



An
Bord
Pleanála

Inspector's Report

ABP-311663-21

Development

Construction of (i) 2 storey apartment building incorporating 6 apartments; (ii) new pedestrian and vehicular entrance from Barrack Street with removal of associated car parking; (iii) landscaping, car parking and all associated site services. A NIS accompanies the application.

Location

Barrack Street, Loughrea, Co. Galway.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

211374

Applicant(s)

T.W. Trustees Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

T.W. Trustees Ltd.

Observer(s)

None

Date of Site Inspection

10th March 2022

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located on the southern side of Barrack Street, to the south-west of Loughrea town centre. The appeal site forms part of the side garden of a substantial, contemporary, two-storey, detached dwelling (a building which was originally permitted as part of a garden centre). Lough Rea (lake) is located to the immediate south of the appeal site. The appeal site is relatively flat and is broadly rectangular in shape.
- 1.2. The lands to the west of the appeal site are indicated as being within the applicant's ownership/control, as indicated by the blue line boundary.
- 1.3. A two-storey outbuilding abuts the eastern boundary of the site. This building is covered in ivy and appears to be derelict. There is a single storey building attached to the north-east of this outbuilding. To the south-east of the appeal site is a detached, single storey dwelling. This dwelling is partially screened from the appeal site by the two-storey outbuilding.
- 1.4. Further east of the appeal site is a row of two-storey, terrace dwellings (no.'s 1-7 Barrack Street).
- 1.5. On the opposite side of Barrack Street, to the north of the appeal site, there is a recently constructed development of two-storey terraced houses (Part VIII Ref. LA03/19 refers).
- 1.6. The front/northern site boundary comprises a rendered wall with metal railings mounted atop. On-street/pay and display car parking is situated along the Barrack Street to the front/north of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development comprises;
 - A two-storey apartment building (incorporating 6 no apartments). Total floor area c. 508 sqm.
 - A pedestrian and vehicular entrance from Barrack Street.
 - The removal of on-street car parking space(s) from Barrack Street.

- Alterations to front boundary of site.
- Landscaping.
- 6 no. car parking spaces within the site.
- Associated site services.

2.2 The planning application was accompanied by the following reports/studies;

- Appropriate Assessment Screening Report.
- NIS (dated 13th July 2021).
- Conservation Appraisal.
- Landscape Masterplan, Design Rationale and Specification of the Landscape.
- Environmental Construction and Construction Waste Management Plan.
- Flood Risk Assessment.

2.3 The appeal is accompanied by the following reports/studies;

- Updated Traffic Issues Report.
- Updated Flood Risk Note.
- NIS (revised version dated 11th October 2021).

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to **Refuse** Permission on the 16th September 2021 for 4 no. reasons which can be summarised as follows;

1. The applicant has failed to address the impact that the proposed site access would have on the public road, in particular, the resultant loss of a significant and excessive number of on street car parking spaces, alterations required to the public footpath to accommodate the development, all of which lie on lands outside the planning boundary. The proposed development would endanger public safety by reason of traffic hazard, obstruction of road users or otherwise.

2. Having regard to the identification of flood risk on the site and in relation to the road to the front of the site and based on the information submitted, the Planning Authority is not satisfied that the site is not at risk of flooding in the future.
3. In the absence of satisfactory details regarding surface water disposal on the site, the Planning Authority consider that the development would contravene Objective UI5 of the Loughrea LAP 2012-2022 and Objective WW7 of the Galway County Development Plan 2015-2021.
4. Based on the information provided with the planning application, in conjunction with consideration of the subject site partially located within Lough Rea SPA and in proximity to Lough Rea SAC, the Planning Authority consider that adverse impacts on European Sites, in view of their Conservation Objectives, cannot be excluded. If permitted the proposed development has potential to adversely impact on European Sites and would materially contravene Objective NHB1 and DS6 of the Galway County Development Plan 2015-2021 and Objective NH1 of the Loughrea LAP 2012-2022.

It is noted that Reason 4 in the Notification of Decision to Refuse Permission makes reference to material contravention of the County Development Plan and the provisions of s.37(2)(b) of the Planning and Development Act 2000, as amended, are therefore applicable in this case.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer (dated 15th September 2021) includes the following comments;

- The proposal accords with the Core Strategy and is considered 'permitted in principle' under the 'C1 – Town Centre' zoning,
- The site is a well-connected, generally complies with Policy RD1 in relation to the creation of sustainable communities and high-quality residential areas and is generally considered acceptable in terms of density, plot ratio and site

coverage, having regard to the location of the site and subject to meeting required residential amenity standards, apartment guidelines etc.

- An area to the front of the site is indicated within the CFRAM Mid-Range Future Scenario Flood Zone B. The issue of flood risk to the rear of the site is outstanding.
- The site is adjacent to a lake and potentially has a high water table. The disposal of surface water within the site has not been adequately addressed.
- Regarding the NIS submitted by the applicant, the outstanding concern is flood risk; the utilisation of the part of site which is located within Loughrea SPA, which has not been adequately addressed and the non-assessment of plans. The Planning Authority are unable to draw a conclusion in relation to the impact of the proposed development on European Sites as result.
- The site is located within the zone of archaeological potential for Loughrea. An archaeological monitoring condition would be required.
- The proposal will assimilate into the streetscape at Barrack Street, and when viewed from the lake.
- The quantum and quality of public open space is acceptable.
- The provision of private open space is acceptable. Clarity is however required in relation to the boundary treatment of ground floor deck areas.
- No issues of overlooking arise on foot of the proposal.
- The proposal generally complies with the 'Sustainable Urban Housing: Design Standards for New Apartments', however clarity is required in respect of storage provision within bedrooms and kitchens, and in relation to the storage of bulky items outside individual units.
- The required sightlines of 45 metres are available at the proposed entrance however this will require the removal the majority of public car parking spaces to the front of the site, and not one as indicated by the applicant. The dishing of the kerb and new line marking is required. These works are outside the site boundary and are in public ownership and it is unclear how the applicant intends to undertake these works.

- It is unclear how refuse collection will operate.
- No details have been submitted regarding compliance with the requirements of Part V of the Planning and Development Act, 2000, as amended.
- No details have been provided regarding the future management of the apartments.

The report of the Planning Officer recommends a refusal of permission consistent with the Notification of Decision which issued.

3.2.2. Other Technical Reports

Roads and Transport Department (dated 14th September 2021) – proposal will result in the loss of an excessive number of on-street parking spaces; concern regarding the proximity of the surface water infiltration system adjacent to the lake and the potential of a high water table, compliance with DM Standard 27 of CDP has not been demonstrated by way of the inclusion of drawings and calculations and, the proposal to remove on-street car parking and drop the kerb are not within the planning unit.

3.3. Prescribed Bodies

Department of Housing, Local Government and Heritage – site is located within the Zone of Notification of the Historic Town of Loughrea (RMP GA105-150), an archaeological monitoring condition is recommended.

Regarding nature conservation, the potential for the eutrophication of Lough Rea needs to be assessed; appropriate measures need to be taken to protect the water quality and mitigation measures contained in the NIS need to be strictly adhered to. The removal of hedgerow should be outside the period from 1st March to 31st August; landscaping should include only native species and lighting should be designed to avoid light spill on the lake and adjacent derelict brewery building to minimise impact on bats and wild birds.

3.4. Third Party Observations

See submission from Department of Housing, Local Government and Heritage (above).

4.0 Planning History

Appeal Site

PA Ref. 201745 – Permission refused for (a) 2 storey apartment building incorporating 6 no. apartments, (b) new vehicular and pedestrian access to the site from Barrack Street (c) proposed landscaping, car parking and all associated site services on previously approved site for a garden centre under planning reference no. 04/1179. A Natura Impact Statement has been prepared as part of this planning application.

