



An
Bord
Pleanála

Inspector's Report

ABP-312649-22

Development

Demolition of 17-20 Merchants Road Lower, outbuildings and boundary walls, and construction of a five-storey (with part single-storey) mixed use development consisting of a café, cultural venue, 12 no. social housing apartment units, and roof terrace.

Location

17-20 Merchants Road Lower, Galway City

Local Authority

Galway City Council

Type of Application

Application for approval made under section 177AE of the Planning & Development Act, 2000 (as amended) (local authority development requiring appropriate assessment)

Prescribed Bodies

1. Department of Housing, Local Government and Heritage
2. Irish Water
3. An Taisce

Observer(s)

1. Galway Cycling Campaign
2. Galway Property Management
3. Donna Walsh & Michael Van Strien

Date of Site Inspection

26th August 2022

Inspector

Anthony Kelly

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1.0 Introduction

- 1.1. Galway City Council is seeking approval from An Bord Pleanála to undertake demolition of Nos. 17-20 Merchants Rd. Lwr. including all ancillary outbuildings and boundary walls, and the construction of a five-storey with part single-storey mixed-use development comprising a café, cultural venue, 12 no. social housing apartments, and accessible roof terrace. There are three European sites (Galway Bay Complex SAC, Lough Corrib SAC, and Inner Galway Bay SPA in proximity to the proposed works (see further analysis below). A Natura impact statement (NIS) and application under section 177AE was lodged by the local authority on the basis of the proposed development's likely significant effect on a European site.
- 1.2. Section 177AE of the Planning & Development Act, 2000 (as amended) requires that where an appropriate assessment (AA) is required in respect of development by a local authority the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, section 177V of the Planning & Development Act, 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Site and Location

- 2.1. The site is located within Galway city centre approx. 90 metres north east of the Spanish Arch and approx. 100 metres west of Galway Docks.
- 2.2. The site is occupied by four vacant and dilapidated two-storey terraced houses with some limited private open spaces to the rear. The houses front onto Merchants Rd. Lwr. but the north east side elevation of No. 20 addresses New Dock St. Both are one-way streets. There is a relatively narrow footpath to Merchants Rd. Lwr. and there are double yellow lines on the site side of the street. There is substantial signage, street furniture, and overhead wires in proximity to the site. The area is built-up, and the four houses are among the lowest buildings in the immediate vicinity. There is a house and

the Pálás cinema immediately to the south. The Glór na Mara apartment building adjacent along New Dock St. is three storeys plus dormer level in height. Buildings in the area generally range between three and six storeys and there are a range of design types and external finishes.

2.3. The site has an area of 0.048 hectares.

3.0 Proposed Development

3.1. It is proposed to demolish Nos. 17-20 Merchants Rd. Lwr., outbuildings, and boundary walls and construct a five-storey with part single-storey mixed use development comprising a café, cultural venue, and covered courtyard at ground floor, 12 no. social housing apartments (five one-bedroom apartments and seven two-bedroom apartments) from first to fourth floors, and a shared rooftop terrace.

3.2. The application is accompanied by:

- A 'Design Statement' document prepared by Hall McKnight architects dated 8th December 2021.
- A 'Screening for Environmental Impact Assessment' document prepared by Ecofact Environmental Consultants (Ecofact) dated 22nd September 2021.
- A 'Natura Impact Statement' (NIS) document prepared by Enviroguide Consulting (Enviroguide) dated 14th December 2021.
- A 'Technical Note on AA Screening Report' document prepared by Enviroguide dated 12th December 2021.
- A 'Planning History and Non-Technical Shadow Analysis' document prepared by Hall McKnight dated 8th December 2021.
- An 'Archaeological, Architectural and Cultural Heritage Impact Assessment' document prepared by Rubicon Heritage dated June 2021.
- A 'Flood Risk Assessment' (FRA) document prepared by Malachy Walsh and Partners (MWP) dated November 2021.

- An 'Outline Construction & Environmental Management Plan' (CEMP) prepared by Hall McKnight dated 8th December 2021.
- A 'Preliminary Construction Traffic Management Plan' document prepared by MWP dated November 2021.
- A 'Utility Planning Report' document prepared by MWP dated November 2021.
- Design drawings prepared by Hall McKnight and MWP.
- A list of prescribed bodies notified of the proposed development and copies of public notices.

4.0 Planning History

4.1. There has been no previous recent planning application on site.

4.2. The planning history of nearby properties i.e. Merchants Square (44 Merchants Rd. Lwr. on the opposite side of New Dock St.), No. 16 Merchant's Rd. Lwr. and the Pálás Cinema adjacent to the south of the site, and Galway City Museum adjacent to the Spanish Arch and approx. 40 metres from the site, is set out in sections 5.2 – 5.5 of the applicant's Planning History and Non-Technical Shadow Analysis document.

5.0 Legislative and Policy Context

The EU Habitats Directive (92/43/EEC)

5.1.1. This Directive deals with the conservation of natural habitats and of wild fauna and flora throughout the EU. Articles 6(3) and 6(4) require an AA of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European site (SAC or SPA).

European Communities (Birds and Natural Habitats) Regulations 2011 (as amended)

5.1.2. These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats)

(Control of Recreational Activities) Regulations 2010. The Regulations in particular require in article 42(21) that where an AA has already been carried out by a 'first' public authority for the same project then a 'second' public authority considering that project for AA under its own code of legislation is required to take account of the AA of the first authority.

National Nature Conservation Designations

5.1.3. The Department of Housing, Local Government and Heritage and the National Parks and Wildlife Service (NPWS) are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SAC) and Special Protection Areas (SPA) and the latter two form part of the European Natura 2000 Network.

5.1.4. European sites located in close proximity to the subject site include:

- Galway Bay Complex SAC (site code 000268) – approx. 90 metres to the south west.
- Lough Corrib SAC (site code 000297) – approx. 150 metres to the north west.
- Inner Galway Bay SPA (site code 004031) – approx. 380 metres to the south east.

Planning & Development Act, 2000 (as amended)

5.1.5. Part XAB of the Planning & Development Act, 2000 (as amended) sets out the requirements for the AA of developments which could have an effect on a European site or its conservation objectives.

- Section 177AE sets out the requirements for the AA of certain development carried out by or on behalf of local authorities.
- Section 177AE (1) states where an AA is required in respect of development the local authority shall prepare, or cause to be prepared, a NIS in respect of the proposed development.
- Section 177AE (2) states that a proposed development in respect of which an AA is required shall not be carried out unless the Board has approved it with or without modifications.

- Section 177AE (3) states that where a NIS has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the AA.
- Section 177V (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
 - (i) The likely effects on the environment.
 - (ii) The likely consequences for the proper planning and sustainable development of the area.
 - (iii) The likely significant effects on a European site.

