



An
Bord
Pleanála

Inspector's Report ABP 311623-21.

Development

Construction of a two-storey above ground discount foodstore (to include off license use) with a gross floor area of 2,019 square metres (net retail area 1,254 square metres) at Monivea Road, Galway. The development includes the erection of signage, a sculpture and roof mounted solar panels, car parking at surface and basement levels, bus stop, removal of existing boundary wall, landscaping, boundary treatments and site development works, connection to services and all other ancillary site works.

Location

Monivea Road, Galway.

Planning Authority

Galway City Council

P. A. Reg. Ref.

20/332.

Applicant

Aldi Stores

Decision

Grant Permission

Type of Appeal

Third Party(s) v Grant

Appellant

(1) RGDATA

Observer (2) Tesco Ireland
Galway Cycling Campaign

Date of Site Inspection 27th January 2022.

Inspector Fergal Ó Bric.

1.0 Site Location and Description

- 1.1. The application site has a stated area of 0.43 hectares and comprises a brownfield site which has been subjected to significant excavation works within the confines of the Ballybrit Business Park. There are existing enterprise units located immediately east, west and north of the appeal site. The Monivea Road, the R339 is located immediately south of the appeal site. Along the Monivea Road frontage is a bus stop and there is two storey terraced and semi-detached housing on the opposite side of the Monivea Road. There is also a small convenience store on the opposite side of the Monivea Road, set amongst the residential development.
- 1.2. The site area is enclosed to the west and north by Palladine type fencing, a low wall fencing to the south and is open to the east. extending as far as an adjoining enterprise unit within the Business Park.
- 1.3. The site is served by and accessed from a key radial route, (R339) which has a wide, three metre footpath on both sides. The R339 is an important link between the N6 at Bothar na dTreabh and the Ballybane Road.
- 1.4. The Doughiska District Centre at Briarhill anchored by a Dunnes Stores convenience store is located approximately 0.9 kilometres east of the appeal site
- 1.5. Three letters of consent accompanied the planning application, from Galway City Council, IDA Ireland and Michael and Beatrice McGreal consenting to the carrying out of the development works on lands within their ownership.

2.0 Proposed Development

- 2.1. The development would comprise the following:
 - Construction of a two storey (above ground) discount foodstore and ancillary off license, gross floor area 2,019 sq. m. and net retail area 1,254 sq. m.
 - .80 car parking spaces at surface and basement car park levels.
 - Bus stop and pedestrian crossing.
 - Removal of existing boundary wall as well as landscaping, boundary treatment and site development works.
 - Connection to existing services.

- free standing and mounted signage and sculpture.
- roof mounted solar panels and,
- associated above and below ground works.

2.2. The application is accompanied by a Planning Cover Report, Appropriate Assessment Screening Report, a Natura Impact Statement, an Ecological Impact Assessment, an Engineering Services Report. A Retail Impact Assessment, Traffic Survey Reports, a Traffic Impact Assessment and a Road Safety Audit.

2.3. Further information was submitted by the applicants in relation to: the submission of a Traffic Impact Assessment; outlining how the proposal will integrate with the Bus connects on the Monivea Road; Demonstration that proposals are compliant with the Design Manual for Urban Roads and Streets principles; Details of finished levels of pedestrian connectivity between appeal site and the Monivea Road; the submission of a Mobility Management Plan; A Road Safety Audit; Details of deliveries to the supermarket and revised public notices.

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

2.5. Letters of consent to the making of the planning application have been received from Galway City Council, IDA Ireland and Michaela and Beatrice McGreal.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. Planning permission was granted following the invoking of the material contravention procedures, subject to eighteen conditions. Most of the conditions are of a standard nature and except for a few which are summarised below:

Condition number 2: Financial contribution.

Condition number 3: Signage.

Condition 5: Details of sculpture to be agreed with Planning Authority.

Condition 7: Refuse storage.

Condition 10: Surface water management.

Condition 11; Road opening licence.

Condition 12; Pedestrian crossing.

Condition 18: Construction Management Plan.

3.2. Planning Authority Reports

- 3.2.1. The Transportation Section within Galway City Council (GCC) outlined no objections to the proposed development following the submission of the further information response which included a revised Traffic Impact Assessment (TIA), Road Safety Audit (RSA), details of how the proposals would integrate with the Bus Connects proposal along the Monivea Road and that the finished levels between the appeal site and the public road provide for optimal pedestrian safety.

3.3. Prescribed Bodies

- 3.3.1. **Transport Infrastructure Ireland**-No objection.

3.4. Third Party Observations

- 3.4.1. Five observations were received in total. Two were from local residents and the others were from RGDATA, Tesco Ireland and the Galway Cycling Campaign. The issues raised within the observations relate to the following matters:

- Adverse impact upon neighbouring residential amenity.
- Development incompatible with the underlying land use zoning objective.
- Development would establish an undesirable precedent.
- Proposals contrary to the retail policies and objectives as set out in the Regional Economic and Spatial Strategy (RSES) for the Northern and Western Region and in the Development Plan.
- Adverse impact upon vitality and vibrancy of Galway City Centre.
- Inaccuracy of the traffic assessment submitted.

- Concerns over traffic and pedestrian safety.
- Queries over type and location of pedestrian crossing.
- Queries over type and location of cycle parking.
- Car parking proposals are deficient.
- Urban design and layout is not appropriate.

4.0 Planning History

The following is the relevant planning history pertaining to the appeal site:

Planning Authority reference number 03/974 in 2004, Galway City Council permitted the construction of two commercial units on site, one unit comprising an industrial unit with offices overhead and the other unit comprising ground floor retail units and offices overhead.