Reasons for refusal concerned the loss of on-street car parking, flood risk, the absence of details in respect of surface water and the potential impact of the proposed development on Lough Rea SAC and SPA.

Lands to west/within blue line boundary

PA Ref. 075216 – Permission granted for modifications to 04/1179. The proposed modifications include the repositioning of the building, changes to floor plans and elevations, the amalgamation of units, and the introduction of residential use at ground level.

PA. Ref. 041179 – Permission granted for demolition of existing building on site and the construction of 389m² of ground floor retail space in 5 units, 372m² of first floor offices in 5 units, a new ground floor restaurant and a new first floor apartment, parking for 55 cars and all ancillary works.

5.0 Policy Context

5.1 National Policy

National Planning Framework 'Project Ireland 2040'

The National Planning Framework 'Project Ireland 2040' addresses the issue of 'making stronger urban places' and sets out a range of objectives to support the creation of high quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- National Policy Objective 13: In urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing

buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2 Development Plan

5.1.3 The Galway County Development Plan 2015 – 2021 is the relevant development plan.

5.1.4 The Galway County Development Plan does not have any land-use zonings. Where settlements have a Local Area Plan (LAP), specific land-use zonings are provided in the applicable LAP.

5.1.5 The Draft Galway County Development Plan 2022-2028 was adopted on the 9th May 2022 and will come into effect 6 weeks after, on the **20th June 2022**.

5.1.6 The majority of the site is located within a Class 3 (High Sensitivity) landscape. The southern part of the site is located within a Class 4 (Special) Landscape.

5.1.7 The provisions of the Galway County Development Plan 2015-2021 relevant to this assessment are as follows:

- Objective DS 6 – Natura 2000 Network and Habitats Directive Assessment.
- Objective DS 7 – Flood Risk Management and Assessment.
- Objective UHO 7 – High Quality/Mix and Sensitive Design.
- Objective UHO 8 – Urban Design.
- Policy NHB 1 – Natural Heritage and Biodiversity.
- Objective WW 7 – Surface Water Drainage/Sustainable Drainage Systems.
- DM Standard 3: Multiple Housing Schemes.
- DM Standard 27: Surface Water Drainage & Flooding.

5.1.8 LAP

5.1.9 The relevant LAP is the Loughrea Local Area Plan 2012 (extended until 2022). The appeal site is zoned **C1** 'Town Centre/Commercial' with a stated objective to *'promote the development of the Town Centre as an intensive, high quality, well-landscaped,*

human scaled and accessible environment with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors to the town. The town centre and associated main streets will remain the primary focus for retail and service activity in Loughrea’.

5.1.10 The southern portion of the appeal site is zoned **EM** ‘Environmental Management’ with a stated objective to *‘protect lands and sites with high biodiversity value and/or environmental sensitivity and promote their sustainable management and use. This will include the protection of the integrity of European sites that form part of the Natura 2000 network, in particular Special Protection Areas and Special Areas of Conservation, in accordance with the conservation objectives for these sites and the requirements of the EU Habitats Directive (92/43/EEC)’.*

5.1.11 The appeal site is located within Loughrea Architectural Conservation Area (ACA).

5.1.12 The appeal site is located within a Zone of Archaeological Potential.

5.1.13 There are objectives to ‘protect views’ along the southern boundary of the appeal site.

5.1.14 The provisions of the Loughrea Local Area Plan 2012 relevant to this assessment are as follows:

- DM Guideline LU1 – Development Densities.
- DM Guideline LU2 – Land Use Zoning Matrix.
- Objective RD4 – Open Space in Residential Areas.
- DM Guideline UI2 – Waterbodies and Watercourses.
- Objective UI5 – Surface Water Drainage and Sustainable Drainage Systems.
- Objective UD1 – High Quality, Context Sensitive Design.
- Objective UD6 – Design Statements.
- Objective NH1 – European Sites.
- Objective NH7 – Environmental Management Area.

5.1.15 Ministerial Guidelines

5.1.16 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020).
- Urban Development and Building Height Guidelines, Guidelines for Planning Authority (2018).
- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- Urban Design Manual - A Best Practice Guide (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- Design Manual for Urban Roads and Streets (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Architectural Heritage Protection- Guidelines for Planning Authorities (2011).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010.

5.2 Natural Heritage Designations

- Lough Rea SAC (Site Code 000304) - located directly adjacent to the appeal site.
- Lough Rea SPA (Site Code 004134) – partially within the appeal site.
- Lough Rea pNHA (Site Code 000304) - located directly adjacent to the appeal site.

5.3 EIA Screening

Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. I consider that any issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

6.0 The Appeal

6.1 Grounds of Appeal

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

Reason 1 (loss of on-street car parking)

- The car park located on the opposite side of the road has capacity to cater for the loss of spaces to the front of the site.
- On-street car parking at this location is rarely used.
- The applicant is willing to pay a financial contribution in lieu of the loss of on-street car parking or the perceived under provision of car parking as result of the proposal.
- The alteration to the public footpath referred to in the first refusal reason is standard practice and is not a material reason for refusal. The applicant is willing to pay a financial contribution for such works.
- A Traffic Issues Report, prepared on behalf of the applicant by Alan Lipscombe Traffic and Transport Consultants accompanies the appeal submission. Points noted in this report include;
 - Within the immediate vicinity of the site there are 24 no. on-street car parking spaces.
 - The proposal results in the loss of approx. 6 no. on-street car parking spaces.

- Upon peak-time inspection, 4 no. of the 24 no. available spaces were occupied, the remaining car parking in the area is adequate to meet demand.
- Access arrangement accords with DMURS requirements.
- Between 2005 and 2016 there were 2 minor collisions on Barrack Street.

Reason 2 (flood risk)

- The proposed development is located within Flood Zone C, as per the Loughrea LAP 2012-2022.
- There is no recorded flooding on the site.
- A SSFRA (Site Specific Flood Risk Assessment) was submitted with the application which concluded that the proposed development is suitable with regard to the Planning System and Flood Risk Management Guidelines 2009.
- A small, insignificant area along the southern boundary of the site is located within Flood Zone B according to floodinfo.ie. This area comprises a lawn and the proposed building is not located within this area.
- An area on Barrack Street is located within Flood Zone B however the proposed access is not located within this area. Access and egress at the site can be facilitated in the event of a flood emergency from the east.
- A recently permitted Part 8 scheme (LA03/19) consisting of 5 no. houses to the north of the site was not considered to be at risk of flooding, despite being proximate to the Flood Zone B area along Barrack Street. These houses have finished floor levels of 81.33 metres whereas the proposed development has a finished floor level of 81.5 metres.
- The lake to the rear of the site is kept artificially high by the damming of a water outlet to retain water for the community water scheme in Loughrea. Once drinking water is taken from the Corrib these dams will be opened and the level of the lake will dramatically reduce.
- A letter from HydoS Engineering Hydrology Consultants prepared on behalf of the applicant accompanies the appeal submission. Points noted in this letter include;

- Lake flooding is the relevant flood mechanism for the proposed development. The estimated 0.1% chance (1000 year return period) flood level of Lough Rea is 80.72 metres AOD. The apartments have a finished floor level of 81.5 metres AOD. Therefore the proposed apartments are within Flood Zone C. Additionally, the entire front of the site is also within Flood Zone C.
- The small area on the southern boundary of the site has levels lower than the design flood level.
- The proposed development is not obstructing natural flow paths and floods are not displaced by the proposed development. The proposed development will not cause flooding on the subject site or elsewhere.
- The proposed development is suitable with regard to the Planning System and Flood Risk Management Guidelines 2009.