Appropriate Assessment of Plans and Projects in Ireland – Guidance for Planning Authorities (2010)

5.1.6. Guidance is provided for the competent authority to assess any plan or project. The impact of any plan or project alone or in combination with other projects on the integrity of the European site(s) is considered with respect to the conservation objectives of the site(s) and the structure and function.

Urban Development and Building Heights Guidelines for Planning Authorities (2018)

5.1.7. These guidelines are relevant to the application.

Project Ireland 2040 National Planning Framework (NPF)

5.1.8. The NPF is a high level strategic plan to shape the future growth and development of the country to 2040. It will be focused on delivering 10 National Strategic Outcomes (NSOs). NSO 1 is ‘Compact Growth’. ‘Carefully managing the sustainable growth of compact cities, towns and villages will add value and create more attractive places in which people can live and work. All our urban settlements contain many potential development areas, centrally located and frequently publicly owned, that are suitable and capable of re-use to provide housing, jobs, amenities and services ... Activating

these strategic areas and achieving effective density and consolidation, rather than more sprawl of urban development, is a top priority’.

Northern & Western Regional Assembly Regional Spatial and Economic Strategy 2020-2032 (RSES)

- 5.1.9. This RSES provides a high-level development framework for the Northern and Western Region that supports the implementation of the NPF and the relevant economic policies and objectives of Government. It provides a 12-year strategy to deliver the transformational change that is necessary to achieve the objectives and vision of the Assembly.
- 5.1.10. The Galway Metropolitan Area Strategic Plan (MASP) is set out in section 3.6. ‘The MASP provides a strategic focus on the City and environs and sets out how it is envisaged the NPF will be implemented in the regional context of the RSES. The vision for Galway is that it will be a leading European city renowned for its quality of life, its history, its culture and its people’.
- 5.1.11. In terms of population and housing ‘Galway Metropolitan Area has a considerable land capacity that can significantly contribute to meeting the housing demands based on population targets set out in the NPF and the RSES’. ‘The policy framework is to meet this projected demand through promoting the development of sustainable high-quality neighbourhoods, sustainable densities incorporating high design standards and key urban design principles ... It also must promote a range of house types, sizes and tenures suitable for households with different income levels or those who may have specific requirements’.
- 5.1.12. Regional Policy Objective (RPO) 3.6.2 states ‘The Assembly supports the proposition that 50% of new homes for the population targets will be constructed within the existing city development envelope, 40% of these shall be located on infill and/or brownfield sites’.
- 5.1.13. The creative/cultural sector is addressed on page 61.

Galway City Council Development Plan 2017-2023

- 5.1.14. The proposed site is in an area zoned ‘CC – City Centre’, with a zoning description ‘To provide for city centre activities and particularly those which preserve the city centre as the dominant commercial area of the city’.

- 5.1.15. Policy 2.2 (Housing Strategy) includes 'Address the demand for additional social housing and social housing supports through a number of means including the construction of housing, direct acquisition of housing ...'
- 5.1.16. Section 2.8 states 'New residential development in particular has contributed to the vibrancy of the city centre. The Council will continue to encourage residential development by requiring a residential content of at least 20% of new development in the city centre'. Policy 2.8 (City Centre Residential Areas) includes 'Encourage the expansion of the city centre residential community by requiring a residential content in new development proposals'.
- 5.1.17. Chapter 7 (Community and Culture) is relevant. The aim 'To promote an inclusive, creative and bilingual city which is accessible to all members of the community and facilitate the sustainable development of community and cultural infrastructure' includes in its strategy, 'Facilitate and co-ordinate with the relevant service providers in the provision of sustainable community, cultural and social infrastructure'. Elsewhere in the chapter it is noted 'Arts and cultural heritage is pivotal to the city's status as an important regional tourist destination as highlighted by the several events, street theatre and festivals of national and international distinction'.
- 5.1.18. Included in Policy 7.2 (Creative City) are two particularly relevant issues: 'Facilitate and encourage the provision of new and improved arts and culture facilities in the city and in district and neighbourhood centres where appropriate', and 'Develop and facilitate the development of additional cultural facilities at Lower Merchants Road'.
- 5.1.19. Building height is considered in section 8.7 (Urban Design). It is recognised that 'modest increases at appropriate locations, can help use land efficiently and provide for sustainable high densities'.

6.0 The Natura Impact Statement

- 6.1. Galway City Council's application was accompanied by a NIS which scientifically examined the proposed development and the European sites Galway Bay Complex SAC and Lough Corrib SAC, though it excluded Inner Galway Bay SPA from consideration. The NIS identified and characterised the possible implications of the

proposed development on the two European sites, in view of the site's conservation objectives, and provided information to enable the Board to carry out an appropriate assessment of the proposed works.

6.2. The NIS describes the elements of the project (alone or in combination with other projects and plans) that are likely to give rise to significant effects on the two European sites. Potential impacts are set out as well as an assessment of their possible adverse effects on the conservation objectives of qualifying interest features and the mitigation measures that are to be introduced to avoid, reduce, or remedy any adverse effects on the integrity of the European sites.

7.0 Consultations

7.1. The application was circulated to the following bodies:

- Department of Housing, Local Government and Heritage
- Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media
- Inland Fisheries Ireland
- EPA
- Irish Water
- An Taisce
- Fáilte Ireland
- The Arts Council / An Chomhairle Ealaíon
- The Heritage Council
- Galway Chamber

7.2. Three responses were received. The main points made can be summarised as follows:

7.2.1. Department of Housing, Local Government and Heritage

The National Monuments Service concurs with the Archaeological Mitigation Strategy outlined in the Archaeological, Architectural and Cultural Heritage Impact Assessment. A recommended condition is set out.

In relation to nature conservation, AA screening identified potential significant effects through construction phase runoff, dust impacts during demolition, and potential flooding impacts (water quality), on Lough Corrib SAC and Galway Bay Complex SAC. The Department considers the same potential effects apply to Inner Galway Bay SPA. The relevant potential water quality effects on the SPA should have been assessed as has been done for the SACs though it is noted that most of the proposed water quality mitigation may overlap in relevance for the SACs and SPA.

The site has not been surveyed for bats or received a visit from an ecologist. It is recommended that prior to demolition works all buildings be inspected and surveyed at an appropriate time of year.

7.2.2. An Taisce

A history of the site area is outlined. Archaeological monitoring during demolition and afterwards must be a strict condition of any grant of permission.

A background to the properties and their purchase by the City Council is outlined. Concern is expressed about flood risk.

An Taisce is particularly concerned at the proposed scale and height of the development. It is excessive when judged alongside other buildings in this area of the historic medieval core. The mass and bulk lowers existing residential amenity. The demolition of the buildings is not justifiable, the existing buildings should have been maintained and reused. The bland character of the façade will have an overpowering and detrimental effect on the street. It is overdevelopment of the site and would likely seriously injure residential amenities of present and future residents. There is a shortfall in the provision of sufficient communal facilities. The sixth floor is excessive and should be rejected. There is no Tall Building Statement as required in chapter 8 of the City Development Plan. It should be reduced in height.

