 units per hectare.
- The size of the commercial ground floor space is excessive for the location at eighty- three square metres and ten staff.

- The site is not 'brownfield' as defined in the SUD guidelines (section 5.7) and the RSES It is "less accessible or peripheral" having regard to the Apartment Guidelines.
- The plot ratio is excessive at 1:74.1 The plot ratio of 1.46:1 prescribed in the CDP should not be exceeded.
- Communal amenity space should be 15% of site area. The useable space is deficient and in potential amenity and is to the north side of the block lacking sunlight access.
- Balconies for six units are 200 mm too short in depth have regard to section 3.37 of the Apartment Guidelines.
- Waste storage is substandard and should not be in basements.
- There is a shortfall in carparking spaces Eighteen space is serious shortfall for fifty occupants in total for commercial and residential components. Parking will overspill onto the adjoining roads and give rise to hazard especially for pedestrians.
- Access to and from the basement carpark of the R336 is deficient in visibility to the east and in the sizes for the ramps and exit and entrance. There is potential hazard on the R336 if vehicles back up to wait to use the down ramp.
- Installation of a rainwater harvesting system below the underground carpark which requires deep excavation is a potential risk to the stability of adjoining properties.
- The existing entrance to Bruach na Mara is and should be solely for one dwelling house. It should not serve a significant development such as that proposed. Condition No 1 of the grant of permission under, P. A. Reg. Ref 489/99 (PL 116419) prevents use of the entrance for other purposes. There is no justification for use of this access and it should be eliminated from the development.
- The pedestrian entrance (No 2 Knocknacarra to Bruach Na Mara) is not suitable as it will need to noise and nuisance increased parking demand on Bruach na Mara and reduction in amenity. It should be omitted.

- A building life cycle report should be included.
- The submission of Ms O'Halloran occupant of the adjoining property contains a statement that Ms O'Halloran is not in agreement with sale of any part of her property to the developer.
- The submission of Ms O'Connor of No 3 Bruach na Mara includes details of an alternative proposal for a two-storey building with eight apartment units and she includes in an appendix to her submission sketches and plans. She considers that her proposal would address her concerns as to insufficient parking and would result in no need for a basement and associated problems with it, that it would provide for adequate communal open space in quantum and amenity, and a privacy strip in front of the ground floor apartments, overlooking and overshadowing.

7.0 **Assessment**

- 7.1. The planning authority decided to refuse permission for the proposed development as provided for in the original and further information submissions is based on two reasons. In brief they are that of overdevelopment and incompatibility with the established character of development in the surrounding area and, serious injury to residential amenities of adjoining properties on Bruach na Mara. In the appeal, a further modification to the proposals provided in the further information submission is also included for consideration in the event that the proposals lodged at application stage are not accepted.
- 7.2. Having reviewed the documentation in connection with the application and the appeal of all the parties and having inspected the site, it is considered that the issues central to the determination of the decision can be assessed below under the following subheadings are:

Justification for the proposed development

Density and Residential Qualitative standards

Design, Scale, mass and height.

Overlooking

Overshadowing

Demolition, excavation and site preparatory works.

Rights of Way.

Traffic Impact Assessment

Parking

Communal open space provision

Access - Bruach Na Mara.

Environmental Impact Assessment

Appropriate Assessment.

7.3. Justification for the proposed development.

- 7.3.1. There is no objection in principle to the proposed demolition of the existing dwellings on the assembled site which are habitable, or to the existing filling station in favour of redevelopment consistent with national and local strategic sustainable development policies and the relevant objectives specific to the suburban location and residential zoning. In this regard it is agreed with the planning officer that the site comes within “Outer Suburb” within the CDP for which the provisions of section 2.5 would apply and to the location coming within ‘Intermediate Urban Location’ having regard to the Apartment Guidelines, 2020 and in particular with regard to section 42.4.(2) favouring smaller scale higher density apartment developments in such locations. Furthermore, the proposed development is consistent with Urban and Building Height Guidelines according to Special Planning Policy Requirement (SPPR1) of which it is government policy to support increased building height and density in locations with good public transport accessibility.