5.0 Policy Context

5.1. Galway City Development Plan 2017-2023

- 5.1.1. The operative development plan for the appeal site is the Galway City Development Plan 2017-2023 according to which the site is subject of two land use zoning objectives, one to the eastern and central parts of the site is zoning objective “C1”: Commercial /Industrial. *“To provide for enterprise, light industry and commercial uses other than those reserved for the CC zone.”* The other zoning to the west of the appeal site adjoining the entrance and access road to the Ballybrit Business Park and its associated enterprise units is land use zoning “I” *“To provide for enterprise, industry and related uses”*.
- 5.1.2. Section 5.1 of the Plan pertains to economic activities and states “The City Development Plan continues to support a retail hierarchy for the city with a prime role for the city centre”.
- 5.1.3. Section 6.3 of the Plan sets out the Retail Hierarchy for the city. Galway City Centre is identified as Level 1 within the hierarchy. The Plan sets out the following in terms of the role of the hierarchy “In particular, the hierarchy will inform the basis for

determining the appropriate scale and type of new development for specific locations”.

- 5.1.4. Section 11.2.6 sets out the uses provided for within C1 zones are Warehousing and Storage, and *“Retail of a type and scale appropriate to the function and character of the area, specialist offices and offices of a scale appropriate to the character of the area, light industry, travellers’ accommodation, childcare and community or cultural facilities”*. Other uses open for consideration are, a range of services, service retailing, utilities and infrastructure. There is a specific objective set out within Section 11.2.6, *which sets out that “Bulky goods retailing and local retailing needs, will be the only retail types considered on CI zoned lands not provided for in the Retail Hierarchy at/adjoining; Briarhill, Doughiska Road (west of), Tuam Road, Dublin Road, Sean Mulvoy Road, Sandy Road, Headford Road/Bóthar na dTreabh (north of the Bodkin junction), and Seamus Quirke Road. An exception for the consideration of food store and restaurant use will apply to a portion of CI lands at Briarhill, namely the site of Western Motors and the adjoining site to the east, bounded by the Monivea Road and Parkmore Road”*.
- 5.1.5. Carparking spaces at 1 space per 15 square metres gross floor area. Table 11.5 of the Development Plan.
- 5.1.6. The Doughiska District Centre is located approximately 0.9 kilometres east of the appeal site and within the Plan is designated as, “District Centre” (Figure 10.9). It is one of three designated District Centres (Level 3 Centres) designated within the Retail Hierarchy in the CDP. The two other designated District Centres are to the west of the city, the first at Knocknacarra and secondly at Westside Shopping Centre.

5.2. **Draft Galway City Development Plan 2023-2029**

- 5.2.1. The Draft Galway Development Plan (DGDP) was on public display until April 2022 and the Chief Executive’s report is currently being prepared on the submissions received during the display period. The Plan is expected to be adopted in the first quarter of 2023. A C1 land use zoning objective pertains to the whole of the appeal site under the Draft Plan where the zoning objective is *“To provide for enterprise, light industry and commercial uses other than those reserved for the CC zone.”*

5.2.2. Section 6.4 of the Draft Pan identifies retail trends in Galway City and identifies that as of September 2021 there is 2,356 sq. m of convenience floor space in extant permissions available for the development of convenience retailing within the city area and a further 2,988 sq. m of convenience retailing was in the planning system at that moment in time. Section 6.5 sets out the Retail Hierarchy, with the city Centre being in level 1 and the District Centres and Neighbourhood centres in levels 3 and 4. The appeal site is not specifically identified for the provision of a District or Neighbourhood centre. Doughiska is the designated district centre for the eastern suburbs of the city "has potential on the remaining lands for expansion to broaden the mix and potentially include for some residential uses also".

5.3. Strategic Guidance.

5.3.1. Retail Planning: Guidelines for Planning Authorities, (DOECLG, 2012) (RPG)

Section 28 Strategic guidance providing for a strategic approach and cohesive plan led retail development and seeks to.

- Ensure that retail development is plan-led.
- Promote city/town centre vitality through a sequential approach.
- Secure competitiveness in the retail sector by actively enabling good quality development proposals to come forward in suitable locations.
- Facilitate a shift towards increased access to retailing by public transport, cycling and walking in accordance with the Smarter Travel strategy; and
- Deliver quality urban design outcomes.

5.3.2. The proposed discount food-store comes within the "Supermarket" category as provided for in the description in Annex 1. *"A single level self-service store selling mainly food, with a net retail floorspace of less than 2,500 square metres."*

Development Management Guidance is set out within Section 4. Criteria that should be addressed within a Retail Impact Assessment set out within Section 4.9.

5.3.3. Retail Design Manual: A Companion Document to the Retail Planning Guidelines DoAHG (April 2012).

This is a companion document to the Retail Guidelines which emphasises the need for high quality design that is appropriate to the character location and configuration

of the site and its environs to improve the urban grain, pedestrian permeability and provide for high quality design and finishes.

5.3.4. Regional Spatial and Economic Strategy for the Northern and Western regions 2020-2032

The Regional Spatial and Economic Strategy (RSES) for the Northern and Western Region 2020-2032 sets out that the primary objective for the Metropolitan Area Strategic Plan (MASP) is “To preserve and enhance the city centre as the primary commercial area”. The Strategy also identifies a number of District Centres within the suburbs in areas where it envisages population, commercial and enterprise growth. In Galway.

Section 3.6 of the Strategy sets out the following in relation to Retail “The strategy is also to designate District Centres on lands near the main areas of population and anticipated growth centres such as that at Knocknacarra, Doughiska, Westside and Ardaun to accommodate an appropriate range of retail, non- retail, community and leisure services. The scale and nature of these District Centres must be such that they will not threaten the prime function of the city centre core shopping area. Neighbourhood Centres are designated at several locations including Salthill, Ballinfoyle-Castlegar, Renmore. A primary objective of the MASP is to present a strong policy focus to preserve and enhance the city centre as the primary commercial area within the city supporting a range of retail, commercial, tourism, social and cultural activities”.