Paving and pedestrianisation of the street is recommended and modifications are required.

7.2.3. Irish Water

The applicant has been issued with a confirmation of feasibility for the proposed development. Irish Water has no objection to the proposed development and requests four conditions to be attached to any grant of permission.

7.3. Three submissions were received from the public. The main points made can be summarised as follows:

7.3.1. Galway Cycling Campaign (c/o Neil O’Leary, Secretary, 63 Ashleigh Grove, Knocknacarra, Galway)

The architect’s rendered images display a car-free plaza area with an attractive public realm and street surfacing whereas Merchant’s Rd. Lwr. is an informal car park, a traffic circulation route, and contains excessive street clutter. Combined with narrow footpaths, it makes for a hostile and unattractive living environment. Comparative images are provided. None of the streetscape measures are part of any plan or scheme to reduce car dominance or upgrade paving. A special developer contribution should be obtained to facilitate works to improve the public realm as a condition of planning approval.

An additional design concern is the complete absence of any provision for safe and sheltered cycle-parking. The apartments alone require 18 no. spaces. Constraints as referenced in the submitted Design Statement are self-imposed by the City Council as a considerable amount of the street is allocated to car parking or set-down areas. The street would be an ideal location for on-street secure cycle shelters or ‘bike bunkers’. Existing cycle-parking stands in the immediate area are frequently full. There should be a specific special developer contribution to fund and mandate the provision of dedicated cycle-parking in the immediate vicinity.

7.3.2. Galway Property Management on behalf of the owners of Glor na Mara apartments, Dock Street, Galway

Glor na Mara adjoins the proposed development. The objections and concerns of the owners are:

- The proposed size, bulk, and shape does not seem to be in keeping with the nature of the surrounding buildings.
- Overlooking of Glor na Mara, reducing the privacy of residents, including from the proposed roof top garden. The roof top will require strict social rules. The roof terrace should be removed. There are noise/light pollution issues, and risk of items falling.

- There will be a serious impact on the sunlight currently being enjoyed by residents.
- No construction/structural detail for works adjacent to the Glor na Mara gable, and potential risk to the Glor na Mara apartments. A sewer pipe runs vertically on the gable.
- Negative impact on the value and use of Glor na Mara apartments.
- Concern in relation to excessive construction working hours.
- Concern about construction activity i.e. demolition, piling, dust, structural damage, traffic congestion, and fumes.
- Concern about development being delayed by possible archaeology finds. A survey should be completed in advance of development.
- Query about the opening hours of the café and cultural centre.
- Query whether potentially noisy items on the roof e.g. ventilation plant, can be relocated, and whether services on the roof of the cultural centre could be contained within a plant room.
- Concern about lighting impact.
- Query as to how Glor na Mara will be impacted in relation to flooding by the proposed development.

7.3.3. Donna Walsh & Michael Van Strien

The observers are entitled to be registered as owners of No. 16 Merchant's Rd. Lwr. The observers are concerned that the proposed development will interfere with the privacy and amenity of the property, including the third floor gable window, notwithstanding the small set back proposed. Proposed construction hours should be amended [inspector's note – the observation states that the construction hours 'should not be amended'. Given the content of the preceding paragraph it appears this is a typographical error].

8.0 Assessment

8.1. The likely consequences for the proper planning and sustainable development of the area

- 8.1.1. The proposed development is for the demolition of four dilapidated terraced houses and the construction of a five-storey mixed-use development comprising a café, cultural venue, and 12 no. social housing apartments. The site is located in an area which has a zoning objective 'To provide for city centre activities and particularly those which preserve the city centre as the dominant commercial area of the city'. 'Uses which are compatible with and contribute to the zoning objective' in the City Development Plan 2017-2023 include retail, residential, and cultural and community uses.
- 8.1.2. The national, regional, and local planning framework relevant to the proposed development is set out in section 5 of this inspector's report. The proposed development would comply with NSO 1 (compact growth) of the NPF. The development site is centrally located, publicly owned and is suitable for housing, jobs, and amenities. Effective density and consolidation would be achieved.
- 8.1.3. In relation to the RSES, the proposed development would contribute towards new homes within existing brownfield urban sites.
- 8.1.4. In relation to the Galway City Development Plan 2017-2023, the proposed development would be consistent with the land use zoning objective. The proposed development would contribute towards policy 2.2 which relates to the provision of social housing. The plan encourages residential content in city centre developments. The provision of a cultural venue/floorspace would comply with the provisions of chapter 7 of the plan. Policy 7.2 specifically states 'Develop and facilitate the development of additional cultural facilities at Lower Merchants Road'.
- 8.1.5. An Taisce considers that the existing buildings should be maintained and reused. The buildings are not protected structures, are not included on the national inventory of architectural heritage, and do not form part of an architectural conservation area (ACA). The applicant states on page 25 of the Design Statement, 'The viability of the development is dependent on the provision of 12no social housing units and as such

there is no scope for reduction'. I have no concern with the principle of the demolition of the existing structures to accommodate the proposed development.

- 8.1.6. Having regard to the foregoing, I consider that the proposed development would be consistent with the relevant planning framework and would be consistent with the proper planning and sustainable development of the area.

8.2. The likely effects on the environment

- 8.2.1. A Screening for Environmental Impact Assessment (EIA) document was submitted with the application. The proposed development does not fall under any category in schedule 5 of the Planning & Development Regulations, 2001 (as amended) for a mandatory EIA report (EIAR). The applicant does not consider that a sub-threshold EIAR is required. Having regard to the limited site area and relatively limited scale of the proposed development, and its urban location, I agree with the applicant that an EIAR is not warranted for the proposed development.
- 8.2.2. Notwithstanding, aspects of the proposed development that could have effects on the environment are addressed in this section.

Proposed Structure

Design

- 8.2.3. The applicant's Design Statement states that the massing of the proposed building was developed in response to shadow studies. An active frontage will animate the street. The Design Statement considers that the project is stitched into the existing townscape through high quality design and careful attention to the context. Ground floor external finishes would be of higher detail and quality, balanced with a more economic approach to upper levels. Render is the primary external finish with some limestone cladding proposed to the ground floor and coloured steel to the fifth floor.
- 8.2.4. The proposed five storey plus roof garden structure would be a significant intervention in the localised urban fabric. A number of visualisations have been included in the Design Statement. I acknowledge the point made in one of the observations that these are not necessarily completely accurate reflections of the proposed environment post-construction e.g. the absence of vehicles, public lighting columns, electricity poles, and

signage, and the altered street and road paving, but they are beneficial in giving an indication of how the proposed development would sit in the streetscape.

