



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312943-22

#### Development

6 storey plus penthouse level apartment building comprising 18 units, open space, landscaping, car parking and all associated site works and services.

#### Location

Rear of Forster Street House (a Protected Structure), 48 Forster Street & fronting onto Lough Atalia Road, Galway.

#### Planning Authority

Galway City Council

#### Planning Authority Reg. Ref.

21102

#### Applicant

Patrick Ryan

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Party

#### Appellant

Hilary & Leonie Heskin

#### Observer(s)

None

**Date of Site Inspection**

29<sup>th</sup> November 2022

**Inspector**

Ian Campbell

## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated area of 0.1675 ha and is located on the western side of Lough Atalia Road, c. 400 metres east of the centre of Galway City/Eyre Square. The appeal site comprises the rear garden/curtilage of Forster Street House, No. 48 Forster Street (a Protected Structure), a detached two storey over basement period dwelling.
- 1.2. The appeal site is elevated relative to Lough Atalia Road, falling from west to east, with a level difference of c. 8 metres between the western and eastern part of the appeal site. The appeal site is broadly rectangular in shape, has a width of c. 30 metres and a depth of c. 56 metres. A c. 3 metre high stone wall forms the boundary with Lough Atalia Road. There is a pedestrian gateway in this boundary wall. The northern and southern boundaries of the appeal site also comprise stone walls. The documentation submitted with the planning application indicates a foul sewer traversing the appeal site (north-south). There are a number of trees along the northern site boundary.
- 1.3. The adjoining sites to the north and south accommodate detached dwellings. The Galmont Hotel is located further south of the appeal site. The predominant land use in the vicinity of the appeal site is residential. The buildings in the vicinity range in height from 2 stories to c. 7 stories (i.e. the Galmount Hotel). Apartment buildings ranging from 5 – 6 stories are located to the north of the appeal site (i.e. Lough View Apartments and Tur an Tsaille and Tobar na Mban Apartments).

## **2.0 Proposed Development**

- 2.1. The proposed development comprises;
  - A 6 storey (plus penthouse level) apartment building (incorporating 18 no apartments – 12. No. 2 bedroom units and 6 no. 1 bedroom units). Stated floor area 1,675 sqm.
  - set-back c. 16 metres from front site boundary, c. 2. metres from northern site boundary and c. 2.4 metres from southern site boundary.

- Material finishes to the apartment building comprise stone cladding (3 different tones), nap plaster and zinc cladding for external walls and metal for the roof.
- A pedestrian and vehicular entrance onto Lough Atalia Road, with alterations to existing front boundary of site/provision of a low stone wall.
- Construction of a stone wall to rear of site using stone from the existing front boundary wall.
- Landscaping, including a terraced rear garden.
- 19 no. car parking spaces (9 no. spaces to the front of the building and 10 no. spaces at ground floor/basement level).
- Covered bicycle shelter for 20 no. bicycles and 14 no. bicycle spaces at basement level.
- Associated site services.

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

- Architects Statement & Planning Report.
- Landscape Design Statement.
- Architectural Heritage Impact Assessment (revised report submitted as FI).
- Appropriate Assessment Screening Report (revised report submitted as FI).
- NIS (following request for FI).
- Preliminary Construction, Environmental and Demolition Waste Management Plan (following request for FI).
- Planning Stage Structural/Civil Engineering Statement.
- CGI of proposed development (following request for FI).
- Tree Survey.
- Shadow Analysis (following request for FI).

### **3.0 Planning Authority Decision**

#### **3.1. Request for Further Information**

Prior to the decision of the Planning Authority to grant permission for the proposed development, the Planning Authority requested Further Information.

##### **3.1.1. Further Information was requested as follows:**

- Submit photomontages from viewpoints, including Forster Street/College Road and to the rear of No. 48 Forster Street, and amend the Architectural Heritage Impact Assessment accordingly.
- Submit proposals for the re-use of the existing stone, outline any further mitigation measures to reduce the potential impact on the Protected Structure and loss of built heritage material, and amend the Architectural Heritage Impact Assessment accordingly.
- Revise Appropriate Assessment screening report to take account of the substantial groundworks proposed/submit NIS if required.
- Submit information re. loss of light/overshadowing.
- Address the potential for overlooking of adjoining lands from windows on the side elevations and the balconies serving the penthouse level.
- Provide external cycle parking facilities in accordance with the Galway City Development Plan.
- Liaise with the Chief Fire Officer re. the height of the proposed building and fire safety requirements.

##### **3.1.2. Further information submitted on 19<sup>th</sup> November 2021**

- Photomontages submitted from locations as requested and Architectural Heritage Impact Assessment amended accordingly.
- Revised drawings submitted indicating the rear boundary wall comprising reused stone from wall along Lough Atalia Road, non-original rear boundary wall removed, and stonework retained and stockpiled for reuse on site in the form of the construction of the new rear boundary wall between the rear of

Forster Street House and the proposed apartment building. Architectural Heritage Impact Assessment amended accordingly.

- Appropriate Assessment Screening Report revised and Natura Impact Statement (NIS) and Preliminary Construction Environmental and Demolition Waste Management Plan submitted. A map entitled 'Site Plan-Environmental Control Measures' was also submitted indicating the location of environmental mitigation measures.
- Shadow Analysis submitted.
- Revised elevational drawings submitted indicating a balustrade with 1.8 metre high non-vision glass to the side of the balconies at penthouse level, and above ground windows on the side elevations of the proposed apartment building served with non-vision glass positioned 2 metres above finished floor level.
- Provision of a covered bicycle shelter for 20 no. bicycles, in addition to the 14 no. bicycle spaces at basement level.
- Revisions to the floor plan of Apartment No. 1 to meet fire safety requirements.

### 3.2. **Decision**

The Planning Authority issued a Notification of Decision to GRANT Permission on the 10<sup>th</sup> February 2022 subject to 30 no. conditions. The following conditions are of note;

**C4** – archaeological monitoring.

**C5** – retention/reuse of rear boundary wall, and gates/piers from front boundary.

**C6** – supervision of works by engineer.

**C10** – construction programme details to be submitted.

**C17** – provision of obscure glass to rear balcony balustrades at 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> floor level.