5.4. Natural Heritage Designations

In terms of Natura 2000 sites, the appeal is located approximately 1.9 kilometres north of the Galway Bay Complex SAC (site code 000268).

The appeal site is also located approximately 2.4 kilometres north-east of the Galway Bay Complex NHA (site code 000268).

5.5. Environmental Impact Assessment (EIA) Screening

It is proposed to construct a retail development (convenience supermarket) and would comprise a total gross floor area 2,019 square metres (sq. m.) on a site area of 0.43 hectares.

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

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

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

The appeal site is not considered to constitute a business district and would come under the category of other parts of a built-up area. At 0.43 hectares, the site area is, therefore, below the 10 hectare threshold set out above and is located on the periphery of Galway city, on what constitutes a brownfield site.

As per the criteria set out within Schedule 7 of the Planning and Development Regulations 2001 (as amended)), as to whether a development would/would not have a significant effect on the environment, the introduction of a residential and retail development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not located within an area of landscape sensitivity or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (*as discussed below in Section 7.7 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 City Council, upon which its effects would be marginal.

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory thresholds in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are governed by C1 and I zoning objectives under the provisions of the Galway City Development Plan, and the results of the strategic environmental assessment of the Galway City Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of retail and residential development in the vicinity,
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).

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

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

6.0 The Appeal

6.1. The proposals are subject to third party appeals. An appeal was lodged by Avison Young Planning and Regeneration Ltd on behalf of Tesco Ireland and another by RGDATA. Many of the issues raised within their appeal submissions had been raised within their observations to the Planning Authority except for the following issues:

Principle of Development:

- The principle of development is not acceptable in this instance as the development represents a material contravention of the land use zoning which is to provide for enterprise, industrial and related uses.
- Permitting uses which are inconsistent with the land use zoning objectives removes any certainty for neighbouring residents, businesses and developers and undermines the overall principle behind the zoning objectives.
- The appropriate method for seeking alterations to the Development plan is during the plan review process.
- The subject site is only partly zoned C1 and the appeal site is not identified for the development of supermarket facilities within the retail hierarchy.
- The proposals would not protect the vitality, viability and primary retail function of the City Centre.

Site Location:

- The site is located on an unsuitable out of centre site and there are other more suitably zoned sites available.
- The Regional Spatial and Economic Strategy for the Northern and Western Region 2020-2032 sets out that the primary objective for the Metropolitan Area Strategic Plan (MASP) is “To preserve and enhance the city centre as the primary commercial area”.

- The Retail Planning Guidelines sets out that large convenience goods stores should be located in city or town centres or in District centres or on the edge of District centres to protect their retail integrity.
- The City Development Plan (CDP) identifies some specific sites with a C1 zoning objective as being suitable to accommodate retail development, including lands at Doughiska.
- The applicants only appear to have considered alternative sites which were more proximate to the city centre than the appeal site within their sequential test.
- The retail function in this area of Galway has been assigned to the Doughiska District Centre. The development if permitted, would undermine the function and retail character of the Doughiska District Centre and therefore, would be inappropriate at this location.
- The appeal site is not identified as a District Centre or Neighbourhood Centre with the CDP, nor is it provided for within the Retail Hierarchy.
- The nature of the retail development is unsupported by the retail hierarchy as set out within the Plan and is totally unjustifiable.
- The site is located approximately 1.6 kilometres removed from the nearest part of the city centre (CC) zoning objective and therefore, constitutes an out of centre peripheral location and would be contrary to the strategic objective “To protect and reinforce the strategic role of the city centre as the prime retail area in the city, County and the Western Region”.
- An over provision of convenience retail use within the eastern suburbs of the city would be entirely inappropriate, would undermine the retail primacy of the city centre and be contrary to the proper planning policy for this area.

Quantum of Retail Development:

- Having regard to the quantum of retail development proposed and the industrial character of the site, the foodstore is not appropriate to the function and character of the area as required under the C1 land use zoning objective.

- The area is well served in terms of local convenience retailing services including Dunnes Stores within the Doughiska District Centre, approximately 1 kilometre to the east, Joyce's supermarket within the Ballybane shopping centre to the southwest and Iceland and Lidl foodstores to the south east off the Doughiska Road and McGreals local convenience store located immediately south of the appeal site, on the opposite side of the Monivea Road. Given the quantum of convenience retailing already in operation within this locality, the necessity for an additional foodstore at this out of centre location, cannot be justified.

Traffic and access Issues:

- The development would result in increased traffic generation in this vicinity and overspill of traffic onto the into the Ballybrit Business Park and result in the creation of a traffic hazard.
- The applicants are proposing a traffic displacement due to the shortfall in on-site car parking which falls well below the car parking standards as set out within the CDP.
- Given the land use zoning pertaining to the appeal site, the opportunity to promote linked multi-purpose trips associated with the proposed development is reduced given the established industrial and enterprise uses adjoining the site.

Other Issues:

- The Board issued a decision to refuse planning permission under reference number 307522-20 on a site along the Seamus Quirke Road which was similar in nature to the current proposal. The similarities include that both constituted out of centre locations, both pertained to the development of Discount foodstores, both had a C1 zoning objective, neither had a specific objective for the development of a foodstore as per the CDP for their locations and both sites were not provided for within the city retail hierarchy. The reason for refusal was based mainly around the location outside of a designated District Centre and being contrary to the C1 zoning objective.