- 8.2.5. There is a mix of architectural styles in the immediate vicinity of the development site. For example, The House Hotel, Pálás Cinema, and Merchant's Square building are relatively substantial structures within approx. 20 metres of the development site boundary. These all exhibit different design styles and external finishes. Therefore, I do not consider that the proposed contemporary style development would, in terms of its scale, design, or external finishes, be visually incongruous at this location given the nature of the streetscapes of which it would form a significant part.
- 8.2.6. The existing dilapidated houses are not protected structures and do not form part of an ACA, and this is the type of brownfield, city centre site that should be redeveloped to achieve higher urban populations in line with the policy framework.
- 8.2.7. 70sqm communal open space is required as per appendix A of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines' (2020). A roof terrace of 160sqm has been provided, with solid balustrading of 1.6 metres 'to promote use of this space as a supervised play area'. Section 11.4.4 (Open Space Requirement) of the City Development Plan 2017-2023 requires an area equivalent to 30% of the gross residential floor area to be provided in the city centre. Where effective open space cannot be provided, a relaxation may be considered. A roof garden is one of the innovative ways of providing open space that would be considered. Overlooking from this has been referenced in the Galway Property Management submission. In this regard I consider that the 1.6 metres high balustrade would restrict overlooking from the terrace to the Glor na Mara apartments, and the proposed roof terrace would be further from the existing apartments than the windows and private open space areas of the proposed apartments.
- 8.2.8. Given the constraints of the site, its location in the built-up city centre area, and that a roof garden is referenced as a possible way of providing open space, I consider that it is acceptable in principle. I consider that it would require effective management to ensure it remained attractive to all residents. I also consider that a curfew or access limit such as 10pm should be considered in the interest of the residential amenity of proposed and existing adjoining residents.
- 8.2.9. I am satisfied the proposed design would not be visually incongruous or intrusive.

Height

- 8.2.10. The Design Statement notes certain provisions of the Urban Development and Building Height Guidelines (2018), including that within city centres such as Galway ‘it would be appropriate to support the consideration of building heights of at least 6 storeys at street level as the default objective ...’
- 8.2.11. I note the guidelines also state ‘There is ... a presumption in favour of buildings of increased height in our town/city cores and in other urban locations with good public transport accessibility’. Notwithstanding the content of the guidelines, in my view the proposed development would not be significantly in excess of the prevailing building height in the immediate vicinity, and therefore, in terms of its proposed height, the proposed development would be generally consistent with heights in the vicinity.

Apartment Guidelines

- 8.2.12. The Design Statement states that the housing mix (5 no. one bed/two person, 4 no. two bed/three person, and 3 no. two bed/four person apartments) has been developed to meet specific housing need. I note sections 3.5 – 3.7 of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines’ (2020) refer to the provision of two bed/three person units in social housing developments. The floor areas and widths cited in appendix A of the guidelines are generally complied with, though there is a minor shortfall in storage space in some apartments.

Density

- 8.2.13. The proposed development proposes 12 no. apartments on a 0.048 hectare site. Notwithstanding the commercial and cultural floorspace this is a density of 250 no. units per hectare. The Design Statement notes the provisions of the ‘Sustainable Residential Development in Urban Areas Guidelines’ (2009) which state ‘In order to maximise inner city and town centre population growth, there should, in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre site ...’ subject to certain safeguards such as compliance with open space standards and avoiding adverse impact on neighbouring properties.
- 8.2.14. I do not consider there is a concern in relation to the proposed density.

Plot Ratio

8.2.15. A plot ratio of 2.66:1 is proposed with the development. The City Development Plan 2017-2023 outlines a general city centre plot ratio of 2:1 in section 11.4.2, but also states 'consideration will be given to development proposals in excess of the normally permissible plot ratio where such proposals would contribute to urban regeneration or make a significant contribution to urban character ...' The Design Statement notes developments with higher plot ratios in the immediate vicinity i.e. Pálás cinema and Merchant's Square.

8.2.16. I do not consider there is a concern in relation to the proposed plot ratio.

Impact on Adjacent Properties

Overlooking

8.2.17. Overlooking does not occur onto Merchant's Rd. Lwr. or New Dock St. as these are public roads. There are no windows proposed along the southern/side elevation. The existing gable window of No. 16 would not be significantly affected. There are a number of habitable room windows and terraces/balconies to the rear/south east of the property. Given the restricted site area and shape, I consider that, although there would likely be an element of overlooking in this direction, it would not be such that it would have a significant adverse effect on the residential amenity of adjacent properties. The brownfield nature of the site and the city centre location requires a development of a reasonable density and scale and I consider this is achieved without an unacceptable overlooking impact.

Shadowing

8.2.18. An existing and proposed shadow analysis was submitted with the application. The applicant states the massing of the proposed scheme has been considered in terms of shadowing impact. Shadow diagrams are presented in sections 6.4 and 6.5 of the Planning History and Non-Technical Shadow Analysis document in both plan and 3D views. These clearly illustrate the impact of the proposed development. The applicant further briefly analyses the impact to Glor na Mara development, referencing, inter alia, the covered circulation deck structure that currently inhibits sunlight to the rear of the apartment building and the use of the rooms that would be most affected by proposed shadowing.

8.2.19. Having regard to the content of the shadowing diagrams and further commentary, the brownfield city centre nature of the proposed site, the reasonable height proposed, and the planning policy framework, I do not consider the proposed development would have an undue adverse shadowing impact on adjacent properties.

Overbearing Impact

8.2.20. While the proposed development would be a significant increase in scale from that which currently exists on site, the proposed development is consistent in principle with policy framework in terms of building height and redevelopment of city centre brownfield sites. The site location within the city centre must also be taken into consideration in that development of this scale are to be expected. Therefore I do not consider the proposed development would result in any undue overbearing impact to adjoining properties.

Construction Works

8.2.21. Section 6.9 of the Outline CEMP outlines permitted hours of construction as advised by the City Council as 7am to 9pm Monday to Friday and 9am to 8pm on Saturday. While I note the Council's website in this regard, and notwithstanding the city centre location, I consider these hours to be excessive given the proximity of residential development and consider that they should be significantly reduced in the interest of residential amenity.

8.2.22. Concern about the impact of construction works on adjoining property is referenced in observations. While I acknowledge this concern, construction nuisance is an unavoidable consequence of any development. Any potential structural damage that may be caused during construction is a civil matter between the relevant parties.

Archaeological and Cultural Heritage

8.2.23. An Archaeological, Architectural and Cultural Heritage Impact Assessment was submitted with the planning application. The site is located within a city centre Zone of Archaeological Potential in the City Development Plan 2017-2023. The site is considered to be an Area of Archaeological Potential because it is probable that structural remains of earlier buildings survive within the site. However, archaeological investigations at 15 and 16 Merchants Rd. Lwr. did not reveal any surviving archaeological remains predating the 18th century. Mitigation in the form of

archaeological monitoring is recommended, and subject to such monitoring, the residual impact is considered to be slight.