**C23** – details of SuDS to be submitted.

**C29** – operation of cranes.

### 3.3. **Planning Authority Reports**

#### 3.3.1. Planning Reports

3.3.2. The first report of the Planning Officer includes the following comments;

- Principle of proposed development, including the scale, height and design, considered acceptable having regard to the existing urban context and planning history in the area
- Plot ratio exceeds that which is normally considered acceptable, as per the Galway City Development Plan, however the proposal should not be read in isolation from other qualitative considerations, including urban design and public realm considerations etc.
- Concerns noted regarding the effect of the proposed development on the character and setting of No. 48 Forster Street (a Protected Structure), specifically in relation to how the proposal would appear when viewed from No. 48 Forster Street, and its assimilation with neighbouring buildings.
- Lack of information/concerns noted regarding the potential impact on existing stone walls/boundaries, which may be of built heritage value.
- Potential overshadowing impacts are required to be addressed.
- Concern raised regarding overlooking from upper floor windows on the side elevations, and from balconies serving penthouse apartments.
- Proposed development accords with Apartment Guidelines.
- Proposed development does not provide sufficient bicycle parking.
- A revised Appropriate Assessment screening report is required to take account of the extent of ground works proposed. If mitigation measures are required NIS should be submitted.
- Proposed development considered acceptable in terms of access and traffic movements.
- Proposed development is considered acceptable in terms of communal and private open space provision.
- Separation distances between the proposed apartment building and site boundaries are acceptable.

Request for Further Information recommended.

3.3.3 The second report of the Planning Officer includes the following comments;

- The main visual impact on No. 48 Forster Street is from its rear garden of towards the proposed development. Whilst the main viewpoint to Lough Atalia

would be negatively impact upon by the apartment building, it is not considered that the proposal would compromise the character and setting of the Protected Structure.

- The proposed development could be developed without compromising the character and setting of the Protected Structure at No. 48 Forster Street. A significant element of the original garden serving No. 48 Forster Street remains, including patio area, formal garden and croquet lawn. The main concern relates to the 'important walling circa 1840 on the Lough Atalia Road side of the development'. It is considered that as much of this wall as possible should be retained, to make up the front boundary of the development to Lough Atalia Road, including the existing gate and piers.
- The NIS and conclusions of same are considered acceptable.
- Having regard to the existing situation, impacts from loss of light and overshadowing are not considered excessive.
- While the measures proposed to address overlooking are considered acceptable, additional measures are required to address overlooking from upper level apartments and penthouse level, specifically the provision of balustrades fitted with obscure glass.
- Bicycle parking provision is considered acceptable. Details of the shelter structure is required.
- Issues concerning fire safety have been satisfactorily addressed.

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

#### 3.3.4. Other Technical Reports

Fire Authority – no objection subject to conditions relating to various fire safety requirements.

Transportation Department – no objection subject to standard conditions, including the submission of a Construction Management Plan and a Parking Management Plan.



Climate Change & Environment Section – no objection subject to standard conditions, including the submission of a Waste Management Plan.

Heritage Officer – notes concerns regarding scale of proposed building, the invasiveness of the proposed entrance and the loss of boundary wall along Lough Atalia Road. Report recommends the retention of stone wall, and stone piers and timber lintel along Lough Atalia Road, and the incorporation of the gate and piers into the new front boundary to the development. The report also recommends that a stone wall be constructed between the rear garden of No. 48 Forster Street and the development site, that archaeological testing is undertaken and that archaeological monitoring undertaken during groundworks.

Recreation & Sports Department - no objection subject to a condition requiring the submission of landscape design details.

#### **3.4. Prescribed Bodies**

None received.

#### **3.5. Third Party Observations (& Government Departments)**

The report of the Planning Officer summarises the main issues raised in the third-party observations as follows:

- Excessive height/scale, and impact on character of area.
- Inadequate Architectural Heritage Impact Assessment.
- Impact on Forster Street House.
- Traffic hazard.
- Overshadowing/loss of light.
- Geotechnical site investigation required.
- Environmental impact.
- Traffic noise.
- Department of Tourism Culture, Arts, Gealtacht Sport and Media – recommends that prior to granting permission, the Planning Authority satisfy

themselves that the proposed development will not impact nearby European sites and their qualifying interests, species or water quality.

- Department of Defence - condition should be attached to any grant of permission requiring consultation in relation to the operation of cranes in the context of aircraft navigation.

## 4.0 Planning History

### Appeal Site

None.

## 5.0 Policy Context

### 5.1. National Policy

#### 5.1.1 National Planning Framework 'Project Ireland 2040'

The NPF sets out a targeted pattern of growth for Galway City and Suburbs to 2040 of between 40,000 - 45,000 people. Relevant Policy Objectives include:

- **National Policy Objective 2a:** A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.
- **National Policy Objective 3a:** Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- **National Policy Objective 3b:** Deliver at least half (50%) of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- **National Policy Objective 4:** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- **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 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- **National Policy Objective 35:** Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## 5.2 Ministerial Guidelines

5.2.1 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).
- 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.

## 5.3. Development Plan

5.3.1. The proposed development was considered by the Planning Authority under the Galway City Development Plan 2017-2023 however the Galway City Development

Plan 2023-2029 came into effect on the 4<sup>th</sup> January 2023 and is now the relevant development plan.

5.3.2 The appeal site is zoned 'Residential' (R) under the Galway City Development Plan 2023 – 2029, with an objective *'to provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods'*. Residential use class is considered compatible with the 'R' zoning. The appeal site is located within the 'Inner Residential Area' (see fig, 3.1 & also 11.32 Galway City Development Plan 2023 – 2029).