Reason 3 (surface water)

- The existing stormwater network on Barrack Street and the stormwater layout for the scheme are shown on Drawing No. 21/110/01. The proposed stormwater layout and drainage system at the site is therefore sufficient and the proposed development is consistent with Objective UI5 of the Loughrea LAP and Objective WW7 of the Galway County Development Plan 2015-2021.
- The stormwater design within the site is as follows;
 - Run-off from the car parking area is collected by a drainage channel, passed through a Bypass Oil Interceptor located underground to the rear of the site in the amenity area before entering attenuation modules and a percolation area.
 - Run-off from the building is collected locally via pipework and fed directly into the attenuation modules and percolation area, which are sized to accommodate run-off from the site.
 - All relevant invert levels, pipe sizes and gradients are shown on Drawing No. 21/110/01.

- All run-off containing potential hydro-carbons is filtered through a Bypass Interceptor. The remaining run-off is clean and uncontaminated water.

Reason 4 (impact on European Sites)

- A revised NIS has been submitted.
- The site is located within an existing landscaped garden and there are no natural habitats within the site.
- In response to the Planning Authorities assertion that the original NIS did not assess the impact of the proposed development on Lough Rea SPA the revised NIS concludes; there will be no negative direct impacts or reduction in Annex I or Annex II species within any European Site; there will be no reduction in key habitats supporting population of Annex I and no reduction in the population of any Annex II species; any potential pathways for impacts have been blocked; the works will involve little disturbance or disruption or to the ecological processes in the area during construction, operation or decommissioning.
- The NIS states that with the implementation of best practice measures outlined in Section 2.3, it can be concluded, on the basis of objective scientific information, that the proposed plan, individually or in combination with other plans or projects, will not adversely affect the integrity of any European Site.
- The proposed development is therefore consistent with Objective NHB1 and Objective DS 6 of the CDP, and Policy NH1 of the Loughrea LAP.

6.2 Planning Authority Response

None received,

6.3 Observations

None received.

7.0 Assessment

7.1 Having examined the application details and all other documentation on file, including the appeal, and having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Zoning and Principle of Development
- Design/Siting & Impact on Visual and Residential Amenity
- Impact on Loughrea Architectural Conservation Area (ACA)
- Density, Plot Ratio/Site Coverage/Open Space Provision
- Compliance with Relevant Guidelines/Standards
- Refusal Reason 1
- Refusal Reason 2
- Refusal Reason 3
- Refusal Reason 4
- Other Issues
- Appropriate Assessment
- Issues arising

7.2 Zoning & Principle of Development

7.2.1 Under the Loughrea Local Area Plan 2012 (extended until 2022), the majority of the appeal site is zoned **C1** 'Town Centre/Commercial'. A small portion of the appeal site, along the southern boundary is zoned **EM** 'Environmental Management'.

7.2.2 *DM Guideline LU2 – Land Use Zoning Matrix* of the Loughrea LAP provides a land use matrix, whereby particular land uses are either 'permitted in principle', 'open for consideration', or 'not normally permitted'. Residential development comprising apartments is 'permitted in principle' under the C1 zoning. Under the EM zoning, residential development comprising apartments are 'not normally permitted'. The Loughrea LAP (note 3, page 19) provides that, '*a use that is classified as not normally*

permitted is one that, except in exceptional circumstances¹, will not be permitted by the local authority. This may be due to its perceived effect on existing and permitted uses, its incompatibility with the policies, objectives, standards and requirements contained in this Plan or the fact that it may be inconsistent with the proper planning and sustainable development of the area. In relation to the proposed development, I note that the proposed apartment building, access and car parking are located within the part of the site zoned 'C1'. The area of the appeal site which is zoned 'EM' corresponds with the open space/amenity area serving the apartments. Having regard to the proposed use of the 'EM' zoned lands for amenity purposes, I consider that the proposal meets with the 'exceptional circumstances' provision set out in the Loughrea LAP and is compatible with overarching objective for the 'EM' zoning, in particular noting the requirement to protect lands with a biodiversity value and/or environmental sensitivity and the protection of European sites. In summation, I consider that the proposed development accords with the applicable land use zonings for the appeal site as set out in the Loughrea LAP. Furthermore, I do not consider that any material contravention issues arise in this regard.

7.3 Design/Siting & Impact on Visual and Residential Amenity

7.3.1 The appeal site forms part of the side garden of an existing detached dwelling, close to the centre of Loughrea. The proposal comprises a two storey, flat roof apartment building of contemporary design. The adjoining site to the west accommodates a contemporary building of a similar design idiom and as such the design of the proposed development is consistent with the neighbouring property.

7.3.2 The proposed apartment block is set back on the site and is broadly in line with the neighbouring dwelling to the west. As there is no established or defined building line at this location on Barrack Street, I consider the position of the proposed apartment building to be acceptable.

7.3.3 In terms of visual impact, the appeal site is sensitive from a landscape impact perspective, being located within both Class 3 (High Sensitivity) and Class 4 (Special) landscape designations under the Galway County Development Plan. Additionally, there are objectives to 'protect views' along the southern boundary of the appeal site identified in the Loughrea LAP. Whilst the appeal is partially screened from the east

¹ My emphasis added

and west by existing development, there are views of the site from the south-east across Lough Rea and at locations along Lake Road. However, having regard to scale, massing and design of the proposed development, I do not consider that the proposed development would result in any significant negative impacts on the receiving landscape or on the visual amenities of the area.

7.3.4 Having regard to the scale, design and relationship of the proposed apartment building to adjoining site boundaries, I do not consider that the proposed development would result in any significant negative impacts on the residential amenity of adjoining properties. Based on the submitted landscape plan, the proposed boundary treatment with the property to the west appears to comprise a low wall and railing. In order to protect the residential amenity of the property to the west, I consider that this boundary should be augmented with screen planting. In the event that the Board are minded to grant permission for the proposed development a condition requiring same could be attached.

7.4 Impact on Loughrea Architectural Conservation Area (ACA)

7.4.1 The appeal site is located within the boundary of Loughrea Architectural Conservation Area (ACA). Appendix III of the Galway County Development Plan provides summary of the Loughrea ACA and notes the predominance of buildings under three stories, the importance of street pattern, plot size and architectural coherence. The applicant has submitted a Conservation Appraisal for the proposed development which notes the capacity of this part of the ACA to absorb the proposal. The report states that the proposal will provide a 'bookend' to development at this location and that the positioning of the proposed apartment building set-back on the site will mediate the space between the terrace of dwellings to the east and the contemporary building to the west. I note that the southern side of Barrack Street where the appeal site is located differs to the northern side of Barrack Street, and the main streets within the ACA. Plot sizes are generally larger at this location and there is a variation in the architectural style of the buildings at this location. The existing situation, whereby the streetscape is punctured by a wide gap occupied by the side garden of the existing dwelling is not conducive to a cohesive streetscape and I concur with the Conservation Appraisal that the proposal will address this. I consider that the scale and design or

the proposal is sympathetic the character of the area and would not detract from the character of the ACA.