7.4. Density and Residential qualitative standards.

- 7.4.1. The site location is consistent with section 2.5 of the CDP which encourages higher densities at appropriate locations especially close to public transport routes striking a balance between reasonable protection of residential amenities of the outer suburbs and that of the established character and need to provide for sustainable residential development and ensures sustainable neighbourhoods. Similarly, the site is

consistent with section 2 and in particular 2.4.(2) of the Apartment Guidelines which seeks to facilitate higher density, within “Intermediate Urban Locations where higher density apartment development is likely to be suitable further to local assessment. In addition, the location would be appropriate having regard to section 5 of SRD in which higher density is suitable in cities on gap and or brownfield site close to transport corridors. In this regard of particular note is the proximity to the existing bus routes and to the designated high frequency “red” city bus route identified in the Galway Transport study and local facilities and services. There is no objection in principle to the revised proposal providing for sixteen apartments at a density of 108 units per hectares and plot ratio of 1:1.1. As required for ‘outer suburbs’ the revised proposal in the further information in providing for more ten dwellings, does include recreational facilities as integral to the open space as discussed under para 7.12.1 and 7.12.2 below.

- 7.4.2. The dwelling mix apartments (in the original, further information and revised submission within the appeal) all of which are dual aspect with south facing balconies), in sizes, internal layouts and general qualitative standards are consistent with those within the Apartment Guidelines and provide for a satisfactory qualitative standards of residential amenity for future occupants.

7.5. Design, Scale, mass and height.

- 7.5.1. In providing for higher density the relevant criteria in the CDP and Apartment Guidelines 2021 provides for reasonable protection of residential amenities and established built character of the surrounding environment. The prevailing character of development to the north of the application site is that of established low density residential estates of one and two storey houses. These areas are at a more elevated level than the application site and road frontage properties. It is agreed that apartment developments such as Gentian Hill which on a semi secluded site offset from the road frontage to the south of the R336 are not comparable for taking precedent for infill sites such as the subject site.

- 7.5.2. It is considered that the site has capacity for development of an apartment block contrasting in design and form to surrounding residential development, without undue adverse impact on the visual or residential amenities of the area.
- 7.5.3. The proposal shown in the response to the appeal submission is considered satisfactory in visual impact and compatibility with the surrounding built environment. The revised building form with two steps up, from the east, adjacent to the existing corner site bungalow towards the two-storey house to the west. This house is at a higher ground level and has a ridge height similar to height of parapet of the second floor at the western end of the proposed block and there is a separation distance of circa 12.5 metres between the two and as a result the west facing façade is not overbearing. This modification in which there is significant additional reduction in building form at third floor level relative to that proposed in the further information submission is considered warranted to ameliorate potential overdominance in views within the streetscape from the east from the public realm and overbearing impact on the adjoining single storey property on the east side at the corner of Knocknacarra. The front façade is divided and has vertical detailing in the glazing and entrances to the duplexes that ameliorates any potential for a continuous horizontal blank facade over the length on the road frontage.
- 7.5.4. It is also considered that the alternative proposal in the response to the appeal, (as opposed to the revised proposals in the further information submission) is warranted in that it is not overbearing or visually intrusive from the perspective of the residential amenities of properties on Bruach na Mara. It cannot be confirmed as to whether views over the site towards Galway Bay are attainable from upper floors of any of the properties opposite the site on Bruach na Mara. However, it should be borne in mind that there is no entitlement to retention of a view from private properties.

7.6. Overlooking

- 7.6.1. The minimum separation distance between the front building line of the nearest of the properties on the north side of Bruach na Mara opposite the site is seventeen metres from the site boundary and 24.5 metres from the north facing façade. These properties and their front curtilages face towards the application site. It is considered that the proposed development would not give rise to overlooking or intrusiveness into the privacy of these properties. All first and second floor balconies are south

facing overlooking Galway Bay across the communal open space to the front. A suitable screen can be installed for the west facing balcony/terrace for one of the penthouse units third floor level which would mitigate overlooking and perceptions of overlooking towards the west.