5.3.3 The appeal site is located within the curtilage of Forster Street House, a Protected Structure (RPS. No. 4305).

5.3.4. The provisions of the Galway City Development Plan 2023-2029 relevant to this assessment are as follows:

- **Policy 3.3** - Sustainable Neighbourhood Concept
- **Policy 3.6** - Sustainable Neighbourhoods: Inner Residential Areas
- **Policy 8.1** - Record of Protected Structures
- **Policy 8.7** - Urban Design and Placemaking

Chapter 11 includes development standards and guidelines, the following of particular relevance to this assessment:

- **11.3.1 (c)** Amenity Open Space Provision in Residential Developments
- **11.3.1 (d)** Overlooking
- **11.3.2 (f)** Distance between Dwellings for New Residential Development
- **11.10** Urban Development and Building Height

The Galway Urban Density and Building Height Study 2021, an accompanying document to the Galway City Development Plan 2023 – 2029 provides general guidance in relation to proposals for tall buildings within the city but does not provide any specific guidance in respect of height for the appeal site.

#### **5.4. Natural Heritage Designations**

- Galway Bay Complex pNHA (Site Code: 000268), c. 20 metres east.
- Galway Bay Complex SAC (Site Code: 000268), c. 20 metres east.
- Inner Galway Bay SPA (Site Code: 004031), c. 20 metres east.

#### **5.5. 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 third-party appeal against the decision to grant permission. The grounds for appeal may be summarised as follows;

- Concern regarding the height of the proposed apartment building, specifically within the context of its location within the curtilage of a Protected Structure.
- Concern regarding the impact of the proposed development on the character of the site and the amenity of Lough Atalia Road. The character of the site differs to the adjacent city area containing the Galmont Hotel.
- Notwithstanding the modifications made, the proposal would have significant adverse effects on the amenity of nearby houses on Forster Street and College Road, and an overbearing impact on No. 6 and 8 College Road.
- The Planning Authority has not had sufficient regard to the Development Plan, or to government guidance. The site is not within a city centre zone, but rather on residentially zoned lands. The Galmont Hotel, which is 7 stories is located within the city centre zone.

- The Planning Authority are facilitating a development in the more environmentally sensitive zone which would be more appropriate in the adjacent less sensitive zone, justifying its approach on the basis of the close proximity of the site to the less sensitive zone.
- The Building Height Guidelines should not be treated as an overriding consideration. The Guidelines are not intended for every location and are more appropriate to sites in city centres, district centres and commercial areas.
- Suggested alterations to the proposed development, specifically the omission of the 4<sup>th</sup> and 5<sup>th</sup> floors; a reduction in the floor to ceiling height from 2.7 metres to 2.4 metres; 1.8 metre high balustrades consisting of opaque glass to the rear balconies and to the rear and side balconies at penthouse level; the provision of opaque glass to the hallways and stairwells in the rear elevation and windows on the side elevations; an increase in the building set-back from Lough Atalia Road, the omission of car parking from the front of the site and increase tree planting/soft landscaping in this area.

## 6.2. Applicant Response

The applicant has submitted a response in respect of the third party appeal submission. The primary contention articulated by the applicant is that the proposed development accords with development plan policy and national planning policy in respect of urban development and height. The submission, set out in tabular form, provides a direct rebuttal of the third party appeal under various headings. The submission notes the following:

- The proposed development is consistent with the prevailing character of the area of Lough Atalia Road which is defined by infill apartments, typically 4-6 stories, and the 7 storey Galmont Hotel. The site to the north is likely to be subdivided and developed to facilitate higher density residential development at some stage in the future.
- The appeal site, which has been underutilised for decades, is proximate to, and has pedestrian connectivity to the main public transport hubs. Additionally, Lough Atalia Road has been designated to provide a greenway.

- The proposed development is consistent with the NPF, which encourages compact urban forms and urban infill development. Reference is made to compliance with specific objectives of the NPF, including objectives which relate to the role of Galway in accommodating population growth, delivering growth within the footprint of existing settlements and increasing residential densities.
- The Urban Development and Building Height Guidelines, 2018, provide that, in respect of suburban/edge location within cities or towns, it is appropriate to consider building heights of at least 6 stories at street level as a default objective, and as such owing to the locational advantages of the site, together with the high standard of design, the proposal can be considered. Additionally, a proposal for a higher building can be considered given the existence of the Galmont Hotel, the expansive waterfront adjacent and the lakeside amenity strip, and specific circumstances which are referred to at Section 3.6 of the Urban Development and Building Height Guidelines. The proposed development, being located at the inner edge of Galway City centre, should not be subject to unreasonable height restrictions, as noted at Section 7.7 of the Urban Development and Building Height Guidelines.
- The proposal complies with the Galway City Development Plan (2017-2023) in relation to height, by providing for an appropriate landmark at the entrance to the city centre, adjacent to the city centre zone on the main approach to the city centre, in close proximity to major transport hubs. The proposal would integrate with the Galmont Hotel, whilst providing for a modest increase in height from the adjacent apartment blocks. The proposal would not adversely affect the natural heritage of the area, as demonstrated in the submitted NIS, the setting of No. 48 Forster Street, as demonstrated in the Architectural Heritage Impact Assessment, the residential amenity of adjacent property, given the distances to adjacent property and the use of opaque glazing, or any views or prospects.
- There is an emerging precedent within the city for tall buildings (examples cited).



- The density of the proposal is appropriate having regard to the location of the site and the design of the proposal.
- It is not typically the remit of the Heritage Officer to advise on building heights, and the conclusion of the Planning Officer is of greater relevance.
- Condition No. 5 (re. stone walls) provides flexibility, with details to be agreed with the Planning Authority.
- The other apartment buildings along Lough Atalia are located within the same residential zoning. The nearest environmentally sensitive zone is the narrow waterside strip on the opposite side of the road.
- The proposed development meets the safeguards referred to in the context of Section 5.6 of the Sustainable Residential Development in Urban Areas Guidelines and companion document, specifically regarding open space provision; impact on the amenity of neighbouring property; internal standards; building height criteria and the protection of built heritage.
- As the appeal site is located adjacent to the city centre zone it is contended that a plot ratio<sup>1</sup> of 1:1 is appropriate and can be considered (given that the plot ratio for the residential zone is 0.46:1 and 2:1 for the city centre zone). The issue of plot ratio was addressed under ABP Ref. PL.61.233756 on a site located further from the city centre zone with the Inspector considering it to be a very generalised standard and one which does not sit comfortably with the site in question.
- The appellant fails to acknowledge Section 5.8 (c) of the Sustainable Residential Development Guidelines in relation to the location of the appeal site on a public transport corridor.
- The appellant acknowledges that the proposal complies with the Apartment Guidelines. The appeal site could be considered as a 'Central and/or Accessible Urban Location' under these guidelines.