6.2. Applicants Response to the Grounds of Appeal

Principle of Development:

- The principle of this scale of development, which would provide more for top-up shopping rather than weekly shops would be acceptable under the C1 zoning objective.

Site Location:

- There are no vacant sites available to cater for the development within the city centre or within the eastern suburbs.
- The Retail Impact Assessment (RIA) Figure 7 identifies a need for additional convenience retail shopping to serve the population catchment in the eastern city suburbs.
- A site identified by the appellants, adjacent to the Briarhill District centre in the eastern suburbs is not available to the applicants.
- The RIA identifies a significant shortfall in the quantum of convenience retail floorspace in the eastern suburbs, with a population catchment of approximately 22,000 persons.
- The extent of the I-Industrial and Employment land use zoning is too small to facilitate any beneficial development to accommodate those uses.

Access and Parking:

- Car parking provision is adequate, and a number of similar precedents have been permitted for similar type retail developments in Galway and Clare.

Other Issues

- The excavation works completed on site were carried out on foot of a valid planning permission.
- A high quality architectural design and layout is proposed.
- The design criteria as set out within the Retail Design Manual 2012 have been incorporated within the design and layout proposals.
- At the Lidl store in Knocknacarra a shortfall of sixty percent was accepted (ABP 308421 refers) and a similar view was taken regarding a shortfall in

parking for an extension at Joyce's retail development in Knocknacarra where an extension was permitted under P. A. Reg. Ref. 19/277.

- The content of the submissions at application stage to the Planning Authority by Tesco and RGDATA have been addressed in the application, most notably within the RIA and the appeal response made by the first party.
- The allegations made by the third party appellants that there would be an overprovision of retail floorspace as opposed to providing retail facilities for the local area are refuted.

6.3. **Planning Authority Response**

6.4. The Planning Authority did not make any comments in relation to the planning appeal.

6.5. **Observations**

6.5.1. An observation was received from the Galway Cycling Campaign. Many of the issues raised within their observation had been raised within their observation to the Planning Authority except for the following issues:

- Location of the bus bay along the site frontage with the Monivea Road, as proposed by the applicants as part of proposals impacts on the plans for the cycle route at this location. The supermarket building would need to be set back by a further 2 metres from the road edge to provide for the bus bay and the planned cycle lanes along the Monivea Road.
- Provision of dropped kerbs in the cycle parking area is lacking.
- The cycle parking shelters should be covered.
- Separate secure bicycle parking for staff in the basement car park should be provided.
- Sheffield type covered bicycle stands should be provided, especially for staff cycle parking, who would park for prolonged periods of time.

- The provision of the pedestrian crossing is welcomed but should be modified to a raised zebra crossing, given its location within a 50 kilometre speed control zone.
- The provision of underground car parking is welcomed in terms of optimising the development of the site.
- Additional cycle parking in proximity to the store entrance should be provided.

7.0 Assessment

7.1. The issues central to the determination of the decision are considered below under the following subheadings.

- Principle of Development
- Retail Hierarchy
- Traffic and Parking
- Design and Layout
- Ecology
- Appropriate Assessment

7.2. Principle of Development

7.2.1. At the time the Planning Authority made its planning decision on the 14th day of September 2021, the appeal site had the benefit of two land use zoning objectives as per the Galway City Development Plan (LAP) 2017-2023. The western portion of the site, that nearest that entrance and access Road to the Ballybrit Enterprise Park is zoned "I" - To provide for enterprise, industry and related uses". Large retail development is not normally permissible under this particular zoning objective. The eastern portion of the site is zoned C1-Commercial/Industrial where the objective is: *To provide for enterprise, light industry and commercial uses other than those reserved for the CC zone.* Section 11.2.6 elaborates on the type of retail development that would be permissible within the C1 zoned lands where it sets out the following "*Retail of a type and scale appropriate to the function and character of the area*". I consider that the function of this area would be to provide local retail facilities, however, I am of the opinion that the scale of the current proposals would

exceed those of a local shop, beyond the function and character of this area and would be more appropriately located within a District or Neighbourhood centre location (this specific matter will be elaborated upon within Section 7.3 below). No such designation is afforded to the appeal site under the current Galway City Development Plan and nor is the site specifically designated for the provision of retail facilities within the retail hierarchy.

- 7.2.2. Under the Draft Galway City Development Plan (GDP) 2023-2029, which is anticipated to be adopted early in the year 2023, the zoning objective for the whole of the appeal site is C1. However, it remains stipulated within the Draft Plan that the retail development permissible on C1 zoned lands should be of a type and scale appropriate to the function and character of the area under Section 11.2.6 of the Plan.
- 7.2.3. The applicants state that the site is not capable of being developed for industrial or enterprise use due to its restricted nature. The Planning Authority deemed that the proposals constituted a material contravention of the zoning objectives and invoked the material contravention procedures and recommended a grant of planning permission for the retail convenience development to the elected members of the City Council on the basis of that the location of the site adjacent to existing and proposed residential development and removed from designated district/neighbourhood centres in the Eastern suburbs that the proposal would conform with sustainable development principles and with the proper planning and sustainable development of the area.
- 7.2.4. In conclusion, convenience retail can be permitted on the C1 zoned part of the site, however, the assessment below will address the issues of scale and character of the retail development and whether the current proposals would be appropriate to the character and function of the Monivea Road site as required under the C1 zoning objective. However, convenience retail is not a permissible on under the "I" zoning objective.

7.3. Retail Hierarchy

- 7.3.1. The appeal relates to the development of a new convenience foodstore with a gross floor area of 2,109 sq. m. and a net retail floor area of 1,254 sq. m).