7.7. Overshadowing

- 7.7.1. With regard to potential for overshadowing of adjoining properties it is established in the shadow studies to the increase in shadow effect on the properties to the north relative to existing conditions is relatively minimal for the revised proposals in the further information submission and in the response to the appeal.
- 7.7.2. Shadow on 21st December to the front curtilage of the two properties opposite the site is increased in coverage in both the further information and the proposal in the response to the appeal
- 7.7.3. The proposal included in the response to the appeal with the additional height reduction at the eastern of the proposed block reduces the extent of the shadow cast by the further information proposal on the north side of the property to the east of the site property in September, 21st at 6pm.
- 7.7.4. It is considered that the sufficient baseline information and assessment has been provided to allow for consideration an acceptance of the proposal and that a more detailed assessment is unwarranted.

7.8. Demolition, excavation and site preparatory works.

- 7.8.1. There are concerns among thirty parties as to risk to the stability of their properties owing to deep excavation required to accommodate the proposed basement and a rainwater harvesting system. However, comprehensive outline proposals to ensure appropriate excavation methodology incorporating protective measures are proposed. There is an undertaking in the structural and civil engineer's report to carry out predevelopment structural condition surveys for properties including all structures within twenty-five metres within twenty-five metres with an independent consultant being appointed, geotechnical investigation and use of bored secant cast in situ piles to support boundaries during excavation. works. There is also an undertaking to comply with BRE 365 with regard to infiltration tests in respect of the water table. Survey details for the filling station and underlying aquifer and bedrock

and an assessment and proposed methodology for decommissioning and environmental assessment.

- 7.8.2. It is agreed with the planning officer that the proposals involving and decontamination of the site of the filling station, deep excavation specifically in relation to the basement and rainwater harvesting storage system to be installed satisfactorily addresses any concerns as to risk to structural stability of adjoining properties, boundaries. Appropriate conditions of a standard nature can be attached if permission is granted.

7.9. Rights of Way.

- 7.9.1. It is considered appropriate for the determination of the application and appeal to have proceeded, notwithstanding the dispute between the adjoining property owner and the applicant over the Right of Way to the west side of the site. The applicant claims that the right of way is outside the redline boundary. However, it is noted that it is open to the parties to have any dispute resolved through the legal system and that a grant of planning permission precludes entitlement to implement the grant of permission as provided for in section 34 (13) of the Planning and Development Act, 2000 as amended.

7.10. Traffic Impact Assessment.

- 7.10.1. There is no objection, taking into account traffic volumes and turning movements on the R336 that have been generated by the existing development, particularly the filling station on the assembled site. It is reasonable that the projection as to generation traffic volumes to be lower as indicated further to the assessment in the submitted traffic impact assessment report.
- 7.10.2. The entrance arrangements, in effect amounts to a reduction relative to the development to be replaced and achievement of DMURS standards as demonstrated in the further information drawings. The traffic volumes generated by a development of the size proposed is such that any potential for backing up and waiting along the R336 would be insignificant. The replacement of existing entrances for the filling station and existing dwellings onto the R336 with the new entrance arrangements at appropriate standards, as indicated in the appeal is a benefit overall.

7.11. Parking

- 7.11.1. Although the on-site carparking provision falls short of the CDP standards for 'Outer Suburbs', there is no objection to the quantum of on-site parking provision. For a development of the size proposed, it is considered that the proposed development would lead to any significant demand for on street parking in the area. A reasonable case made on behalf of the applicant that the under provision accords with the Apartment Guidelines, 2020 (Section 4.21) if it is accepted that the location is an 'Intermediate Urban Location' served by public transport and employment. It would be consistent with national policy in the interests of sustainable development for encouragement of use of alternative modes of transport. There is ample provision of cycle parking as shown in the further information at fifty on spaces overall.

7.12. Communal Open Space provision.

- 7.12.1. It is considered that a satisfactory revised proposal in which communal open space on the south side of the proposed block is provided in the further information submission addresses the planning authority concerns on original proposal which was mainly dependant on communal open space provision on the north side of the building. While the amenity potential of the proposed communal space on the south side of the building may be diminished by the proximity to the road it is a quality scheme which is also sufficient in size and in relation to the proposed building and in excess of the minimum requirement of 118 square metres having regard to the Apartment Guidelines standards.
- 7.12.2. The space is dominated somewhat by the access route to the basement but other than excluding the basement parking and basement level facilities in entirety, or one of the lanes, or it is accepted that there is little scope for mitigation of the extent of hard surfacing within the scheme other than by selection of high-quality surface materials. Also, the use of artificial grass as shown on the plans is not satisfactory and is not supported but this can be addressed by way of compliance with a landscaping condition landscaping if permission is granted. Nevertheless, the layout and landscaping and the availability of good access to sunlight are positive.