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<sup>1</sup> The Galway City Development Plan 2023 - 2029 does not prescribe a plot ratio figure for 'R' zoned lands, or for lands located within the Inner Residential Zone.

- Increases in building heights set out in the Urban Development and Building Height Guidelines, 2018, does not exclusively apply to town/city cores.
- The character of Lough Atalia Road has changed over the past 15 no. years with a number of contemporary higher apartment buildings.
- It is not an objective of the Council to provide a pedestrian connection through the site, connecting Lough Atalia Road to Forster Road. A connection between both streets already exists at Fairgreen Road.
- Regarding the creation of a precedent for a 7 storey building on residential zoned lands, the proposal accords with the principles of consolidated development and national policy in respect of same, and it is noted that there are 5 and 6 storey buildings a further distance from the 7 storey Galmont Hotel, therefore a 7 storey building is considered appropriate adjacent to the Galmont Hotel. The current proposal is the first proposal to be considered along Lough Atalia Road since the adoption of the Building Height Guidelines.
- The proposed development is entirely consistent with the residential zoning of the site.
- Car parking will be largely screened.
- The Building Height Guidelines are applicable in determining the proposal.
- Specific impacts on adjacent properties have not been identified. The amenity area of No. 48 Forster Road will remain intact. There is no right to a view under the provisions of the Planning and Development Act.
- Regarding overlooking arising from hallways and stairwells, the Sustainable Residential Guidelines provide that windows serving halls and landings do not require the same level of privacy as balconies and living rooms. The amended design proposed will ensure that the privacy of adjoining property is protected.
- Regarding the suggested design revisions submitted by the third party;

- the height of the proposed apartment building is appropriate in the context of the location of the site and in terms of national planning policy. The reduction suggested would result in a building with a stunted appearance;
- 1.8 metre high opaque balustrades are not required for the rear balconies at penthouse level as these will not result in direct overlooking, and given the significant intervening distance between the rear of the proposed building and the appellants' house such a requirement would be onerous. The provision of high level opaque windows on the side elevation of the building are proposed as part of the FI response. The applicant contends that the requirement for opaque glass is unnecessary given the cill level of these windows. Additionally, the applicant contends that Condition No. 17, which required the provision of 1.8 metre high opaque balustrades to the balconies on the rear elevation of the building serving levels 4, 5 and 6 is similarly unnecessary and will curtail the usability of private open space.
- the suggestion to set the building back further on the site is contradictory and would result in the building being positioned further up the incline, exacerbating the appellant's concerns. The proposal respects the existing building line.
- it is not clear why car parking to the front of the site should be omitted, car parking is required to serve the proposal, is not out of character with the area, was considered acceptable by the Transport Section and the omission of parking would not benefit the appellant.
- adequate screening is provided.

### 6.3. Planning Authority Response

The Planning Authority have submitted a response in respect of the third party appeal submission stating that the majority of issues raised in the third party appeal have been considered, with some of the issues forming the basis of an extensive request for further information, and that the proposed development would provide for the sustainable use of a fully serviced urban site which would assimilate well into the

surrounding urban fabric, and is fully compliant with the Galway City Development Plan, and national policy/guidelines.

#### **6.4. Observations**

None received.

### **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the appeal, 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:

- Principle of Development
- Height, Impact on Visual Amenity & Design
- Impact on Residential Amenity
- Impact on Built Heritage
- Density & Open Space Provision
- Compliance with Relevant Guidelines/Standards
- Appropriate Assessment

#### **7.2. Principle of Development**

7.2.1. The appeal site is zoned 'Residential' (R) under the Galway City Development Plan 2023 – 2029 and residential use class as proposed is therefore compatible with the prevailing land use zoning. The appeal site is located within the 'Inner Residential Area'. It is the stated policy of the Galway City Development Plan 2023 - 2029 to accommodate additional infill residential development in Inner Residential Areas subject to such development being of a scale which does not adversely affect the character or existing residential amenity of the area, in particular having regard to existing building lines, massing and the height of buildings, and the development making a positive contribution to the area's urban fabric. Having regard to the scale

and design of the proposed development, and to the pattern of development in the vicinity of the appeal site, which includes apartment buildings ranging from 5 – 6 stories, and a 7 storey hotel, I consider the principle of the proposed development to be acceptable at this location.

### **7.3. Height, Impact on Visual Amenity & Design**

#### Height

- 7.3.1. A central issue in this appeal is the third parties contention that the height of the proposed apartment building is excessive at this location, in particular noting the location of the appeal site within the curtilage of a Protected Structure, and given that the appeal site is located within an area zoned residential, and not within the city centre zone.
- 7.3.2. The Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018 states that it is Government policy that building heights must be generally increased in appropriate urban locations, and that there is a presumption in favour of buildings of increased height in town/city cores and in other urban locations with good public transport accessibility. Section 1.10 of the Building Heights Guidelines states that in city and town centre areas, it is appropriate to consider building heights of at least 6 stories at street level as the default option.
- 7.3.3. Section 3 of the Guidelines sets out broad principles for the assessment of proposals for buildings taller than prevailing heights. Section 3.1, states that principles to be considered in assessing buildings taller than prevailing building height include the contribution of the proposal in securing NPF objectives, and in this regard I consider that the proposal supports National Strategic Objective 1 in terms of delivering compact growth in urban centres. Section 3.1 also requires proposals to align with Development Plan requirements. As addressed at paragraph 7.2.1 above, the proposed development accords with the applicable zoning objective for the site. Compliance with other Development Plan objectives is addressed further in this report.