7.5 Density, Plot Ratio/Site Coverage/Open Space Provision

7.5.1 Density

In relation to density, the overall proposal will entail 6 no. units on a site of 0.1064 ha equating to a density of c. 56 dpha. The report of the Planning Officer notes that the density of the proposed development would not accord with *DM Guideline LU1* of the Loughrea LAP, which provides a density range of 35-50 dpha for town centre locations, but that on balance the proposed density is acceptable. In relation to density, I note SPPR 4 of the Urban Development and Building Height Guidelines, Guidelines for Planning Authority 2018, which provides that *'it is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure, the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007)" or any amending or replacement Guidelines'*. I note Section 5.8 of the *Sustainable Residential Development in Urban Areas 2007*, which recommends minimum net densities of 50 dwellings per hectare on sites within 500 metres walking distance of a bus stop and within one kilometre of a rail station. I note that there is a bus stop c. 250 from the appeal site, on Main Street. On this basis, I consider that the density proposed is appropriate in this context.

7.5.2 Plot Ratio/Site Coverage

The Loughrea LAP provides a plot ratio of 1 – 1.25 for 'C1' zone lands. The proposed development, comprising a building of 508 sqm on a site of 1,064 sqm results in a plot ratio of 0.47. I note that the Planning Officer has not raised this as an issue and the proposal is considered acceptable to the Planning Authority in this regard. Whilst the proposal falls below the assigned plot ratio set out in the LAP for 'C1' zoned land, having regard to the location of the site within an ACA and the pattern of development in the vicinity I consider the proposal acceptable.

7.5.3 The Loughrea LAP assigns a maximum Site Coverage for 'C1' zoned lands of 80%. The proposal has a site coverage of 35% which complies with this requirement.

7.5.4 Open Space Provision

Objective RD4 of the Loughrea LAP requires multi-unit developments to be provided with open space at a rate of 15% of the site area. Within the proposed development c. 232 sqm/22% of the site is dedicated to open space. The proposal therefore accords with the Loughrea LAP in this regard. Additionally, I note the location and design of the open space provided, and I consider it to be of high quality, appropriate configuration and adequately overlooked.

7.6 **Compliance with Relevant Guidelines/Standards**

7.6.1 The proposal generally accords with the *Sustainable Residential Development in Urban Areas* (DoEHLG May 2009) and *Quality Housing for Sustainable Communities* (DoEHLG 2007) in respect of the design and layout of residential developments.

7.6.2 Apartment Guidelines

7.6.3 The *'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020* provides a relaxation in specific standards for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha. These relaxations apply to requirements for communal and private amenity space, car parking and storage provision. I note that the Planning Authority considered the proposed development as the subdivision of an existing developed site, as distinct from an infill development. The appeal site comprises the side garden of a dwelling. As there is no building on the appeal site/within the red line boundary and noting the significant area of the site and its unutilised nature in the context of this urban location, I consider that the appeal site could equally be referred to as an urban infill site and as such the relation in specific standards would apply.

7.6.4 The *'Sustainable Urban Housing: Design Standards f/or New Apartments Guidelines for Planning Authorities 2020* provide minimum floor areas for apartments under SPPR3. The proposed development complies with the floor areas set out under SPPR3.

7.6.5 Paragraph 3.6 of the Apartment Guidelines provides that Planning Authorities may consider a two-bedroom apartment to accommodate 3 persons, with a minimum floor

area of 63 square metres. However Paragraph 3.7 of the Guidelines state that '*no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment*'. The proposed development comprises 4 no. 2 bedroom – 3 person units and 2 no. 3 bedroom - 5 person units. I note that this requirement is not a SPPR. I note that the 2 bedroom – 3 person units have floor areas in excess of the requirements set out in the Apartment Guidelines, with these units having a floor area of 74 sqm and as such I consider that there is scope for the single bedroom within each of these units to be modified to comprise a double bedroom. If the Board are minded to grant the proposed development a condition requiring same could be attached.

7.6.6 The Planning Authority considered the provision of internal storage to be ambiguous, and also note that there is no outdoor storage provided. Notwithstanding the relaxation in requirements which I consider pertain to the proposal and which relate to storage, having regard to the level of storage indicated on the drawings submitted and to the overall floor areas of the apartment units, which exceed the minimum standards required under the Apartment Guidelines in respect of each unit typology concerned, I consider the level of storage provided to be acceptable.

7.6.7 The report of the Planning Authority refers to ambiguity regarding refuse collection. The proposal provides a bin storage area to the north-east of the site. I consider this to be an acceptable location with regard to the protection of residential amenity and accessibility for future residents. Provision appears to be made for a 3-bin system, as recommended in the Apartment Guidelines. The bins indicated on the site plan appear to be 240L capacity. I consider that the proposed development makes adequate provision for bin storage. I consider that the collection of the bins to be a matter for the management of the apartments.

7.6.8 Having reviewed the particulars submitted, I consider that the proposed apartments generally accord with the relevant provisions of the Apartment Guidelines save for the number of 2 bedroom – 3 person units provided within the scheme. As addressed above I consider that this issue may be addressed by condition.

7.7 Refusal Reason 1

- 7.7.1 The first reason for refusal concerns the loss of on-street car parking, which the Planning Authority considered to be excessive. The applicant's appeal submission includes a survey of available car spaces in the vicinity of the appeal site and found that there are 24 no. spaces in the vicinity of the appeal site. A peak-time inspection found that 4 no. of the 24 no. available spaces were occupied. The applicant's appeal submission refers to the loss of approximately 6 no. on-street car parking spaces to facilitate the proposal and contends that the remaining car parking in the area is adequate to meet demand. In the context of the number of apartment units proposed, that being 6 no. and the number of on-street car parking spaces which are required to be removed in order to facilitate the proposal, I would share the concerns of the Planning Authority. I note Paragraph 4.27 of the Apartment Guidelines, which provides that for urban infill schemes on sites of up to 0.25ha, car parking provision may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and location. Noting the town centre location of the appeal site, the proximity of the appeal site to public transport and the overall quality of the proposed development, I consider that the proposed car parking within the proposal should be omitted in its entirety from the scheme. This would effectively nullify the issue of the loss of on-street car parking.
- 7.7.2 Additionally, the refusal reason refers to the alterations which are required to the public footpath and which are located on lands outside the planning boundary. The applicant's appeal submission states that these are standard arrangements for development of this nature. I would agree with the applicant in this regard and I note these amendments are typically carried out under a road opening licence which is sought from the Planning Authority.

7.8 Refusal Reason 2

- 7.8.1 The second reason for refusal concerns flood risk. A Site-Specific Flood Risk Assessment (SSFRA) was submitted with the initial planning application and the applicant has submitted an Updated Flood Risk Note as part of the appeal, addressing issues raised by the Planning Authority in the refusal.
- 7.8.2 As noted in the report of the Planning Officer, the appeal site is located within Flood Zone C as per the Loughrea LAP 2012-2022, however more up-to-date contained in CFRAM (Mid-Range Future Scenario) indicates part of the front of the site and an area to the rear of the site as being within Flood Zone B. The report of Planning Officer

notes that the SSFRA submitted with the application does not reference this, nor are access and egress arrangements during a flood event.