7.13. Access - Bruach Na Mara.

- 7.13.1. The proposed development provides for pedestrian access to the proposed building along Bruach na Mara from Knocknarcarra to the west. This is considered both

reasonable and desirable, providing future occupants with the benefits of permeability and convenient access to the bus services without need to use the Coast Road R336. The internal road and communal spaces within Bruach Na Mara are not in private ownership and there is no involvement of rights of way over private property in third party ownership. The residential amenities of the properties in Bruach na Mara would un unaffected by use of this route by the future occupants.

7.13.2. There is pedestrian access through the site between at the rear of the filling station linking Bruach na mara with the Coast Road R336. It is not agreed that there is any substance to the view that the proposed development is in material contravention of a condition attached to a prior grant of permission under P. A. Reg. Ref. 489/00 further to appeal as contended by observer parties. Under the subject condition, No. 1 use of a permitted access excludes use as a through route between the filling station and Bruach na Mara.

7.13.3. However, the current proposal is a new development proposal for which a *de novo* consideration is applicable and which is unrelated to the prior grant of permission and, specifically, the condition precluding through access to the filling station (to be demolished) from Bruach Na Mara. The objections as to material contravention of the condition in this regard are considered to be irrelevant.

7.14. Environmental Impact Assessment Screening.

Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.15. Appropriate Assessment.

7.15.1. An appropriate assessment screening report was included with the further information submission at the request of the planning authority and it has been consulted for screening purposes.

7.15.2. The site, which is on the north side of the R336, Coastal Road to the west side of Galway city and is that of a filling station to the front and houses to the centre and rear. It is underlain by granite and the groundwater vulnerability is high .is not within

the area of any European sites, but the location is close to two European sites at circa one hundred and twenty-five metres from the Galway Bay SAC (000268) for which the qualifying interests are several habitats and *Phoca vitulina* and *Iutra*, one hundred and eighty-eight metres from the Inner Galway Bay SPA (004031) for which the qualifying species are several Annex 1 bird spaces.

- 7.15.3. Within the fifteen metres buffer zone there are several other European sites which have been assessed in the submitted appropriate screening report and it is agreed that they can be screened out due to absence of connectivity and distance from the site location including ranges of foraging habitats for the Lesser Horseshoe bats associated with the Lough Corrib SAC, the East Burren Complex SAC, the Ross Lake and Woods SAC and the Moneen Mountain SAC sites.
- 7.15.4. There are a range of threats which includes discharges of polluted waters and impacts from urbanised areas/human habitation. Management plans have been prepared for both the Galway Bay SAC and for the Inner Galway Bay SPA sites, with habitats and species being accustomed to urban generated anthropogenic activities.
- 7.15.5. The project involves demolition of the existing above ground filling station building and associated structures the houses and underground storage tanks and for construction of an apartment block incorporating basement parking. which are to be connected to the existing public drainage system via polyvinyl chloride pipework.
- 7.15.6. Potential source pathway connectivity is that of dust emissions, water discharge during construction stage and foul and surface water discharge at operational stage. The project, which is small scale, both in its construction stage and the subsequent operational stages would not affect the European sites in that all foul and stormwater, to be attenuated and passed through petrol interceptor to the public sewer and treatment system and dust emissions will be controlled and managed through the proposed arrangements for good construction practice. The project, in combination with other plans and existing and permitted projects within the vicinity would have no significant impacts.
- 7.15.7. Having regard to the location of the site, which is an infill brownfield site is on serviced land and to the scale and to the nature of the proposed development and the serviced inner urban site location, no Appropriate Assessment issues proposed

development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to refuse permission be overturned and that permission be granted based on the reasons and considerations and conditions which follow.