- 7.3.4. Section 3.2 of the Guidelines sets out criteria to be satisfied at various scales. At the scale of the city/town, regarding public transport, I note that the appeal site is located in proximity (c. 300 – 400 metres) from Ceannt Railway Station and the Galway Coach Station. In terms of integration with the character of the area, the applicant has prepared an Architectural Heritage Impact Assessment and has submitted visuals of the proposed development in the context of the wider landscape which comprehensively address the impact of the proposal on built heritage and provide an representation of how the proposal will appear in the receiving landscape. At the scale of district /neighbourhood /street, the proposal provides for an appropriate interface with Lough Atalia Road, contributes positively to the streetscape, and is not monolithic in its design. The appeal site occupies a waterfront location but is not indicated as being within an area which is at risk of flooding, based on floodmaps.ie or the Strategic Flood Risk Assessment which accompanies the Galway City Development Plan 2023-2039. At the scale of the site/building, I am satisfied that the form, massing and height of proposed development has been carefully modulated so as to maximise access to natural daylight, ventilation and views, and minimise overshadowing and loss of light. An assessment of overshadowing is addressed at paragraph 7.4.6.
- 7.3.5. The Galway Urban Density and Building Height Study 2021 provides general guidance in relation to proposals for tall buildings within the city. The Galway City Development Plan 2023-2029 describes the study as providing suggested ranges of scale and intensity which are to be used as a guide and not absolute measures to be pursued or achieved, and notes that each site should be considered on its merits, with consideration of densities and heights lower or higher than those outlined in the study considered appropriate when assessed against other relevant policy and guidance. I note that the Galway Urban Density and Building Height Study 2021 does not provide any specific guidance in respect of height for the appeal site, or Lough Atalia. The study recommends the carrying out of sensitivity analysis in respect of proposals for buildings of increased height, which includes a consideration of the impact of such proposals on views and cognisance of topography. This requirement is reflected in the Galway City Development Plan 2023-2039 which requires the submission of a Tall Building Statement<sup>2</sup>, the purpose of which is to provide a justification for the height of

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<sup>2</sup> See page 218 Galway City Development Plan 2023 – 2029.

the proposal based on location, design, context and assimilative capacity. As stated above at paragraph 7.3.4, visuals of the proposed development have been submitted to allow for an assessment of how the proposal will affect views in the area and the applicant has also submitted a robust justification and design rational for the proposed development, initially in the Architects Statement and Planning Report, and later in the appeal response.

- 7.3.6. Noting the location of the appeal site in proximity to the city centre, proximity to high frequency public transportation, the pattern of development in the vicinity of the appeal site, the waterfront location of the appeal site, and the appeal site's frontage onto Lough Atalia Road, a wide urban road, and the design of the proposed building, I consider the height of the proposal to be acceptable. I consider that the proposed development is consistent with the Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018, and with the guidance set out in the Galway City Development Plan 2023 – 2029, and the accompanying document the Galway Urban Density and Building Height Study 2021.

#### Impact on Visual Amenity

- 7.3.7. The appeal site is located within an urban area, overlooking Lough Atalia. There is a map based objective 'to preserve views/prospects' on the eastern side of Lough Atalia Road. This is described in the Urban Design and Building Height Study which accompanies the Galway City Development Plan 2023 – 2029 as a panoramic protected view comprising '*seascape views of Lough Atalia from Lough Atalia Road, College Road, Dublin Road and Lakeshore Drive*'. As the proposed apartment building is located on the western side of Lough Atalia Road, views towards Lough Atalia from Lough Atalia Road are not affected by the proposed development. Local ground levels along College Road/Forster Street in the vicinity of the appeal site are elevated relative to Lough Atalia Road and the appeal site, and whilst the upper part of the proposed apartment building would be higher relative to ground levels along College Road/Forster Street, I note that the presence of existing development and trees along College Road/Forster Street would largely obscure views over the appeal site towards Lough Atalia. As such, I do not consider that the proposed development would result in any significant obstruction of views of Lough Atalia from College Road/Forster

Street, and would not therefore conflict with the map based objective seeking to preserve views/prospects of Lough Atalia.

- 7.3.8. Building heights in the vicinity of the appeal site range up to 7 no. stories, and I note that views of the proposed apartment building will be experienced within a urban context, alongside buildings which are not of a dissimilar height. As such I consider that the area has capacity to absorb the proposal and in my opinion the proposal would not represent a discordant feature in the urban landscape. I consider the proposed development to be responsive in the context of the sensitivity of the site, and wider landscape, and I do not consider that the proposed development would result in significant adverse effects on the visual amenity of the area.

#### Design

- 7.3.9. I consider the design of the proposed apartment building to be appropriate to its urban location and to the character of the area. I note the extensive use of glazing and the variation in material finishes, which in my opinion will add a degree of visual interest along Lough Atalia Road. The recessed penthouse level serves to dissipate the scale of the proposed apartment building and the proposed building is sufficiently set back from Lough Atalia so as not to dominate the interface with the public realm. The area between the building and Lough Atalia Road creates an attractive interface with Lough Atalia Road, further assisting with the assimilation of the proposed.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. Noting the nature of the proposal I consider that the main potential impacts from the proposed development arise in terms of overlooking, overshadowing and overbearance on the properties to the north-west and south-west of the appeal site and Forster Street House.

#### Overlooking:

- 7.4.2. Concern was raised by the Planning Authority regarding overlooking from balconies serving the penthouse apartments, and from the windows on the side elevations of the



building. In response to a further information request the applicant proposed 1.8 metre high balustrades fitted with obscure glass to the side balconies at penthouse level and high level windows fitted with obscure glass to the above ground windows on the side elevations (serving a toilet and kitchen). In granting permission, the Planning Authority further required the provision of 1.8 metre high balustrades fitted with obscure glass to rear balconies at 4th, 5th and 6th floor level of the building (i.e. Condition No. 17). The first party contends that the requirements of Condition No. 17 are unnecessary, that these requirements will curtail the usability of the balconies, and that high level windows without opaque glazing should be sufficient for the side windows.

7.4.3. Section 11.3.1 of the Galway City Development Plan 2023-2029 provides that residential units shall generally not directly overlook private open space or land with development potential from above ground floor level by less than 11 metres, or a greater distance than 11 metres in developments exceeding 2 stories. In my opinion the provision of high level windows alone adequately addresses overlooking from the side windows. The provision of 1.8 metre high obscure glass balustrades serving the sides of the penthouses mitigates any potential for direct overlooking of the lands to the immediate north and south. Regarding overlooking from the rear elevation of the proposed building towards Forster Street House, noting the distance between the rear elevation of the proposed building and the rear site boundary with Forster Street House, at c. 25 metres, the proposal complies with Section 11.3.1.