- 7.3.2. There is an existing District Centre at Doughiska which is located approximately 1 kilometre east of the appeal site. This centre is anchored by a convenience foodstore, and the first party have set out that this designated district centre, as identified within the City Development Plan serves the eastern Galway city suburbs catchment which includes the Monivea Road area and the appeal site.
- 7.3.3. The applicants state that they have identified a number of potential alternative sites for the location of the discount foodstore within the city centre and on the edge of the city centre and remote from the city centre. They state that none of these alternative sites/buildings are suitable in terms of unit size or site area or are not available to the applicants by virtue of them being currently occupied or are the subject of current planning applications. The applicants within their planning documentation and specifically within their planning report and their Retail Impact Assessment (RIA) seek to demonstrate that this proposal is specifically intended to serve a smaller and more local catchment which is definable as a 'local catchment' and comes within the meaning 'local retailing needs' which is comes with development that can be considered within area zoned 'C1 as provided for under section 11.2.6 of the CDP. As noted in the RIA, the Retail Planning Guidelines set out that retailing is dynamic and evolving and that shopping at the most local level is a mixture of neighbourhood shops and basic convenience shopping in small supermarkets or convenience shops, but no threshold is given for a local, convenience or neighbourhood shop other than that of a supermarket at single level with a net retail space of less than 2,500 square metres. Therefore, a supermarket is the smallest formally defined convenience retail outlet and covers a wide spectrum of sale. Local retailing needs are undefined.
- 7.3.4. There is no dispute that the application site is brownfield and underutilised and in need of regeneration benefitting the area and the interests of sustainable development and consolidation of the cities and towns as provided for in the National Planning Framework. The objective of the 'C1' zoning is to provide for enterprise, light industry and commercial uses other than those reserved for the CC zone. This zoning objective is considered appropriate and reasonable for the policy to optimise economic and employment development potential
- 7.3.5. In this regard, a supermarket or discount store development other than that which is confined to small scale convenience retailing, complimentary or supportive to the

main uses envisaged through the zoning objective could be considered irrespective of the applicant's case and reduced catchment. It is considered that the proposed Aldi store is a supermarket and/or discount food store appropriate for significant destination convenience shopping by customers and therefore, the current proposals would be contrary to Section 11.2.6 of the CDP and to the provisions of the Retail hierarchy.

- 7.3.6. I consider that the current proposal does not represent the optimal future use for the subject 'C1' zoned parcel of land. It is unrelated to and does not include any element of light industry or enterprise as exists within the adjoining Ballybrit Business Park. Neither does it provide for significant economic and employment development.
- 7.3.7. Employment generated at construction stage would be somewhat unpredictable in quantum and temporary in nature and at operational stage, employment at twenty to twenty-five employees is low and relatively ineffective as regards optimisation of economic and employment potential. The development, if permitted could be at the expense of delivery of a more intensive and efficient utilisation of the site for development fully consistent with enterprise, light industry or commercial development as primarily provided for in the 'C1' the zoning objective.
- 7.3.8. In the applicant's response to the third party appeal submissions, it is contended that there is no conflict in the current proposal with the C1 zoning objective, in that it is confined to 'local retailing needs', having regard to section 11.2.6 of the CDP whereby, "*.... local retailing needs only can be considered in C1 zoned areas not provided for in the Retail Hierarchy at or adjacent to several named locations which include the Seamus Quirke Road*". It is the applicant's claim that the current proposal comes within the scope of 'local retailing needs.' There is no definition for 'local retailing needs' within the Development Plan as set out by the applicants, and it is agreed that the lack of clarity could hinder assessment.
- 7.3.9. Aside from whether it is or is not demonstrated that the development comes within a description of 'local retailing need' as might be envisaged for the C1 zoning, the appeal site is not zoned for large scale retailing nor specifically designated as a local neighbourhood/district centre at which a convenience retailing unit might be appropriately provided as per the CDP or within the Retail hierarchy. Irrespective of the case presented by the applicants, the proposed foodstore development in effect

would be the main use, along with parking and ancillary development on the C1 and I zoned parcels of land.

- 7.3.10. The applicant's agent opted to demonstrate, with reference to the submitted retail impact assessment report that the catchment is 'local' and consistent with the scale and nature of convenience retailing offer at a local or neighbourhood centre as opposed to district centre. If it is decided that the current proposal is acceptable within the 'C1' zoned portion of the site area and comes within the scope of 'local retailing need', it should then be determined as to whether designated retailing areas would be undermined by trade diversion. As the appeal relates to a convenience retailing development, impact on viability and vitality of the city centre would not be at issue. Sequential testing is only warranted for establishing potential trade diversion of high-end comparison retailing from the city centre.
- 7.3.11. As stated in the appeal, there is a reasonable expectation that discount store competitors which are directly comparable would share and significantly overlap in the retail offer, customers and the same 'local' catchment. This matter has been discussed in detail in the applicant's submissions which includes references to recent examples at Knocknacarra with the co-location of Lidl and Aldi stores and at Headford Road is accepted. Notwithstanding the findings in the applicant's retail impact assessment, there is doubt as to assurances that the convenience retailing and retailing potential at the Doughiska District centre would not be adversely affected by trade diversion from the current proposals. The current proposal is to be located on 'C1' and "I" zoned lands not primarily designated as a District/Neighbourhood Centre for the development of convenience retailing within the Development Plan, irrespective of the specificity of catchment.
- 7.3.12. The claim in the appeal as to lack of a district centre boundary or lack of clarity and vagueness as to the boundary so that it could be interpreted as extending to include the site area is not accepted. It is agreed that District Centre is not a zoning objective in itself, but it is clearly indicative of the level within the retail hierarchy for both the city and county and the primacy of retail use. In this regard, it is considered that the lack of District Centre designation and/or appropriate zoning objective for the site as per the CDP that allows for retail and associated land uses for the site lands is a material consideration. The nature of uses intended for 'C1' zoned lands which could include a subsidiary retail element, are clearly distinct from, but

complementary to the uses provided for at District Centres. However, it is not agreed that a flexibility can be applied which would render convenience retailing as the main use in combination with retail uses acceptable on lands that are clearly and specifically zoned 'C1' and "I".