- 7.8.3 I note that information contained in CFRAM maps is predictive, based on a theoretical or 'design flood' event. The applicant has submitted an Updated Flood Risk Note as part of the appeal which states that there is no recorded flooding on the site. Regarding Flood Zone B, the appeal submission notes that according to floodinfo.ie, a small, insignificant area along the southern boundary of the site is located within Flood Zone B, however this area comprises a lawn and the proposed building is not located within this area. An area on Barrack Street is located within Flood Zone B based on the same mapping, however the proposed access is not located within this area. Regarding access and egress arrangements during a flood event, the applicant's submission notes that access and egress can be facilitated in the event of a flood emergency from the east.
- 7.8.4 Correspondence from HydoS Engineering Hydrology Consultants submitted by the applicant in the appeal submission reiterates that lake flooding is identified as the relevant flood mechanism for the proposed development; that the estimated 0.1% chance (1000-year return period) flood level of Lough Rea is 80.72 metres AOD, whereas the apartments have a finished floor level of 81.5 metres AOD; that the proposed development is not obstructing natural flow paths and floods are not displaced by the proposed development and that the proposed development will not cause flooding on the subject site or elsewhere.
- 7.8.5 Regarding the water table, an issue cited by the Planning Authority as a concern, the SSFRA states that groundwater flooding due to a rise in the water table is based on the flood levels of the lake, therefore the flood risk due to ground water flooding is the same as for lake flooding (addressed above).
- 7.8.6 Having reviewed the SSFRA submitted with the initial application and the correspondence from HydoS Engineering Hydrology Consultants submitted by the applicant in the appeal submission, noting the location of the proposed apartments within Flood Zone C, the finished floor level of the proposed apartments with reference to the estimated 0.1% chance (1000-year return period) flood level of Lough Rea, and to the freeboard of 0.78 metres provided against the 0.1% chance flood level for groundwater flooding, and noting that the site slopes towards the Lake, with no

significant depressions within the site, I consider that the proposed development is acceptable in terms of flood risk and that it accords with the Planning System and Flood Risk Management Guidelines 2009. Given that the proposed development is located within Flood Zone C, a justification test is not required.

7.9 Refusal Reason 3

- 7.9.1 The third reason for refusal cited by the Planning Authority concerns surface water, specifically that the applicant has not submitted satisfactory details for surface water disposal on the site, and accordingly that the proposed development would contravene Objective UI 5 of the Loughrea LAP and Objective WW7 of the Galway County Development Plan.
- 7.9.2 Whilst referred to in the refusal reason, I note that the Planner's Report also references non-compliance with DM Standard 27 of the Galway County Development Plan, specifically regarding the absence of drawings, reports and calculations for surface water. Concerns are also raised in the report of the Area Engineer in relation to the proximity of the proposed surface water infiltration system to Lough Rea, given the potential presence of a high water table.
- 7.9.3 The surface water drainage arrangement for the proposed development entails the collection and conveyance of surface water run-off from the area of hard standing to the front of the site via a continuous Aco drain to a Bypass Interceptor at the rear of the site, where potentially contaminated run-off is treated before being conveyed to an attenuation tank prior to being directed to a soakaway. The discharge of surface water run-off from the site is ultimately to the ground. The applicant states in the appeal submission that all run-off with the potential to contain hydrocarbons is filtered through the Bypass interceptor and that the remaining run-off is clean and un-contaminated.
- 7.9.4 I note that Objective WW7 of the Galway County Development Plan and Objective UI 5 of the Loughrea LAP both concern the requirement for SuDS to be incorporated into developments. The area to the front of the site is indicated as comprising 'granite sets'. It is unclear whether this area comprises a permeable or impermeable surface. I note that SuDs can comprise different measures with the ultimate aim being to slow the rate of conveyance/run-off and the treatment of surface water run-off. Should the Board be minded to grant permission for the development, I consider that the area of paving to the front of the site should incorporate permeable paving, in order to slow

the rate of run-off from the site. I consider that the treatment requirements of SuDS are met through the provision of Bypass Interceptor, the attenuation tank and the soakaway.

7.9.5 Regarding drainage calculations, I note that DM Standard 27 of the Galway County Development Plan requires calculations to be submitted for surface water proposals in order to support the size of pipe selected. The applicant states in the appeal submission that details of pipework are shown on Drawing 21/11/01; that a specification for the oil separator is provided in Appendix 4; that the attenuation area is sized to accommodate the volume of run-off from the site and that details of invert levels, pipe size and gradient provided on the drawing. I have examined the drainage details submitted by the applicant. The applicant has not provided information to support sizing of pipes, the size of the percolation area or the specification for the attenuation tank or the Bypass Interceptor. The technical information submitted in Appendix 4 states that 'Bypass separators fully treat all flows generated by rainfall rates of up to 6.5 mm/hour; that this covers 99% of all rainfall events and that flows above this rate are allowed to by-pass the separator'. In the event that the surface water drainage elements described above were sized incorrectly relative to the site/proposed development, there would be potential during a period of heavy rainfall for the site to become inundated and flood, and for surface water to by-pass the Bypass Interceptor. In such an event, noting that the site slopes toward Lough Rea there would be potential for the release of potentially contaminated run-off to enter this waterbody. However, as recommended in paragraph 7.7.1, the omission of car parking within the site would omit the potential for hydrocarbon pollution in surface water, resulting in the release of un-contaminated run-off at an uncontrolled rate. Importantly however, this would not represent a pollution risk to Lough Rea and having regard to this, I consider that this issue may be agreed with the Planning Authority prior to commencement of development, should the Board be minded to grant permission.

7.9.6 I note that the applicant has indicated in the planning application form that it proposed to discharge surface water to the public sewer/drain. Having regard to the above description of the surface water proposal and to the information contained in the NIS and the Environmental and Construction Waste Management Plan regarding same, I consider that it is the applicant's intention to discharge surface water to ground and not to the public sewer.

7.10 Refusal Reason 4

7.10.1 Given that this issue concerns Appropriate Assessment, I will address this issue under paragraph 7.12 below.

7.11 Other Issues

7.11.1 The applicant has not submitted details in relation to compliance with their obligations under Part V of the *Planning and Development Act 2000*, as amended. Accordingly, in the event of a grant of permission, a planning condition providing for the developer to comply with the provisions of Section 97 of Part V of the *Planning and Development Act 2000* as amended should be attached.

7.12 Appropriate Assessment

7.12.1 Stage 1 Screening

7.12.2 Compliance. The requirements of Article 6(3) of the Habitats Directive 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.

7.12.3 Background. The applicant submitted an Appropriate Assessment Screening report, prepared by Eire Ecology, for the proposed development. The applicant's Stage 1 Appropriate Assessment Screening report concluded that *'the proposed development may have significant impacts on Lough Rea SAC/SPA, alone or in combination with the other plans or projects in the area'*. The applicant's Stage 1 Appropriate Assessment Screening report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. An Environmental Construction and Waste Management Plan prepared by Eire Ecology has also been submitted. Having reviewed the documents, 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.

7.12.4 Likely Significant Effects. 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). The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European Site.

7.12.5 The Proposed Development. The development is described on page 4 of the Stage 1 Appropriate Assessment Screening report. It comprises;

- The construction of a two-storey apartment building (incorporating 6 no apartment). Total floor area c. 508 sqm.
- A pedestrian and vehicular entrance from Barrack Street.
- The removal of on-street car parking space(s) from Barrack Street.
- Alterations to front boundary of site.
- Landscaping.
- 6 no. car parking spaces within the site.
- Associated site services.
- The surface water drainage arrangement for the proposed development entails the collection and conveyance of surface water run-off from the area of hard standing to the front of the site via a continuous Aco drain to a Bypass Interceptor at the rear of the site, where potentially contaminated run-off is treated before being conveyed to an attenuation tank prior to being directed to a soakaway.
- The construction phase for the proposed development is expected to be 9 months.

7.12.6 Potential Effects of the Proposed Development. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of the implications for likely significant effects on European Sites:

- The uncontrolled release of pollutants or sedimentation to ground or surface water (e.g. run-off, silt, fuel, oils, wastewater effluent) at construction and operational phases of the proposed development.
- Disturbance to birds during the construction and operational phase of the proposed development.

7.12.7 Submissions and Observations. A submission was received by the Planning Authority from the Department of Housing, Local Government and Heritage and notes the following;

- The potential for the eutrophication of Lough Rea.
- The requirement for mitigation measures contained in the NIS need to be strictly adhered to.
- The removal of hedgerow should be outside the period from 1st March to 31st August.
- Landscaping should include only native species.
- Lighting should be designed to avoid light spill on the lake and adjacent derelict brewery building to minimise impact on bats and wild birds.