7.4.4. The windows and balconies on the rear elevation of the proposed building serve bedrooms, and not living areas, which in my opinion does not result in the same potential for overlooking. I do not anticipate that windows serving the stairwells will give rise to any significant level of overlooking. Noting the separation distances between the rear elevation of the proposed building and the dwelling to the west, at c. 33 metres, the dwelling to the north-west at c. 60 metres, and Forster Street House at c. 60 metres I do not consider that the proposal would result in significant overlooking of these adjoining properties. In my opinion, the requirement for the balustrades of the balconies on the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup>/penthouse level floor on the rear elevation of the building to have a height of 1.8 metres and to be comprised of obscure glass is not justified, having particular regard to the location of the appeal site within an urban area,

and having regard to the effect this requirement would have on the amenity and use of these balconies.

- 7.4.5. In summation, having regard to the siting and relationship of the proposed development relative to adjacent properties, the measures proposed to address overlooking, in particular the provision of high level windows on the side elevations serving above ground windows and the provision of 1.8 metre high non-vision glass to the sides of the penthouses, and to the location of the appeal site within an urban setting, I am satisfied that there would not be a loss of privacy to adjoining properties above what is normal within such an urban context.

Overshadowing:

- 7.4.6. A Shadow Study was submitted to the Planning Authority on foot of a request for further information. The study examines the impact of the proposed apartment building for the periods of winter/January 15<sup>th</sup>, spring/April 15<sup>th</sup>, summer/July 15<sup>th</sup> and Autumn/October 15<sup>th</sup>, and for the times of 0900 hours, 1200 hours and 1700 hours. I consider this range to be acceptable in terms of providing a representation of overshadowing.
- 7.4.7. From reviewing the shadow study submitted I note that no significant overshadowing is indicated on the property to the immediate south. Overshadowing of the central part of the garden of the property to the north occurs in January at 1200 hours. In addition, a portion of the south-eastern corner of the garden of the property to the north also occurs in April at 1200 hours, in July at 1700 hours and in October at 1200 hours. Noting the extent of overshadowing indicated during these periods, the extent of overshadowing relative to the wider site, and to the location of the appeal site within an urban area, I do not consider that the proposed development would have a significant negative impact on the property to the north as a result of overshadowing. Regarding Forster Street House, the shadow study indicates overshadowing of its rear garden in January and October at 0900 hours. Overshadowing of Forster Street House is not indicated for any other period/time. I do not consider the extent of overshadowing indicated in respect of Forster Street House to be significant having regard to periods/durations concerned. As a guide I note Section 3.3.7 of BRE 209, which states

that on the 21<sup>st</sup> March, 'the centre of the garden should experience at least two hours of sunlight'. I note based on the shadow analysis, albeit which is based on the 15<sup>th</sup> April, that the centre of the garden to the north and Forster Street House would receive at least two hours of sunlight and as such I do not consider that the proposed development would result in significant overshadowing of adjacent property.

#### Overbearance:

- 7.4.8. Noting the separation distance between the proposed apartment building and Forster Street House at c. 60 metres, and given the location of the proposed building on the lower part of the site, where the lower 3 floors will be obscured from view, and the design of the proposed building, in my opinion the proposed development would not result in significant overbearance of Forster Street House, or its amenity space. Having regard to the intervening distance between the proposed apartment building and the dwelling to the west of appeal site at c. 30 metres, and the dwelling to the north-west at c. 60 metres, I do not consider that significant overbearance of these properties would result. Whilst the proposed apartment building will result in some overbearance on the amenity areas of the adjoining properties to the north and south, having regard to the limited areas of the gardens which will be affected I do not consider that the proposal would significantly impact the residential amenity of these properties and I consider that it would fall within the bounds of acceptance for an urban site.

### **7.5. Impact on Built Heritage**

- 7.5.1. The appeal site forms part of the curtilage of No. 48 Forster Street, a Protected Structure which is also included on the National Inventory of Architectural Heritage (NIAH) – Reg. No. 30315005, referred to as dating from the period 1840 – 1860.
- 7.5.2. The report notes that the proposal will not result in any direct physical impact on Forster Street House or on its architectural detailing, and that due to the size of the site, and the space which will remain to serve Forster Street House, it will remain the focus of its setting. Post development, a service area, patio, formal garden, croquet lawn and boundary fence will remain, thereby reducing the impact of the proposal on the character and setting of Forster Street House, and leaving adequate space for the house to be appreciated from within the reduced grounds. The report states that the

appreciation of the social significance of the site may be affected by its subdivision, however no works are proposed to the house and as such its historical, artistic and cultural significance will remain legible. The report also notes that the plot itself has no architectural features of interest, and the reuse of stone within the site will address any potential for the loss of historic heritage material, with archaeological monitoring serving to further mitigate against loss of built heritage material. The report concludes that the proposal will not result in any adverse impact on the character and setting of No. 48 Forster Street.

7.5.3. Photomontages have been submitted as part of the Architectural Heritage Impact Assessment. The most important view of Forster Street House is considered to be from the front (Forster Street/College Road – view point 1), where there will be no view of the proposed development. The greatest impact on Forster Street House is identified as being as a result of the loss of views of Lough Atalia (see view point 2), however the report notes that views will remain either side of the apartment building and it is noted that existing development in the vicinity has already impacted on views of Lough Atalia. Views from Lough Atalia Road (see view point 3) are not considered to be important as Forster House has never had a presence onto Lough Atalia Road, being obscured by a high boundary wall when Lough Atalia Road was constructed in the late 1800's.