8.2.24. I consider an archaeological mitigation condition be attached to any grant of approval.

Flood Risk

8.2.25. There is a contradiction in the documentation submitted by the applicant with regard to flooding. Section 2.6 of the Design Statement states the proposed site is located in flood zone A with a high risk of tidal flooding. However, the site-specific Flood Risk Assessment (FRA) states that the site is in an area categorised as flood zone B. The OPW's floodinfo.ie website mapping shows the site is in flood zone C for fluvial/river flood risk where the probability of flooding from rivers and the sea is low. The website shows the site is in flood zone B for coastal/tidal flood risk.

8.2.26. Zone A is defined in the 'Planning System and Flood Risk Management Guidelines' (2009) as 'where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5% or 1 in 200 for coastal flooding)'. Zone B is defined as 'where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding)'. In the context of flooding, the café and cultural centre would be classified as a less vulnerable development while residential would be classified as highly vulnerable. In flood zone A both vulnerabilities are subject to the justification test. In zone B less vulnerable development is appropriate, but highly vulnerable development is subject to the test. In terms of the justification test the FRA notes the zoning of the site where both commercial and residential are compatible uses. It also notes that the site is currently occupied by residential buildings 'so the vulnerability due to the development is not increased due to the proposed development uses'. Mitigation measures are recommended. Section 3.7 of the Design Statement states that 'The risk of flooding will be mitigated by the use of an in-situ reinforced concrete upstand around the perimeter of the structure with temporary demountable defences to be installed at the doorways' to a minimum elevation of 4.76mOD Malin (proposed finished floor levels are 3.52m-3.78m).

8.2.27. In terms of flooding impact to adjacent properties, I note that page 10 of the FRA states 'The footprint of the site is generally unchanged and it will not impede on overland flow routes'.

8.2.28. Having regard to the foregoing, I consider that the proposed development is acceptable in terms of flood risk.

Car and Bicycle Parking

8.2.29. The Design Statement says 'GCC has instructed that no car parking is to be included in the development due to the constrained nature of the site'. I note the City Development Plan 2017-2023 states 'the Council will restrict car parking for future developments within the city centre'. The maximum car parking standard in city centre residential areas is one space per dwelling and 'where a reduction in car parking standards is considered acceptable by the Council on grounds of urban design or sustainability, a transport contribution will be levied in lieu of on-site parking spaces'. In this case the Council considers the absence of car parking acceptable as it is a Council development. I note that the four houses currently on site have no car parking space within their curtilages.

8.2.30. The Design Statement says that there is no dedicated cycle parking provision proposed 'due to the constraints on this infill site'. General references to encouraging and supporting cycling are made throughout the City Development Plan 2017-2023. There are some existing bicycle stands immediately adjacent to the site which were fully utilised on my site inspection. I do not consider it reasonable that no bicycle parking spaces are to be provided within the development. Even if dedicated on-site spaces are not provided for residents, visitors, and patrons of the café and cultural centre, I consider that an adequate number of secure on-street spaces should be provided.

8.2.31. There are recommendations made in one of the observations received relating to, for example, restricting through traffic along Merchant's Rd. Lwr. and improving the public realm. Notwithstanding that the applicant in this case is Galway City Council, I consider that these types of works are outside the scope of the planning application, which is solely for the development as proposed.

8.2.32. Therefore, while I have no concern about the absence of car parking spaces, I do not consider it acceptable that no provision has been made for bicycle parking spaces.

Overall Conclusion in Terms of the Likely Effects on the Environment

8.2.33. The proposed development would result in a substantial change to the streetscape and the local environment. However, the redevelopment of the site for a mixed-use

five-storey development would be consistent with planning policy to redevelop inner-city brownfield sites in terms of the uses proposed and overall building design and height. While there would be an impact to adjoining properties, such impact is unavoidable in city centre redevelopment proposals. I consider that, overall, the likely effects of the proposed development on the environment would not be unduly significant.

8.3. The likely significant effects on a European site:

8.3.1. The areas addressed in this section are as follows:

- Compliance with article 6(3) of the EU Habitats Directive
- The Natura Impact Statement (NIS)
- Appropriate Assessment (AA)

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

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

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

The Natura Impact Statement (NIS)

8.3.4. The application was accompanied by a NIS which describes the proposed development, the project site, and the surrounding area. A Technical Note on AA Screening Report prepared by Enviroguide was also received by the Board. This refers

to an AA Screening Report prepared by Ecofact, but this does not appear to have been received as part of the application documentation. It is stated that the Ecofact Screening Report concluded that a Stage 2 appropriate assessment was required on the basis that there is potential for the proposed development, alone or in combination with other plans or projects, to significantly impact Galway Bay Complex SAC and Lough Corrib SAC. The NIS outlines the methodology used for assessing potential impacts on the habitats and species that have the potential to be affected by the proposed development. It predicts the potential impacts for these sites and their conservation objectives, it suggests mitigation measures, and assesses in-combination effects with other plans and projects.

8.3.5. The NIS was informed by the following studies, surveys, and consultations:

- a desk study
- the Technical Note.

8.3.6. The report states 'it has been concluded that, ensuring the avoidance and mitigation measures are implemented as proposed, the Proposed Development at 17-20 Merchant's Road Lower, Galway City will not have a significant adverse impact on the ... European Sites'.

8.3.7. Notwithstanding the absence of the AA Screening Report, having reviewed the NIS and the supporting documentation I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. Details of mitigation measures are provided, and they are summarised in section 8 of the NIS. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development.

Appropriate Assessment

Stage 1 Screening

8.3.8. Section 177AE of the Planning & Development Act, 2000 (as amended), sets out the requirements for AA of development carried out by or on behalf of a local authority. Section 177AE (3) states that where an NIS has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part

XAB shall apply to the carrying out of the AA. There is no requirement for the Board to undertake screening in these cases as it is presupposed that the local authority has established the need for AA through its own screening process (unless issues arise as to the adequacy or otherwise of the screening determination by the applicant). Nonetheless, it is considered prudent to review the screening process to ensure alignment with the sites brought forward for AA and to ensure that all sites that may be affected by the development have been considered.

8.3.9. Having regard to the information and submissions available, the nature, size, and location of the proposed development, its likely direct, indirect, and cumulative effects, the source-pathway-receptor principle and sensitivities of the ecological receptors, the following European sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 AA on the basis of likely significant effects. In my opinion these three sites are the only European sites that could be affected by the proposed development.