7.12.8 European Sites and Connectivity. The appeal site is partially located within Lough Rea SPA and is located c. 5 metres from Lough Rea SAC. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1 overleaf. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. I am satisfied that other European sites proximate to the appeal site can be ‘screened out’ on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed	Connections (source, pathway receptor)	Considered further in screening Y/N

		development (Km)		
Lough Rea SPA (004134)	<ul style="list-style-type: none"> Shoveler (<i>Anas clypeata</i>) [A056] Coot (<i>Fulica atra</i>) [A125] Wetland and Waterbirds [A999] 	Partially within site	Direct hydrological connection via ground water	Y
Lough Rea SAC (000304)	<ul style="list-style-type: none"> Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140] 	c.5 metres	Direct hydrological connection via ground water	Y
Slieve Aughty Mountains SPA (004168)	<ul style="list-style-type: none"> Hen Harrier (<i>Circus cyaneus</i>) [A082] Merlin (<i>Falco columbarius</i>) [A098] 	c. 4 km	No direct/indirect connectivity	N (due to separation distance and lack of connectivity)
Sonnagh Bog SAC (001913)	<ul style="list-style-type: none"> Blanket bogs (* if active bog) [7130] 	c. 8 km	No direct/indirect connectivity	N (due to separation distance and lack of connectivity)
Peterswell Turlough SAC (000318)	<ul style="list-style-type: none"> Turloughs [3180] Rivers with muddy banks with <i>Chenopodium rubri</i> p.p. and <i>Bidenton</i> p.p. vegetation [3270] 	c. 12 km	No direct/indirect connectivity	N (due to separation distance and lack of connectivity)
Rahasane Turlough SAC (000322)	<ul style="list-style-type: none"> Turloughs [3180] 	c. 12 km	Indirectly connected. St. Claren River is located c. 230 m east of the site and flows to the Craughwell River, which in turn discharges to the Dunkellin River, which in turn feeds Rahasane Turlogh. Any suspended solids/hydrocarbons from the site will dissipate within Lake, noting is size (364 sq ha). Any run-off from the site which enters St. Claren River will	N (due to separation distance and lack of connectivity)

			<p>have to flow c. 16 km before entering Rahasane Turlogh.</p> <p>Wastewater from site is treated in Loughrea WWTP, therefore effects can be screened out.</p>	
Rahasane Turlough SPA (004089)	<ul style="list-style-type: none"> Whooper Swan (<i>Cygnus cygnus</i>) [A038] Wigeon (<i>Anas penelope</i>) [A050] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] Wetland and Waterbirds [A999] 	12 km	<p>Indirectly connected.</p> <p>St. Claren River is located c. 230 m east of the site and flows to the Craughwell River, which in turn discharges to the Dunkellin River, which in turn feeds Rahasane Turlogh.</p> <p>Any suspended solids/hydrocarbons from the site will dissipate within Lake, noting its size (364 sq ha). Any run-off from the site which enters St. Claren River will have to flow c. 16 km before entering Rahasane Turlogh.</p> <p>Wastewater from site is treated in Loughrea WWTP, therefore effects can be screened out.</p>	N (due to separation distance and lack of connectivity)

7.12.9 Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1 above), Lough Rea SAC and Lough Rea SPA have been ‘screened in’ as the appeal site is hydrologically connected to Lough Rea SAC and Lough Rea SPA via surface water runoff from the site and potentially through ground water. All other Natura 2000

sites surrounding the proposed development have been screened out due to a lack of connectivity.

7.12.10 Conservation Objectives of European Sites ‘Screened-In’. There is no Conservation Management Plan for Lough Rea SPA. The Conservation Objective(s) for Lough Rea SPA is;

‘to maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA’ and ‘to maintain or restore the favourable conservation condition of the wetland habitat at Lough Rea SPA as a resource for the regularly-occurring migratory waterbirds that utilise it’.

A Conservation Management Plan for Lough Rea SAC has been prepared.

The Conservation Objective for Lough Rea SAC is;

‘to maintain the favourable conservation condition of Hard oligo-mesotrophic waters with benthic vegetation of Chara spp.’.

7.12.11 Identification of Likely Effects. In light of the above Conservation Objectives the main elements of the proposal which may give rise to impacts on the European sites listed above include those as a result of construction activity and operational activity. These are summarised overleaf as follows:

Construction Phase Impacts on Lough Rea SAC - During the construction phase there is potential for surface water runoff from site works to temporarily discharge via groundwater and surface water to and Lough Rea SAC. Given the nature and scale of the proposed construction works and the proximity of the site to Lough Rea SAC there is the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons. Lough Rea SAC is particularly sensitive to eutrophication. Eutrophication of Lough Rea could occur if nutrient enriched run-off containing phosphorus and nitrogen entered to lake. Common sources of such contaminants include fertilizer and sewerage. Foul effluent is addressed below under operational phase impacts.

Construction Phase Impacts on Lough Rea SPA - The only qualifying interest within Lough Rea SPA which has the potential to be impacted from potentially polluted surface water during the construction phase of the proposed development is the

wetland habitat. Given nature and scale of the proposed construction works and the fact the southern part of the site is located within Lough Rea SPA there is the potential the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons. Construction activities on the site could also potentially result in disturbance to bird species connected with Lough Rea SPA.

Operational Phase Impacts on Lough Rea SAC - During the operational phase of the proposed development foul sewer from the proposed development will be treated in Loughrea Waste Water Treatment Plant. The most recent Annual Environmental Report for Loughrea Waste Water Treatment Plant was published by Irish Water in 2020. Loughrea Waste Water Treatment Plant 2020 has a Plant Capacity PE of 9500. I note that no capacity issues were raised in the planning application. In 2020 the Loughrea WWTP was non-compliant with the Emission Limit Values (ELVs) set in the Plant's Wastewater Discharge Licence. The ambient monitoring results did not meet the required Oxygenation and Nutrient Conditions set out in the Surface Water Regulations 2009 and a deterioration in water quality has been identified, however it is not known if this was caused by the WWTP. Importantly however, based on the annual report I note that the discharge from the wastewater treatment plant did not have an observable negative impact on the Water Framework Directive status of Lough Rea.

Operational Phase Impacts on Lough Rea SPA - Potential disturbance to bird species connected with Lough Rea SPA (Site Code: 004134) could occur during the operational phase of the proposal, from artificial lighting and the use of amenity space.

In-combination Impacts. There are no recent planning applications for the surrounding area that share a direct link with the subject site.

A summary of the outcomes of the screening process is provided in the screening matrix Table 7.2 overleaf.

Table 7.2 - Summary Screening Matrix

European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Lough Rea SAC (000304)	Lough Rea SAC is located c. 5 metres south.	<p>During the construction and operational phase there is potential for surface water runoff from site works to temporarily discharge via groundwater and surface water to Lough Rea SAC.</p> <p>The proposal discharges to the public foul sewer network and will be treated in Loughrea WWTP.</p>	No effect	Screened in for AA
Lough Rea SPA (004134)	Lough Rea SPA is partially within site.	<p>During the construction and operational phase there is potential for surface water runoff from site works to temporarily discharge via groundwater to Lough Rea SPA.</p> <p>Construction activities on the site could also potentially result in disturbance to bird species connected with Lough Rea SPA.</p> <p>Additionally, potential disturbance to bird species connected with Lough Rea</p>	No effect	Screened in for AA

		SPA could occur during the operational phase of the proposal from artificial lighting and the use of the amenity area.		
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7.12.12 Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

7.12.13 Screening Determination. 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 **could have a significant effect** on Lough Rea SAC/European Site No. 000304 and Lough Rea SPA/European Site No. 004134, in view of the site's Conservation Objectives, and Appropriate Assessment is therefore required.