7.5.4. In my opinion, the impact of the proposed development on the character and setting Forster Street House is primarily determined by the height of the proposed apartment building, and its distance from Forster Street House. I note the separation distance between Forster Street House and the proposed apartment building, at c. 60 metres, and the topography of the site which screens the lower levels of the apartment building when viewed from Forster Street House. I agree with the conclusion of the Architectural Heritage Impact Assessment that the most significant impact on Forster Street House will arise as a result of the loss of the view of Lough Atalia, importantly however, I note that there will be no view of the proposed development from Forster Street/College Road, identified as the most important viewpoint. Having considered the Architectural Heritage Impact Assessment, and noting the design of the proposal and distance to Forster House, I do not consider that the proposed development would result in significant impacts on the built heritage of the area, in particular on setting or

character of Forster Street House, and I consider that the proposed development would be in accordance with Policy 8.1 (2) of the Galway City Development Plan 2023 – 2029 which seeks to ‘ensure new development enhances the character or setting of a Protected Structure’. I agree with the Planning Authority in relation to the desirability of retaining stone within the site for reuse and in this regard should the Board be minded to grant permission for the proposed development, I recommend that a condition is attached providing for the reuse of stone from the boundary wall onto Lough Atalia Road within the site, with details of same to be agreed with the Planning Authority. Noting the design of the front entrance onto Lough Atalia Road, I do not consider it practical to retain the gateway in situ. Instead, I recommend that along with the reuse of the stone from the front boundary wall, the stone piers and wooden lintel should be reused within the site. I also concur with the recommendation contained in the Architectural Heritage Impact Assessment in relation to the requirement for archaeological monitoring, and similarly recommend that a condition requiring archaeological monitoring of ground works should be included should the Board be minded to grant permission for the proposed development.

## **7.6. Density & Open Space Provision**

### Density

- 7.6.1. In relation to density, the proposal entails 18 no. units on a site of 0.1675 ha., equating to a density of c. 107 dpha. Section 5.6 of the *Sustainable Residential Development in Urban Areas 2009* states that ‘*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 safeguards*’, which include compliance with open space requirements; the avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours; good internal space standards; conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing; the preservation of protected buildings and their settings/Architectural Conservation Area; and compliance with plot ratio and site coverage standards. Section 5.8 of the *Sustainable Residential Development in Urban Areas 2009* recommends that increased densities should be promoted at locations within 500 metres walking

distance of a bus stop and within one kilometre of a rail station and in general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. SPPR 4 of the Urban Development and Building Height Guidelines, Guidelines for Planning Authority 2018, 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 “Sustainable Residential Development in Urban Areas (2007)”<sup>3</sup>. Having regard to the proximity of the appeal site to the city centre and to Ceannt Railway Station and the Galway Coach Station, to the scale and design of the proposed development and the measures proposed to address potential impacts on adjacent property, and to the impact on Forster House, I consider that the density proposed is appropriate in this context.

#### Open Space Provision

- 7.6.2. The Galway City Development Plan 2023 – 2029 requires communal amenity space<sup>4</sup> at a rate of 15% of the gross site area, or 10% on restricted sites. Regrading private amenity space, the Galway City Development Plan 2023 – 2029 states that developments which are exclusively apartment developments shall adhere to the private open space standards set out in the Sustainable Urban Housing: Design Standards for New Apartments (2020). The proposed development provides 717 sqm of communal open space and therefore complies with Development Plan requirements. Private amenity space is provided by balconies serving each apartment and complies with the Sustainable Urban Housing: Design Standards for New Apartments (2020). I therefore consider that the proposed development accords with

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<sup>3</sup> Reference in SPPR 4 to the publication date of the Sustainable Residential Development in Urban Areas as being 2007 appears to be a typographical error. I note that the Sustainable Residential Development in Urban Areas Guidelines were published in 2009.

<sup>4</sup> In residential development over ten units, a recreational facility is required to be provided as part of the communal open space. For developments of 11-20 units this is stated as being comprised of natural play equipment/natural play area, teen area with seating, picnic infrastructure.

the requirements of the Galway City Development Plan 2023 – 2029 in terms of the provision of open space, both communal and private.

## **7.7. Compliance with Relevant Guidelines/Standards**

- 7.7.1. Having reviewed the plans and particulars submitted with the application and the appeal, I consider that the proposal complies with, and in many instances exceeds the standards set out in the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020.

## **7.8. Appropriate Assessment**

### **7.8.1 Stage 1 Screening**

- 7.8.2 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.

- 7.8.3 Background. The applicant submitted an Appropriate Assessment Screening report for the proposed development (prepared by Oran Ecology) to the Planning Authority in April 2021. A revised Appropriate Assessment Screening report was subsequently submitted in response to a request for further information in November 2021. For the purpose of my assessment I have considered the latter screening report. 9 no. European sites within a 15km zone of influence of the appeal site were examined in the Stage 1 Appropriate Assessment Screening report. Following this screening exercise, 2 no. European sites were identified on the basis of proximity/potential hydrological connectivity with the appeal site, specifically Galway Bay Complex SAC and Inner Galway Bay SPA. The Stage 1 Appropriate Assessment Screening report notes a potential for a deterioration of water quality potentially impacting Galway Bay Complex SAC and Inner Galway Bay SPA. 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. Having reviewed the document, 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.

#### Supplementary Studies/Reports:

A Preliminary Construction Environmental and Demolition Waste Management Plan prepared by Planning Consultancy Services (dated November 2021) was submitted with the planning application. The plan contains measures to ensure sustainable construction, environmental protection and waste prevention, along with environmental control measures for the construction phase of the proposed development.

A multi-disciplinary ecological survey was undertaken on the 29<sup>th</sup> September 2021. All habitats within and adjacent to the subject site were readily identifiable during the site visit. The appeal site is described as being primarily comprised of Amenity grassland (GA2), as having been highly modified, and as being of limited ecological value. No watercourses were recorded within or immediately adjacent to the site. No species, or any signs of their presence, considered as Qualifying Interests in Galway Bay Complex SAC or Inner Galway Bay SPA were recorded on the appeal site. Furthermore, no Annex II species, or any signs of their presence, were recorded on site. The survey notes that the site does not provide suitable supporting habitat for any of the SCI species associated with the SPA or QI species associated with the SAC.

7.8.4 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.

7.8.5. The Proposed Development. The development is described on page 4 of the Stage 1 Appropriate Assessment Screening report. It comprises the construction of a 7 storey apartment building, surface car parking, landscaping and open space, connecting into the existing public foul and surface water network. Noting the sloping nature of the appeal site excavation works will be required.