7.3.13. In conclusion, I am not satisfied that the scale of the retail development proposed would accord with the provisions of the Section 11.2.6 of the CDP or with the designations as set out within the Retail Hierarchy as set out within the CDP. Therefore, I consider that the proposals are contrary to the provisions of the City Development Plan and would not accord with the proper planning and sustainable development of the area.

7.4. Traffic and Parking.

7.4.1. The applicants are proposing to provide 80 on site car parking spaces at surface and basement levels to serve the foodstore. The car parking standards set out within the Development plan are 1 space per 15 sq. m. of floor area. The foodstore with a floor area of 2,019 sq. m. would generate a car parking requirement of 135 spaces (approximately 59% of their Development Plan requirement). There are alternative travel options given the location on a bus route which links the site into the city centre, there are a number of residential developments located on the opposite side of the Monivea Road which would be within walking distance of the site and the proposed cycle route to be developed along the Monivea road, as referenced in the appeal observation received from the Galway Cycling Campaign,

7.4.2. The applicants reference a number of precedents including the Lidl store in Knocknacarra where a shortfall in car parking of sixty percent was accepted (ABP 308421 refers) and a similar view was taken regarding a shortfall in parking for an extension at Joyce's at Knocknacarra where an extension was permitted under P. A. Reg. Ref. 19/277. Overall, notwithstanding shortfall, it is considered that the quantum and layout of the on-site parking provision is acceptable.

7.4.3. The appellants raise the issue of an adverse traffic impact upon the internal access road serving the Ballybrit Enterprise Park. I am satisfied that having regard to the extent of on site parking proposed, the location of the site adjoining a bus route connecting to the city centre and the distance between the site access and the Monivea Road being approximately 30 metres, that traffic congestion/queueing onto

the Ballybrit Enterprise Park access road would not arise from the proposed development.

7.5. Design and Layout

- 7.5.1. The proposal provides for the development of an Aldi convenience foodstore. The surface car parking is arranged along the west of the foodstore, providing for 7 spaces for parent and child parking, disabled parking and electric vehicle parking at surface level and the majority of the parking spaces at basement level and therefore, removed from public view. Site. The overall design of the foodstore is of a contemporary style with a monopitch roof form, white rendered walls and cut stone within elements of the elevations, extensive full height glazing panels, providing animation onto the elevations facing onto the Monivea Road and the car park area.
- 7.5.2. The signage comprises large corporate signs and the development includes a totem sign on the north western corner of the appeal site at the site vehicular entrance onto the internal service road serving the Ballybrit Enterprise Park. The extent of the corporate signage is questionable; however, this is a matter that could be addressed by means of an appropriate planning condition. A pedestrian crossing and a bus stop bay on the Monivea Road would provide for improved connectivity between the proposed retail development and the neighbouring residential development on the opposite side of the Monivea Road. I am of the opinion that the bus stop and pedestrian crossing would provide improved permeability and connectivity along the Monivea Road, a heavily trafficked regional route.
- 7.5.3. The Galway City Development Plan (GCDP) 2017-2023 within Section 6.11 promotes the use of best practice design guide criteria which forms part of the national guidance for sustainable development, where the design and use of materials should reflect the character of the area.
- 7.5.4. I am satisfied that the proposals provide for a satisfactory design that reflects its location facing onto the Monivea Road. Photomontage images of the proposed retail development illustrate the existing and proposed development in the vicinity of the site, as being of similar height and scale. I consider the design and layout of the development acceptable within this urban context.

7.6. Ecological Impact Assessment.

- 7.6.1. An Ecological Impact Assessment (EclA) was submitted by the applicants as part of their planning documentation. I am satisfied that the information contained within the EclA is sufficient to allow me to undertake an assessment of the proposed development.
- 7.6.2. The EclA identified one Natural Heritage Area (NHA) as being within the potential zone of influence, namely the Galway Bay Complex pNHA, given the potential for a groundwater hydrological pathway to exist between the appeal site and the NHA. Other pNHA's were not considered to be within the zone of influence by virtue of the absence of hydrological connectivity between the appeal site and the adjacent boglands, woodlands marshes and lakes.
- 7.6.3. The appeal site is located within the Corrib water catchment and the Carrowoneash (Oranmore) sub-basin catchment and within the Clarinbridge groundwater area. The Water Framework Directive (WFD) ground waterbody status for the period 2013-2018 was good and the waterbody risk was deemed "at risk". The WFD waterbody status for the Corrib estuary was recorded as being "good" and the waterbody risk was deemed as being "not at risk". And a similar waterbody status results were recorded for the Corrib coastal waterbody. The Corrib Estuary and coastal waters were both recorded as being "unpolluted" in the EPA water quality results 2010-2012.
- 7.6.4. No Annex 1 species or Annex 2 fauna associated with the Inner Galway Bay SAC or SPA were recorded within the appeal site. No invasive Alien Species was recorded within the site either. The EclA concluded that "Provided that the development is constructed and operated in accordance with the design described within this application, significant effects on biodiversity are not anticipated at any geographic scale".
- 7.6.5. In conclusion, I concur with the findings of the EclA which are supported by the National Parks and Wildlife Service (NPWS) datasets and the datasets made available by the National Biodiversity Data Centre (NBDC).