9.0 Reasons and Considerations

Having regard to:

- The Galway City Development Plan, 2017-2022 according to which the site location is within an area subject to the zoning objective “R”: *“To provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods”* and within “Neighbourhoods - Outer Suburbs” as provided for in section 2.5 thereof.
- *Sustainable Urban Housing Design Standards for New Apartments, 2020*, (Updated from 2018.)
- To *“Urban Development and Building Heights: Guidelines for Planning Authorities”*, according to Special Planning Policy Requirement (SPPR1) of which it is government policy to support increased building height and density in locations with good public transport accessibility, particularly near or in town/city cores and,
- *‘Design Manual for Urban Roads and Streets’ 2012 (DMURS)*
- The configuration of the site and, and the established pattern and character of the existing development in the surrounding area

it is considered that subject to compliance with the conditions below the proposed development would not seriously injure the visual amenities and character of the surrounding built environment or the residential amenities of adjoining properties would be acceptable in terms of vehicular and public safety and convenience, would

not be prejudicial to public health and, would 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 23rd April, 2021, and by the further plans and particulars received by An Bord Pleanála on 25th June, 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 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:

Location of site compound of the site and materials compound including areas identified for the storage of construction refuse, site offices and staff facilities including staff parking.

Details of fencing and hoarding for demolition and construction stages.

Details of protective measures for boundaries and adjoining properties within twenty-five metres of the site location to be retained in the development which shall be retained in place throughout the demolition and construction stages

Details of the timing and routing of construction traffic to and from the construction site and associated directional signage to include measures to obviate queuing of construction traffic on the adjoining road network.

Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

Details of measures for noise, dust and vibration control and management and for monitoring of emission levels.

Details of arrangements to ensure that during the construction and demolition phases, works are in accordance the standards in, British Standard 5228 '*Noise Control on Construction and Open Sites, Part 1. Code of practice for basic information and procedures for noise control.*'

Measures for containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained.

Details for removal and disposal of excavated soil and material from demolition and site clearance.

Measures to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sources or groundwater.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of clarity and orderly development, environmental protection, amenity, public health and safety, and the proper planning and sustainable development of the area.

3. 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, "*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.

Reason: In the interest of sustainable waste management.

4. Hours of construction shall be confined to the hours of 0800 and 1900 Mondays to Fridays excluding bank holidays and 0800 hrs and 1400 hrs on Saturdays only. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of the protection of the amenities of the area.

- 5.. Details of materials, colours and textures of all external finishes including roof materials which shall be in a dark shade shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

6. The applicant shall obtain water and waste-water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

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

Reason: In the interest of public health.

8. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and visual amenities of the area.

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

Reason: In the interests of amenity and public safety.

10. Proposals for a scheme name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. No advertisements/marketing signage shall be erected without the prior written agreement of the planning authority.

Reason. In the interest of amenity and clarity

11. Prior to the commencement of the development, fully detailed Servicing Management Plan shall be submitted to and agreed in writing with the planning authority. The implementation of the measures provided for in the plan shall be managed, monitored and reviewed by the operator of the development.

Reason: In the interest of pedestrian and vehicular safety and convenience.

12. A plan containing details for the management of waste including recyclable materials within the development, and facilities for the storage, separation and

collection including the ongoing operation of these arrangements for each dwelling unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

- 13 Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the occupation of any dwelling.

Reason: In the interests of amenity and public safety.

14. The car parking spaces within the development shall be retained solely for use associated with dwellings and shall not be sold, rented or otherwise sub-let or leased to other parties.

Reason: In the interest of sustainable transportation.

15. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 (as amended), no additional development shall take place above roof level, including lift motors, air handling equipment, storage tanks, ducts or other external plant or the erection of telecommunications equipment other than those already shown on the drawings submitted with the application, unless authorised by a prior grant of planning permission.

Reason In the interest of clarity and visual amenity

16. Prior to the commencement of the development, the applicant shall submit and agree in writing with the planning authority, a detailed design and specification for the recreational facility/outdoor seating to be provided within the communal open space to the front of the building. Landscaping, planting and boundary treatment, and external communal amenity space provision shall be fully implemented within the first planting season following completion of construction.

Reason: In the interests of the visual amenities of the area and orderly and sustainable development.

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

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

18. 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.

19. 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.

Jane Dennehy,
Senior Planning Inspector,
25th October, 2021.