8.3.10. Table 1 – European Sites Considered for Stage 1 Screening

European site	Qualifying interest / Special conservation interest	Distance
Galway Bay Complex SAC (site code 000268)	Mudflats and sandflats not covered by seawater at low tide [1140] Coastal lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170] Perennial vegetation of stony banks [1220] Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Turloughs [3180]	Approx. 90 metres to the south west

	<p>Juniperous communis formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates [6210]</p> <p>Calcareous fens with Cladium mariscus and species of the Caricon davallianae [7210]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p>Otter [1355]</p> <p>Harbour seal [1365]</p>	
<p>Lough Corrib SAC (site code 000297)</p>	<p>Oligotrophic waters containing very few minerals of sandy plains [3110]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils [6410]</p> <p>Active raised bog [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p>	<p>Approx. 150 metres to the north west</p>

	<p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Petrifying springs with tufa formation [7220]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Bog woodland [91D0]</p> <p>Freshwater pearl mussel [1029]</p> <p>White-clawed crayfish [1092]</p> <p>Sea lamprey [1095]</p> <p>Brook lamprey [1096]</p> <p>Salmon [1106]</p> <p>Lesser horseshoe bat [1303]</p> <p>Otter [1355]</p> <p>Slender naiad [1833]</p> <p>Slender green feather-moss [6216]</p>	
<p>Inner Galway Bay SPA (site code 004031)</p>	<p>Black-throated diver [A002]</p> <p>Great northern diver [A003]</p> <p>Cormorant [A017]</p> <p>Grey heron [A028]</p> <p>Light-bellied Brent goose [A046]</p> <p>Wigeon [A050]</p> <p>Teal [A052]</p> <p>Red-breasted merganser [A069]</p> <p>Ringed plover [A137]</p>	<p>Approx. 380 metres to the south east</p>

	Golden plover [A140]	
	Lapwing [A142]	
	Dunlin [A149]	
	Bar-tailed godwit [A157]	
	Curlew [A160]	
	Redshank [A162]	
	Turnstone [A169]	
	Black-headed gull [A179]	
	Common gull [A182]	
	Sandwich tern [A191]	
	Common tern [A193]	
	Wetlands and waterbirds [A999]	

8.3.11. The Technical Note submitted by Envirocare states that it was commissioned by Galway City Council to carry out a review of the AA Screening Report carried out by Ecofact, which has not been received by the Board.

8.3.12. The Ecofact AA screening report identified pathways for potential significant effects as being contaminated construction phase run-off and dust impacts during demolition that could affect some QIs of both SACs. This was addressed in sections 5.1.1 and 5.1.2 of the Technical Note. The potential for contaminated surface water to reach the SACs was considered in the Technical Note to be negligible, for stated reasons including that the combined sewer flows into the Galway wastewater treatment plant (WWTP), rather than Galway Bay. While the Technical Note acknowledged that construction phase dust has the potential to disperse several hundred metres, the majority of deposition occurs within 50 metres. Given the temporary nature of the demolition phase, separation distance to the SACs, and the urban buffer, the potential for significant effects to arise were considered to be negligible by the Technical Note. I agree with the finding of the Technical Note that these two issues are not significant.

- 8.3.13. The Ecofact screening report considered that there was a potential pathway for significant effects via Galway WWTP and uncertainty surrounding the effectiveness of treatment at the WWTP. The screening report considered foul water treatment to be a mitigation measure and mitigation measures cannot be taken into consideration at the screening stage. The Technical Note disputes that wastewater treatment constitutes a mitigation measure in the context of AA screening. It is pointed out that wastewater treatment, whether public or private e.g. septic tank, is a mandatory requirement and therefore should not be interpreted as a mitigation measure. Section 5.2.1.1 comments on the existing WWTP and the insignificant increase in loading on the WWTP as a result of the proposed development. I agree with the Technical Note that a wastewater treatment system cannot be considered as a mitigation measure for the purpose of AA screening, because it is not a measure intended to avoid or reduce any significant impact on a European site. It is a mandatory requirement of all development, regardless of the proximity or otherwise of a European site.
- 8.3.14. Flooding was also addressed in the Technical Note. The Ecofact screening report stated that mitigation will be required to alleviate potential flooding impacts on site which may have knock on indirect effects on the SAC water quality in the absence of any mitigation measures. Recommended mitigation included flood barriers to be incorporated into the detailed design of the proposed structure and non-return valves on pipes. Similar to the previous paragraph, the Technical Note states that 'These mitigation measures are set out to protect the Site, future businesses and residents from flooding, rather than the European sites linked to the Proposed Development'. The Technical Note notes the potential for dilution in the surface water network during any flood event, the temporary nature of flooding, and the absence of cars from the development i.e. hydrocarbons. Even in the absence of the flood protection measures there would be no likelihood of significant effects on European sites arising from flooding of the site during operation. As with the wastewater treatment issue, I agree with the Technical Note that flood mitigation should not be considered as a mitigation measure for the purpose of AA screening in the context of this planning application. This is because the purpose is to protect the site from flooding, not to avoid or reduce any significant impact on a European site.
- 8.3.15. The possibility of significant cumulative impacts during the construction and operational phases on all three European sites was also referenced in the Ecofact

screening report. This was discounted in section 5.3 of the Technical Note which considered 'No developments with the potential to result in likely significant in-combination effects to any European Site were identified'. Some larger, more recent developments in the vicinity were identified. I accept this conclusion.

8.3.16. The Technical Note raises two issues in relation to stage 2 AA that were not considered in the Ecofact screening report. The first issue relates to the potential for significant effects arising during the construction phase as a result of hydrogeological pathways on a site which has high groundwater vulnerability, is close to Galway Bay, and requires piling and in-situ concrete. It recommends that a Hydrological and Hydrogeological Risk Assessment be carried out, or, as per the cautionary principle, an NIS should be prepared. The second issue relates to uncertainty regarding the potential impact of a flooding event during the construction phase. During a storm or high spring tide there is a risk of flooding at the site which could, in the absence of mitigation, result in significant effects on European sites.

8.3.17. Based on my examination of the NIS report, Technical Note and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives, and taken in conjunction with my assessment of the subject site and the surrounding area, I conclude that Stage 2 AA is required for the three European sites in table 1, above. The submission from the Department of Housing, Local Government and Heritage notes that water quality issues are pertinent to the SPA. I agree with the department, and I consider that Inner Galway Bay SPA should also be considered in Stage 2 AA, notwithstanding the likely overlap in mitigation. The SPA has not been considered in the submitted NIS. I concur with the Enviroguide Technical Note that the potential likely significant effects that could arise during the construction and operational phases of the proposed development on the European sites are:

- Hydrogeological pathways during construction – surface water run off containing silt, sediments and/or other pollutants into the local groundwater.
- Flooding during construction – surface water run off containing silt, sediments and/or other pollutants into nearby waterbodies during flood events.

- 8.3.18. A third construction phase issue cited in section 6.1 of the Technical Note is 'Waste generated during the construction phase comprising soils, construction and demolition waste'. This may have been included in error as it is not addressed anywhere else, does not in itself affect European sites, and I do not consider it to be anything other than standard construction activity. It could be associated with the 'flooding during construction' issue i.e. contributing to potential surface water contamination, but it is already effectively addressed under the 'flooding during construction' umbrella.
- 8.3.19. For clarity, and notwithstanding the absence of the AA screening report, I am satisfied that the detailed references to screening in the Technical Note and the NIS itself, as well as a site inspection and availability of other information such as the FRA, and NPWS and floodinfo.ie websites, are adequate in this case to ensure that the screening phase of the proposed development is appropriately understood and sufficient detail is presented.