7.7. 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 Galway Bay Complex SAC (site code 000268) and the Inner Galway Bay SPA (site code 004031). 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 the observations received by the Planning Authority, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- 7.7.6. 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.

Description of Development Site

7.7.8. The proposed development is located on a brownfield site to the east of Galway City and accessed off the access road serving the Ballybrit Business Park which in turn is accessed off the R339, a link road that connects into the N6 at Bothar na dTreabh. The development would be connected to the public foul and surface water sewer networks. The appeal site is not directly connected to by means of a surface water channel, or necessary to the management of any European site and therefore, is subject to the provisions of Article 6(3). The appeal site is located approximately 1.9 kilometres north of the Galway Bay Complex SAC and approximately 2 kilometres north and north-west of the Inner Galway Bay SPA.

7.7.9. There are no watercourses within the appeal site or drainage pathways along the appeal site boundaries. However, the appeal site has been subject to significant excavation to a depth of approximately five metres below ground level and therefore, there is potential to impact upon the local groundwater system.

Submissions/Observations

7.7.10. I have reviewed the submissions made and I note that none raise any particular issues in terms of biodiversity or potential adverse impact upon Natura 2000 sites.

Characteristics of Project:

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

Construction impacts:

7.7.12. The potential effects that I have identified include:

- Deterioration of water quality and subsequent effect on water based habitats and bird and aquatic species.

Operational Impacts:

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

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

Designated Sites and Zone of Influence

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

7.7.15. A number of European sites have not been considered within the screening as no hydrological pathway between them and the appeal site or due to the significant hydrological separation distances between them and the appeal site. Therefore, they have not been considered as being within the zone of influence. These sites include: Lough Corrib SAC, Lough Fingal Complex SAC, Lough Corrib SPA and the Cregganna Marsh SPA in view of their Conservation Objectives. I have therefore, concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on these four specific European sites listed above in view of the site's Conservation Objectives and Appropriate Assessment (and the submission of a Natura Impact Statement in relation to potential impacts upon these specific European sites) is not therefore, required.

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

Table 1:

European Site	Qualifying Interests	Distance from Appeal Site	Potential Connections (source-pathway-receptor)	Further Consideration in Screening
Galway Bay Complex SAC 000268	Mudflats and sandflats not covered by seawater at low tide. Coastal lagoons.	1.9 kilometres south 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 via the storm water collection network.	Yes.

	<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>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</p>		<p>Potential for release of hydrocarbons to ground waters during construction activities.</p> <p>Potential for foul effluent discharges from operational phase of development.</p> <p>Proposed works have potential to cause deterioration in water quality during construction and operation and to potentially adversely impact on habitats/species, either alone or in combination, due to pollution or sedimentation arising from the construction/operational phase of the development.</p>	
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	<p>Caricion davallianae.</p> <p>Alkaline fens.</p> <p>Limestone pavements.</p> <p>Otter</p> <p>Harbour Seal</p>			
<p>Inner Galway Bay SPA 004031</p>	<p>Black-throated Diver (<i>Gavia arctica</i>) [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>Redshank.</p>	<p>2 kilometres south and south-east of the appeal site.</p>	<p>Yes. Requires further assessment due to there being potential hydrological connectivity between the appeal site and the SPA via groundwater and via the storm water collection network.</p> <p>Potential for release of hydrocarbons to ground waters during construction activities.</p> <p>Potential for foul effluent discharges from operational phase of development.</p> <p>Proposed works have potential to cause deterioration in water quality during construction and operation and to potentially adversely impact on habitats/species, either alone or in combination, due to pollution or sedimentation arising from the</p>	<p>Yes.</p>

	Turnstone. Black-headed Gull. Common Gull. Sandwich Tern. Common Tern. Wetland and Waterbirds.		construction/operational phase of the development.	
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I do not consider that any other European Sites fall within the zone of influence of the project, based on a combination of factors including the intervening distances, the lack of suitable habitat for qualifying interests, and the lack of hydrological or other connections. No reliance on avoidance measures or any form of mitigation is required in reaching this conclusion.

Identification of Likely Significant Effects

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

- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031).

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

7.7.19. I have examined the information before me. 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 ground water drainage discharging to Galway Bay resulting in potential adverse impacts upon water quality, alone or in combination, with other pressures on transitional water quality. I am satisfied that due to the separation distances between the appeal site and the 2 European sites identified above that the issue of construction noise activities would not arise in this instance and similarly the

appeal site given its brownfield status and excavated nature would not provide for suitable foraging grounds for any of the winter birds associated with the SPA site. I am also satisfied that there is adequate capacity within the foul sewer network (as confirmed by Irish Water within the planning correspondence) to facilitate the foul effluent arising from the development and that the surface water management proposals are adequate to serve the development and would not result in adverse impacts upon these two specific European sites during the operational phase of the development. Therefore, I am satisfied that these particular potential adverse impacts do not require further assessment in the context of Appropriate Assessment.

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

Screening Determination

7.7.21. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could potentially adversely impact on two European Sites, 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.

7.7.22. This determination is based on:

- Potential groundwater pathways.
- Proximity to European sites in terms of separation distances.

- Potential impacts upon Qualifying interests and Conservations interests of the 2 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 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
Galway Bay Complex SAC	000268	Approximately 2 kilometres south of the appeal site
Inner Galway Bay SPA	004031	Approximately 1.9 kilometres south and south-east of the appeal site

Natura Impact Statement

- 7.8.6. The application included a Natura Impact Statement (NIS) for the proposed development at the Ballybrit Business Park on the Monivea Road in the eastern suburbs of Galway city. 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 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 two 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 within Section 7.4 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 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).