7.12.14 **Stage 2 – Appropriate Assessment**

7.12.15 Article 6(3). 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.

7.12.16 Compliance with Article 6(3) of the EU Habitats Directive. 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. 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).

7.12.17 Screening The Need for Appropriate Assessment. 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 development, individually or in-combination with other plans or projects will have a significant effect on the following European sites:

- Lough Rea SPA (Site Code: 004134).
- Lough Rea SAC (Site Code: 000304).

The possibility of significant effects on other European sites has been excluded on the basis of objective information. The following European sites have been screened out for the need for appropriate assessment.

- Slieve Aughty Mountains SPA (004168).
- Sonnagh Bog SAC (001913).
- Peterswell Turlough SAC (000318).
- Rahasane Turlough SAC (000322).
- Rahasane Turlough SPA (004089).

Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.12.18 The Natura Impact Statement. The application includes a NIS (dated 13th July 2021), and an updated/revised version (dated 11th October 2021) prepared by Eire Ecology which examines and assess potential adverse effects of the proposed development on Lough Rea SAC and Lough Rea SPA.

7.12.19 Regarding the habitat of the site, the NIS notes that there are no natural or semi-natural habitats within the site, that the site has been developed into a landscaped garden, with the primary habitat being 'Improved Amenity Grassland'. A reed and large sedge swamp is located to the south of the site, boarding the lake however this area remains outside the development site boundary and will remain unaffected by the proposed development.

7.12.20 Regarding soils, geology and hydrology, the NIS states that the site is classified as having a high vulnerability and is underlain with a locally important aquifer. Regarding flood risk, the site is identified as being within Flood Zone C.

7.12.21 The main potential impacts from the proposed development on Lough Rea SAC/SPA, are identified as the deterioration of water quality arising from the release of sediment during the construction phase of the proposal and the deterioration of water quality arising from the release of run-off containing hydrocarbons during the operational phase. Lighting during the operational phase is also identified as potentially causing disturbance to birds. Regarding the potential impact on Lough Rea SPA/SAC from the leakage of untreated wastewater, the NIS states that the proposed development will be connected to the public sewer and therefore emissions are not expected to result in significant adverse effects.

7.12.22 The NIS has been informed by two wintering bird surveys (undertaken on the 20th October 2020 and the 8th October 2021 to coincide with the wintering bird survey period). No qualifying interests for Lough Rea SPA (i.e. Coot and Shoveler), were noted on the site, within the reed swamp or on the adjacent water. Both species can sleep on land or water. Two flocks of Coot were observed during the survey undertaken on the 8th October 2021 but no Coot were observed within 900 metres of the site.

7.12.23 Section 3.3. of the revised NIS and Section 3 of the Environmental Construction and Construction Waste Management Plan set out mitigation measures which will be adhered to during both construction and operational phases of the proposed development. These include;

Construction Phase

- Pre-construction walkovers by the project ecologist and site manager to identify preferential flow paths and the locations for silt trap installation.
- No stockpiling of excavated materials or construction materials within 15 metres of a waterbody/drain/preferential flow path and specific measures to deal with short term stockpiling where required, including the use of geotextile surrounded by stake and geotextile silt fencing at such locations.
- Washing of plant etc. within a designated area of the site.
- Cessation of works during heavy precipitation.
- No release of suspended solids during works.
- The use of fencing to delineate earth works and storage areas.
- Adherence to best practice measures when pouring concrete, including the use of buffer zones, small batch use, monitoring of the pouring of concrete and spill measures. The use of buffer zones and bunds for concrete mixing.
- The use of a temporary fenced area for the storage of plant, excavated material/topsoil and other materials required for landscaping.
- The storage of oils, fuels and potentially harmful materials in impermeable containers. The keeping of spill kits for accidental spillages. The checking of vehicles for leakages. Refueling to be carried out by trained personnel. The use of bunds, oil booms and soakage pads.
- The cleaning of roads to contain dust, sweeping and dampening with water and the use of tarpaulin for the transport of loads which have the potential to create dust.
- The use of soundproof containers for generators, regular maintenance of equipment and the use of exhaust silencers. Machinery will be shut down when not in use.
- The cleaning of vehicles prior to entering the site and the use of clean topsoil to control potential invasive species contamination.

Operational Phase

- Foul sewerage will be treated in Loughrea WWTP.
- Surface water run-off from the site will be treated in a Bypass Interceptor at the rear of the site, before being conveyed to an attenuation tank prior to being directed to a soakaway and then discharged to the ground.
- The use of low mounted lights to prevent light spill. Lighting from the apartments will have a LUX of c. 0.3 at the shoreline.
- The landscape proposal for the site provides for a boarder to the south of the site which serves as a partial screen from the communal lawn area, preventing access to the lake edge and increasing invertebrate populations.
- Toolbox talks.
- The monitoring of the lake.

The applicant's NIS concludes that *'with the implementation of best practice measures, it can be concluded, on the basis of objective scientific information, that the proposed plan, individually or in combination with other plans or projects ,will not adversely affect the integrity of any European Site'*.

7.12.24 Having reviewed the documents, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the following European sites alone, or in combination with other plans and projects:

- Lough Rea SPA (Site Code: 004134).
- Lough Rea SAC (Site Code: 000304).

The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of the potential impacts on Lough Rea SAC/SPA.

7.12.25 Appropriate Assessment of implications of the proposed development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites 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.

7.12.26 The following sites are subject to Appropriate Assessment:

- Lough Rea SPA (Site Code: 004134).
- Lough Rea SAC (Site Code: 000304).

A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests are set out in Table 7.1 of this report. 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). The main threats to Lough Rea SAC/SPA are from nutrient enrichment, agricultural run-off and boating activities (www.npws.ie).

7.12.27 The main aspects of the proposed development that could adversely affect the conservation objectives of European sites include;

- The uncontrolled release of pollutants or sedimentation to ground or surface water (e.g. run-off, silt, fuel, oils, wastewater effluent) at construction and operational phases of the proposed development and disturbance to birds during the construction and operational phase of the proposed development.

7.12.28 There is the potential the water quality pertinent to **Lough Rea SAC** to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons during both the construction and operational phases of the proposed development, however the mitigation measures proposed are considered adequate and will avoid the release of contaminated run-off to ground water and to the lake during each phase of the proposal.

Lough Rea SAC is also particularly sensitive to eutrophication. Common sources of such contaminants include fertilizer and sewerage. Noting the nature of the proposal it is unlikely fertilizer would be used on the site. Foul sewer from the proposed development is being treated in Loughrea Waste Water Treatment Plant and therefore effects from this source can be discounted.

The applicant has not provided calculations to support sizing of pipes, the size of the percolation area or the specification for the attenuation tank or the Bypass Interceptor. In the event that these surface water drainage elements were sized incorrectly relative to the site/proposed development, there would be potential during a period of heavy rainfall for the site to become inundated and flood, and for surface water to by-pass the Bypass Interceptor. In such an event, noting that the site slopes toward Lough

Rea, there would be potential for the release of potentially contaminated run-off to enter this waterbody. However, as recommended in paragraph 7.6.1, the omission of car parking within the site would omit the potential for hydrocarbon pollution in surface water, resulting in the release of un-contaminated run-off at an uncontrolled rate. Importantly however, this would not represent a pollution risk to Lough Rea. Additionally, it is recommended that a condition is attached to any grant of permission requiring drainage calculations to be submitted to the Planning Authority prior to commencement of development.