Stage 2 Appropriate Assessment

1. Galway Bay Complex SAC (site code 000268)

Description of Site

- 8.3.20. This site comprises the inner, shallow part of a large bay which is partially sheltered by the Aran Islands. There are numerous shallow and intertidal inlets on the eastern and southern sides. A diverse range of marine, coastal and terrestrial habitats, including several listed on Annex I of the E.U. Habitats Directive, occur within the site, making the area of high scientific importance.
- 8.3.21. The development site is approx. 90 metres from the SAC with an urban buffer between the development site and the SAC.

Conservation Objectives for the Site

- 8.3.22. The conservation objectives are set out in the 'Conservation Objectives Series Galway Bay Complex SAC 000268' document published by the NPWS. Site specific attributes, measures, and targets for each QI is set out. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Of the 15 no. QIs of the SAC, the conservation objective is to maintain the favourable conservation condition of 10 no. including mudflats and

sandflats ..., and harbour seal, and to restore the favourable conservation condition of 5 no., including otter.

8.3.23. I note that while vegetated sea cliffs of the Atlantic and Baltic coasts and limestone pavements are cited on the NPWS website they are not included in the Conservation Objectives Series document.

8.3.24. Table 2 of the applicant's NIS contains a list of the QIs and an assessment of whether or not there are potential pathways for significant effects on the QIs from the proposed development. The NIS considers there are potential pathways to affect:

- Mudflats and sandflats ... - This habitat is present 70 metres to the west of the site. There is a potential hydrogeological connection via construction phase groundwater flows and a potential hydrological connection via potential flooding of the development site during construction i.e. potential for water contamination. (In my view there is a separation distance of approx. 90 metres between both sites but, nonetheless, it is in close proximity).
- Otter – There is a potential hydrogeological connection via construction phase groundwater flows and a potential hydrological connection via potential flooding of the development site during construction. i.e. potential for water contamination.
- Harbour seal – As per otter, above.

8.3.25. Table 2 excludes the other QI habitats from being affected by the proposed development for reasons of the scale of the proposed development, distances, dilution potential in the estuary and bay, and no connectivity between the development site and the habitat.

8.3.26. Having regard to the nature of the proposed development, the subject site, and the Conservation Objectives Series document I agree with the submitted NIS in terms of the QI habitats and species that could be affected by the proposed development, and those that can be excluded from further consideration.

Potential Direct Impacts

8.3.27. The NIS considers that, as the development site is not located within or immediately adjacent to a European site, there is no potential for direct impacts. I concur with the

NIS in this assessment and also note the urban buffer between the development site and the SAC.

Potential Indirect Impacts

8.3.28. The NIS considers that there is potential for indirect impacts due to hydrogeological and hydrological (flooding) pathways:

- Construction phase groundwater flows and surface water run-off/discharges during flood events may have the potential to impact the status of the estuary and bay impacting on mudflats and sandflats not covered by seawater at low tide.
- This may in turn affect prey availability for otter.
- Construction phase groundwater flows and surface water run-off/discharges during flood events may have the potential to impact the status of the estuary and bay, which may in turn impact harbour seal.

Mitigation Measures

8.3.29. Mitigation measures are set out in section 8 of the applicant's NIS. Construction phase measures include surface water and groundwater protection measures. There is a risk to the local hydrogeological environment due to piling and in-situ concrete and groundwater vulnerability. There is a risk to the local hydrological environment due to possible flooding during construction. Measures to protect surface and ground water relate to:

- fuel and chemical storage.
- general protection measures including construction practices.

8.3.30. Operational phase mitigation involves connecting the development site to the public foul and surface water network.

Residual Effects/Further Analysis

8.3.31. In consideration of the outlined mitigation measures, I am satisfied that no residual impact is anticipated.

Potential In-Combination Effects

8.3.32. Recent, large planning applications and relevant plan documents e.g. Galway City Council Development Plan 2017-2023, were reviewed and considered for possible in-combination effects in the NIS. It was considered that there are no means for the proposed development to act in-combination with any plans or projects that would cause any likely significant effects on European sites. Section 6.6 of the NIS refers and I concur with the conclusion reached.

NIS Omissions

8.3.33. None noted.

Suggested Related Conditions

8.3.34. Given the distance from the SAC and the presence of the urban buffer, I do not consider any specific related conditions are necessary in addition to the mitigation measures proposed.

Conclusion

8.3.35. I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives, subject to the implementation of mitigation measures outlined above.

2. Lough Corrib SAC (site code 000297)

8.3.36. I note initially that this SAC boundary ends, and the Galway Bay Complex SAC begins, approx. 150 metres to the north west of the development site at Wolfe Tone Bridge/Fr. Griffin Rd./R336 and the water flows from the Corrib into Galway Bay. As such this SAC is included primarily by reason of proximity to the development site.

Description of Site

8.3.37. Lough Corrib is the second largest lake in Ireland. The surrounding lands to the south and east are mostly pastoral farmland, while bog and heath predominate to the west and north. A number of rivers are included within the SAC as they are important for Atlantic salmon. The lake is rated as an internationally important site for waterfowl. Lough Corrib is considered one of the best sites in the country for otter, due to the

sheer size of the lake and associated rivers and streams, and also the generally high quality of the habitats. Atlantic salmon use the lake and rivers as spawning grounds. The lake has a population of sea lamprey, a scarce, though probably under-recorded species. Brook lamprey are also known from a number of areas within the site.

Conservation Objectives for the Site

8.3.38. The conservation objectives are set out in the 'Conservation Objectives Series Lough Corrib SAC 000297' document published by the NPWS. Site specific attributes, measures, and targets for each QI is set out. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. Of the 24 no. QIs of the SAC, the conservation objective is to maintain the favourable conservation condition of 14 no. including brook lamprey, salmon, and otter, and to restore the favourable conservation condition of 10 no. including sea lamprey.

8.3.39. Table 2 of the applicant's NIS contains a list of the QIs and an assessment of whether or not there are potential pathways for significant effects on the QIs from the proposed development. The NIS considers there are potential pathways to affect:

- Sea lamprey – There is a potential hydrogeological connection via construction phase groundwater flows and a potential hydrological connection via potential flooding of the development site during construction. i.e. potential for water contamination.
- Brook lamprey – As per sea lamprey, above.
- Salmon – As per sea lamprey, above.
- Otter – Though mainly found in the lough, they may utilise areas close to the development site. There is a potential hydrogeological connection via construction phase groundwater flows and a potential hydrological connection via potential flooding of the development site during construction i.e. potential for water contamination.

8.3.40. Table 2 excludes the other QI habitats and species from being affected by the proposed development for reasons of the scale of the proposed development, the distances between the development site and relevant habitat including upstream distances, the tidal habitat adjacent to the development site would not be suitable, the

urban setting of the development site, the lack of a potential pathway, and no connectivity between the development site and the habitat.