Potential Impacts on identified European Sites.

Table 3

Site 1:

<p>Name of European Site, Designation, site code: Galway Bay Complex SAC 000268</p> <p>Summary of Key issues that could give rise to adverse effects</p> <ul style="list-style-type: none"> • Water Quality and water dependant habitats • Discharges to ground arising from construction activities on site <p>Conservation Objectives: To maintain or restore the favourable conservation condition of the protected habitats and species within Galway Bay.</p>					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
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	Deterioration in water quality arising from sedimentation and release of hydrocarbons to ground water arising from	No works to be carried out during periods of heavy rainfall, no cement batching to be conducted on site, use of	No significant in-combination adverse effects	Yes

	at low tide in Galway Bay.	construction activities on site and potentially adversely impacting upon protected habitat	designated impermeable refuelling areas on site and implementation of surface water management systems in accordance with SuDS best practice principles,		
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	No works to be carried out during periods of heavy rainfall, no cement batching to be conducted on site, use of designated impermeable refuelling areas on	No significant in-combination adverse effects	Yes

		<p>construction activities on site and potentially adversely impacting upon protected habitat</p>	<p>site, implementation of surface water management systems in accordance with SuDS best practice principles,</p>		
Reefs		<p>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</p>	<p>No works to be carried out during periods of heavy rainfall, no cement batching to be conducted on site, use of designated impermeable refuelling areas on site, implementation of surface water</p>	<p>No significant in-combination adverse effects</p>	<p>Yes</p>

		adversely impacting upon protected habitat	management systems in accordance with SuDS best practice principles,		
Otter	To restore the favourable conservation condition of Otter in Galway Bay.	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting adversely impacting	No works to be carried out during periods of heavy rainfall, no cement batching to be conducted on site, use of designated impermeable refuelling areas on site, implementation of surface water management systems in accordance with SuDS	No significant in-combination adverse effects	Yes

		upon protected species.	best practice principles,		
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	No works to be carried out during periods of heavy rainfall, no cement batching to be conducted on site, use of designated impermeable refuelling areas on site, implementation of surface water management systems in accordance with SuDS best practice principles,	No significant in-combination adverse effects	Yes

Coastal lagoons	To restore the favourable conservation condition of Coastal lagoons in Galway Bay.	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon water quality	No works to be carried out during periods of heavy rainfall, no cement batching to be conducted on site, use of designated impermeable refuelling areas on site, implementation of surface water management systems in accordance with SuDS best practice principles,	No significant in-combination adverse effects	Yes
Mediterranean salt meadows	To restore the favourable conservation	Deterioration in water quality arising from	No works to be carried out during periods of	No significant in-combination	Yes

	<p>n condition of Mediterranean salt meadows in Galway Bay</p>	<p>sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon water quality.</p>	<p>heavy rainfall, no cement batching to be conducted on site, use of designated impermeable refuelling areas on site, implementation of surface water management systems in accordance with SuDS best practice principles,</p>	<p>n adverse effects</p>	
<p>Atlantic salt meadows</p>	<p>To restore the favourable conservation condition of Atlantic salt</p>	<p>Deterioration in water quality arising from sedimentation and release of hydrocarbo</p>	<p>No works to be carried out during periods of heavy rainfall, no cement batching to</p>	<p>No significant in-combination adverse effects</p>	<p>Yes</p>

	meadows in Galway Bay	ns to surface water channels and/or groundwater r arising from constructio n activities on site and potentially adversely impacting upon water quality.	be conducted on site, use of designated impermeable refuelling areas on site, implementati on of surface water management systems in accordance with SuDS best practice principles,		
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Overall conclusion: Integrity test

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

Table 4

Site 2:

Name of European Site, Designation, site code: Inner Galway Bay SPA 004031

Summary of Key issues that could give rise to adverse effects

- Water Quality and water dependant habitats
- Discharges to ground arising from construction activities on site

Conservation Objectives: To maintain the favourable conservation condition of wetland habitat in Inner Galway Bay as a resource for the regularly occurring and visiting migratory winter birds.

Qualifying Interest feature	Conservation Objectives Targets and attributes	Summary of Appropriate Assessment			Can adverse effects on integrity be excluded ?
		Potential adverse effects	Mitigation measures	In-combination effects	
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 migratory waterbirds that visit the 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	No works to be carried out during periods of heavy rainfall, no cement batching to be conducted on site, use of designated impermeable refuelling areas on site, implementation of surface water management systems in	No significant in-combination adverse effects	yes

		impacting upon protected wintering waterfowl. due to loss of foraging areas.	accordance with SuDS best practice principles,		
<p>Overall conclusion: Integrity test</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 Galway Bay Complex SAC, and the Inner Galway Bay SPA in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

Appropriate Assessment Conclusion

7.8.13. 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 two European Sites, 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 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 Galway Bay Complex SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Inner Galway Bay SPA.

8.0 Recommendation

Given the foregoing, it is recommended that the planning authority's decision to grant planning permission be overturned based on the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the policies and objectives of the Galway City Development Plan, 2017-2023 and in particular to the site location which is outside of a designated District Centre or Neighbourhood Centre and which is subject to the zoning objectives, 'I' which provides for industry and enterprise uses and 'C1' which provides for enterprise, light industry and commercial uses other than those reserved for the city centre zone and, where there is a specific policy objective within Section 11.2.6 of the Development Plan to consider only bulky goods retailing and local retailing needs and where there is an exception provided which would allow for food store development on specific sites at Briarhill, it is considered that the proposed development materially contravenes the development objectives for the lands and

would, therefore, be contrary to the proper planning and sustainable development of the area.

Fergal Ó Bric
Planning Inspectorate
18th July 2022