7.12.29 The only qualifying interest within Lough Rea SPA which has the potential to be impacted from potentially polluted surface water is the wetland habitat. There is the potential for the water quality pertinent to Lough Rea SPA to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons during both construction and operational phase, however the mitigation measures proposed are considered adequate and will avoid the release of contaminated run-off to ground water and to the lake during both phases of the proposed development. Shoveler and Coot within Lough Rea SPA do not appear to have potential to be significantly impacted by polluted surface water, however the mitigation measures proposed will avoid the release of contaminated run-off to ground water and to the lake.

Construction activities on the site could also potentially result in disturbance to bird species connected with Lough Rea SPA. The winter bird survey undertaken as part of the NIS found that there were no QI's associated with Lough Rea SPA within the appeal site. The NIS also notes that both QI's can sleep on land or water and as such the proposed development would not result in any loss of habitat.

Disturbance to bird species connected with Lough Rea SPA could also occur during the operational phase of the proposal from artificial lighting. The lighting plan submitted states that the light which will be emitted from the development will be comparable to moonlight. The lighting plan submitted is considered to effectively mitigate the impact from light on birds. As stated above, the winter bird survey found no QI's associated with Lough Rea SPA. Additionally, I note that the existing site which comprises a garden is not a natural habitat for the QI's associated with Lough Rea SPA. Disturbance impacts could potentially arise from the use of the amenity area to the rear of the proposed apartments. As stated above, the existing site which comprises

a garden is not a natural habitat for the QI's associated with Lough Rea SPA and does not represent a favourable foraging habitat for birds associated with Lough Rea SPA.

7.12.30 There are no recent planning applications for the surrounding area that share a direct link with the subject site.

7.12.31 The proposed mitigation measures outlined in the NIS generally comprise relatively standard best practice measures for construction works in the vicinity of waterbodies. I consider that the proposed mitigation measures, are suitably detailed to remove any lack of clarity regarding potential adverse effects and that they are capable of being successfully implemented. I note that it is also proposed to appoint Project Ecologist/Ecological Clerk of Works to ensure that the mitigation measures and best practice measures are fully implemented. I am satisfied these measures are sufficient to address potential impacts from pollution during construction and operation and the potential for deterioration of habitats and species identified within the European Sites is not likely.

7.12.32 Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Lough Rea SPA or Lough Rea SAC 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.

7.12.33 Appropriate Assessment Conclusion. The proposed development has been considered in light of the assessment requirements of Sections [177U and 177V] of the Planning and Development Act 2000 as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Lough Rea SPA (Site Code: 004134) and Lough Rea SAC (Site Code 000304). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. 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 European site No 004134 or 000304, or any other European site, in view of the site's Conservation Objectives. This conclusion

is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

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 Lough Rea SPA (Site Code: 004134) and Lough Rea SAC (Site Code 000304).
- 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 Lough Rea SPA (Site Code: 004134).
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Lough Rea SAC (Site Code: 000304).

7.13 Issues Arising

The fourth reason for refusal concerns the potential for adverse impacts on European Sites, which the Planning Authority considers cannot be excluded. In this context, the Planning Authority state that the proposed development would materially contravene Objective NHB1 and DS6 of the Galway County Development Plan 2015-2021 and Objective NH1 of the Loughrea LAP 2012-2022, which both concern the protection of European sites. Having regard to the conclusion of the Appropriate Assessment, specifically that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Lough Rea SAC/SPA, or any other European site, in view of the site's Conservation Objectives, I do not consider that the proposed development would materially contravene Objective NHB1 and DS6 of the Galway County Development Plan 2015-2021 and Objective NH1 of the Loughrea LAP 2012-2022 and as such the issue of material contravention has been cited inappropriately by the Planning Authority. I do not therefore consider that the provisions of Section 37(b)(2) of the Planning and Development Act 2000, as amended (whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan) apply in the circumstances of this case.

8.0 Recommendation

Having regard to:

- (a) The design, scale and layout of the proposed development,
- (b) The pattern of development in the area,
- (c) The provisions of the Galway County Development Plan 2015-2021,
- (d) The Loughrea Local Area Plan 2012 (as extended), including the zoning of the site,
- (e) The conclusion of the Appropriate Assessment,

it is considered that subject to compliance with the conditions set out below, the proposed development would not be visually intrusive or seriously injurious to the amenities of the area or the residential amenities of properties in the vicinity, and, would be in accordance with the proper planning and sustainable development of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1.	The development shall be carried out completed in accordance with the plans and particulars lodged with the application, 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 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.	All mitigation measures in the revised Natura Impact Statement, dated 11 th October 2021, (including the Environmental Construction and Construction Waste Management Plan) shall be implemented in full and shall be supervised by a suitably qualified ecologist.

	<p>Reason: In the interest of environmental protection, public health and orderly development.</p>
3.	<p>The in-curtilage car parking to the front of the site shall be omitted and a pedestrian entrance only shall be provided onto Barrack Street. The area to the front of the site indicated as in-curtilage car parking shall comprise permeable paving. A revised landscape plan reflecting this amendment shall be submitted to the Planning Authority for its written agreement prior to commencement of development.</p> <p>Reason: In the interest of proper planning and sustainable development.</p>
4.	<p>The single bedrooms within Units 1, 3, 4, and 6 shall be amended to double bedrooms, and shall have a minimum floor area of 11.4 sqm. Prior to commencement of development, the developer shall submit revised floor plans to the Planning Authority for its written agreement reflecting this.</p> <p>Reason: In order to ensure that the development complies with the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020.</p>
5.	<p>The western site boundary shall be supplemented with mature screen planting to the inner/eastern side of the low wall and railing.</p> <p>Reason: In the interest of residential amenity.</p>
6.	<p>Landscaping shall be carried out as indicated on the Landscape Plan (Drawing No. DRW.01). Landscaping shall include only native species.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and</p>

	<p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site</p>
8.	<p>The external finishes to the proposed development shall be as indicated on Drawing No. 21.002-005 Rev. 3, unless otherwise agreed with the Planning Authority prior to commencement of development. Render/plaster finishes shall be neutral in colour.</p> <p>Reason: In the interest of visual amenity.</p>
9.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

10.	<p>Prior to commencement of development, surface water drainage calculations to support the size of pipe selected shall be submitted to the Planning Authority for its written agreement.</p> <p>Reason: In the interest of public health.</p>
11.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
12.	<p>The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan and Method Statement (as per the mitigation measures of the submitted Natura Impact Statement), 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:</p> <ul style="list-style-type: none"> a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; b) Location of areas for construction site offices and staff facilities; c) Details of site security fencing and hoardings; d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; e) Measures to obviate queuing of construction traffic on the adjoining road network; f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; g) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works; h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

	<p>i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>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. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
13.	<p>Proposals for naming and numbering of the proposed scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the Planning Authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the Planning Authority's written agreement to the proposed name(s).</p> <p>Reason: In the interest of urban legibility.</p>
14.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>

15.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p>Reason: In the interests of visual and residential amenity.</p>
16.	<p>Lighting shall be provided in accordance with Drawing No. SES 06921 and the specifications thereon.</p> <p>Reason: In the interests of amenity and protect the integrity of Lough Rea SPA.</p>
17.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.</p> <p>Reason: To ensure the satisfactory completion and maintenance of this development.</p>
18.	<p>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.</p>

	<p>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.</p>
19.	<p>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.</p> <p>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</p>

Ian Campbell
 Planning Inspector

27th May 2022