- 8.3.41. Having regard to the nature of the proposed development, the subject site, and the Conservation Objectives Series document I agree with the submitted NIS in terms of the QI habitats and species that could be affected by the proposed development, and those that can be excluded from further consideration.

Potential Direct Impacts

- 8.3.42. The NIS considers that, as the development site is not located within or immediately adjacent to a European site, there is no potential for direct impacts. I concur with the NIS in this assessment and also note the urban buffer between the development site and the SAC.

Potential Indirect Impacts

- 8.3.43. The NIS considers that there is potential for indirect impacts as construction phase groundwater flows and surface water run-off/discharges during flood events may have the potential to impact the status of the estuary and bay which may in turn impact sea lamprey, brook lamprey, and salmon, and prey availability for otter.

Mitigation Measures

- 8.3.44. As per sections 8.3.29 – 8.3.30, above.

Residual Effects/Further Analysis

- 8.3.45. In consideration of the outlined mitigation measures, I am satisfied that no residual impact is anticipated.

Potential In-Combination Effects

- 8.3.46. As per section 8.3.32, above.

NIS Omissions

- 8.3.47. None noted.

Suggested Related Conditions

- 8.3.48. Given the distance from the SAC and the presence of the urban buffer, I do not consider any specific related conditions are necessary in addition to the mitigation measures proposed.

Conclusion

8.3.49. I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives, subject to the implementation of mitigation measures outlined above.

3. Inner Galway Bay SPA (site code 004031)

8.3.50. This SPA was not included in the applicant's NIS. This was noted by the Department of Housing, Local Government and Heritage in its observation. The observation appears to be based on the original AA screening report which referred to construction phase runoff and dust deposition, and which have been addressed previously. Notwithstanding, I agree with the department's general contention that water dependant species and habitat of the SPA are also susceptible to impacts on water quality. Therefore, I consider the SPA should be included in this Stage 2 assessment.

Description of Site

8.3.51. Inner Galway Bay SPA is a very large, marine-dominated site. The inner bay is protected from exposure to Atlantic swells by the Aran Islands and Black Head. Subsidiary bays and inlets add texture to the patterns of water movement and sediment deposition, which lends variety to the marine habitats and communities. The long shoreline is noted for its diversity. The SPA is of high ornithological importance.

Conservation Objectives

8.3.52. The conservation objectives are set out in the 'Conservation Objectives Series Inner Galway Bay SPA 004031' document published by the NPWS. Site specific attributes, measures, and targets for each SCI species and QI is set out. The overall aim of the Habitats Directive is to maintain or restore the favourable conservation status of habitats and species of community interest. The conservation objective of all 21 no. SCI species and QI is to maintain their favourable conservation condition.

8.3.53. Having regard to table 2 of the applicant's NIS, I consider potential pathways affecting the bird species and wetlands habitat to be potential hydrogeological connection via construction phase groundwater flows and a potential hydrological connection via

potential flooding of the development site during construction. i.e. potential for water contamination.

Potential Direct Impacts

8.3.54. As the development site is not located within or immediately adjacent to a European site, I consider that there is no potential for direct impacts.

Potential Indirect Impacts

8.3.55. Having regard to the concern in relation to the two SACs, I consider that there is potential for indirect impacts as construction phase groundwater flows and surface water run-off/discharges during flood events may have the potential to impact the status of the bay which may in turn impact bird species and wetland habitats.

Mitigation Measures

8.3.56. As per sections 8.3.29 – 8.3.30, above.

Residual Effects/Further Analysis

8.3.57. In consideration of the outlined mitigation measures, I am satisfied that no residual impact is anticipated.

Potential In-Combination Effects

8.3.58. As per section 8.3.32, above.

NIS Omissions

8.3.59. This SPA was omitted from inclusion in the applicant's NIS, but in my opinion it has been adequately considered in this inspector's report.

Suggested Related Conditions

8.3.60. Given the distance from the SPA and the presence of the urban buffer, I do not consider any specific related conditions are necessary in addition to the mitigation measures proposed.

Conclusion

8.3.61. I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives, subject to the implementation of mitigation measures outlined above.

Appropriate Assessment Conclusion

8.3.62. Having regard to the foregoing, I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects, would not adversely affect the integrity of the European site nos. 000268, 000297, and 004031, or any other European site, in view of the site's Conservation Objectives.

9.0 Recommendation

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the NIS.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations, 2011 (as amended),
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests, and special conservation interests for the Galway Bay Complex SAC (site code 000268), Lough Corrib SAC (site code 000297), and Inner Galway Bay SPA (site code 004031),
- (e) Project Ireland 2040 National Planning Framework (NPF),
- (f) Northern & Western Regional Assembly Regional Spatial and Economic Strategy 2020-2032 (RSES),

- (g) the policies and objectives of the Galway City Council Development Plan 2017-2023,
- (h) the nature and extent of the proposed works as set out in the application for approval,
- (i) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura impact statement,
- (j) the submissions and observations received in relation to the proposed development, and,
- (k) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Galway Bay Complex SAC (site code 000268), Lough Corrib SAC (site code 000297), and Inner Galway Bay SPA (site code 004031) are the only European sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura impact statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European sites, namely Galway Bay Complex SAC, Lough Corrib SAC, and Inner Galway Bay SPA, in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European sites, in view of the sites' conservation objectives.

Proper Planning and Sustainable Development / Likely Effects on the Environment

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, give rise to a risk of pollution, be detrimental to the streetscapes of the area, seriously injure the amenities of property in the vicinity, adversely impact on the cultural, archaeological and built heritage of the area, and, interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura impact statement or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in section 8 of the Natura impact statement, and section 4.2 of the Flood Risk Assessment, shall be implemented in full or as may be required in order to comply with the following conditions. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European sites, and in the interest of public health.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura impact statement and Flood Risk Assessment and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:
 - (a) all mitigation measures indicated in the Natura impact statement and Flood Risk Assessment,
 - (b) specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

Reason: In the interest of protecting the environment and in the interest of public health.

4. (a) The construction of the development shall be managed in accordance with a Construction and Traffic Management Plan.
 - (b) Site development and building works shall be carried out only between the hours of 07.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays, except in exceptional circumstances.

Reason: In the interests of amenity, public health, and safety.

5. The City Council and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. In this regard the local authority shall:

(a) Employ a suitably qualified archaeologist prior to the commencement of development who shall assess the site and monitor all site investigations and other demolition and excavation works, and,

(b) Provide suitable arrangements acceptable to the Department of Housing, Local Government and Heritage for the recording and removal of any archaeological material which it is considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

6. An appropriate number of bicycle parking spaces shall be provided within or adjacent to the site, commensurate with the requirements of the Galway City Council Development Plan 2017-2023.

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

7. External finishes shall be as shown on the plans and particulars submitted.

Reason: In the interest of visual amenity.

8. The roof garden shall not be used after 22.00 hours.

Reason: In the interest of residential amenity.

Anthony Kelly

Planning Inspector

7th September 2022