7.8.6. 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 to ground water and surface water (e.g. run-off, silt, fuel, oils, etc.) and subsequent impacts on water quality sensitive habitats of Galway Bay Complex SAC (Site Code – 000268) and Inner Galway Bay SPA (Site Code – 004031).
- Disturbance to bird species which are Special Conservation Interests (SCI) of Inner Galway Bay SPA (Site Code – 004031).
- Should any bird species which are Special Conservation Interests (SCI) of Inner Galway Bay SPA (Site Code – 004031), or another European site use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

7.8.7 Submissions and Observations – see paragraph 3.5 (above).

7.8.8 European Sites and Connectivity. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. I note that the applicant included a greater number of European sites in their initial screening consideration, with sites within 15km of the development site considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

**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 development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Galway Bay Complex SAC (Site Code 000268)	<ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Coastal lagoons [1150]</li> </ul>	c. 20 metres east of appeal site	Noting the proximity of the appeal site to Galway Bay Complex SAC a likelihood of significant effects exists.	Y

	<ul style="list-style-type: none"> <li>• Large shallow inlets and bays [1160]</li> <li>• Reefs [1170]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</li> <li>• Mediterranean salt meadows (Juncetalia maritimi) [1410]</li> <li>• Turloughs [3180]</li> <li>• Juniperus communis formations on heaths or calcareous grasslands [5130]</li> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>• Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</li> <li>• Alkaline fens [7230]</li> <li>• Limestone pavements [8240]</li> <li>• Lutra lutra (Otter) [1355]</li> <li>• Phoca vitulina (Harbour Seal) [1365]</li> </ul>			
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Inner Galway Bay SPA (Site Code 004031)	<ul style="list-style-type: none"> <li>• Black-throated Diver (Gavia arctica) [A002]</li> <li>• Great Northern Diver (Gavia immer) [A003]</li> <li>• Cormorant (Phalacrocorax carbo) [A017]</li> <li>• Grey Heron (Ardea cinerea) [A028]</li> <li>• Light-bellied Brent Goose (Branta bernicla hrota) [A046]</li> <li>• Wigeon (Anas penelope) [A050]</li> <li>• Teal (Anas crecca) [A052]</li> <li>• Red-breasted Merganser (Mergus serrator) [A069]</li> <li>• Ringed Plover (Charadrius hiaticula) [A137]</li> <li>• Golden Plover (Pluvialis apricaria) [A140]</li> <li>• Lapwing (Vanellus vanellus) [A142]</li> <li>• Dunlin (Calidris alpina) [A149]</li> <li>• Bar-tailed Godwit (Limosa lapponica) [A157]</li> <li>• Curlew (Numenius arquata) [A160]</li> <li>• Redshank (Tringa totanus) [A162]</li> <li>• Turnstone (Arenaria interpres) [A169]</li> </ul>	c. 20 metres east of appeal site	Noting the proximity of the appeal site to Inner Galway Bay SPA a likelihood of significant effects exists.	Y
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	<ul style="list-style-type: none"> <li>• Black-headed Gull (Chroicocephalus ridibundus) [A179]</li> <li>• Common Gull (Larus canus) [A182]</li> <li>• Sandwich Tern (Sterna sandvicensis) [A191]</li> <li>• Common Tern (Sterna hirundo) [A193]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>			
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7.8.9 Galway Bay Complex SAC and Inner Galway Bay SPA have been ‘screened in’ having regard to their proximity with the appeal site and potential connectivity. All other Natura 2000 sites surrounding the proposed development have been ‘screened out’ due to a lack of connectivity. In relation to ex-situ effects, the appeal site is primarily comprised of amenity grassland and as such has a low habitat value. Additionally, the appeal site comprises the garden of a dwelling and would not represent favourable habitat for bird associated with Inner Galway Bay SPA, or other SPA’s.

7.8.10 Conservation Objectives of European Sites ‘Screened-In’. There is no Conservation Management Plan for Galway Bay Complex SAC. The generic Conservation Objective for Galway Bay Complex SAC is;

*‘to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II habitats for which the SAC has been selected’.*

There is no Conservation Management Plan for Inner Galway Bay SPA. The generic Conservation Objective for Inner Galway Bay SPA is;

*‘to maintain or restore the favourable conservation condition of the Bird Species listed as Special Conservation Interests for this SPA’.*

7.8.11. 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 are as follows:

Construction Phase Impacts on Galway Bay Complex SAC - During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and flow into the 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.

Operational Phase Impacts on Galway Bay Complex SAC - During the operational phase, effluent from the proposed development will be discharged into the public sewer. Surface water run-off from above ground/the roof of the building will be conveyed to an attenuation tank within the appeal site prior to discharge to the existing storm sewer on Lough Atalia Road. Ground water run-off from the base of retaining walls will discharge to silt-traps prior to discharging to the existing storm sewer on Lough Atalia Road. Surface water run-off from the access road and car parking on the appeal site will be directed to an oil and petrol bypass interceptor prior to being discharged to the existing storm sewer on Lough Atalia Road. There is therefore no potential for the water quality pertinent to this European Site to be negatively affected by the proposed development during the operational phase.

Construction Phase Impacts on Inner Galway Bay SPA – During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and flow into the SPA, with consequent potential for water sensitive habitat/habitat supportive of SCI associated with Inner Galway Bay 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.

Operational Phase Impacts on Inner Galway Bay SPA – As stated above at paragraph 7.8.9, the appeal site is has a low habitat value and as such there is therefore no potential for SPI associated with this European Site to be negatively affected by the proposed development during the operational phase in terms of disturbance. Additionally, the drainage regime on the site as described above under ‘operational phase impacts on Galway Bay Complex SAC’, result in there being no potential for the water quality pertinent to this European Site to be negatively affected by the proposed development during the operational phase.

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.

Table 7.2 - Summary Screening Matrix				
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Galway Bay Complex SAC (Site Code 000268)	c. 20 metres	During the construction phase there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and reach the SAC. There is the potential for the water quality pertinent to this European Site to be negatively affected by contaminants, from site clearance and other construction activities and also from the release of hydrocarbons.	No effect	Screened <b>in</b> for AA
Inner Galway Bay SPA (Site Code 004031)	c. 20 metres	During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and flow into the SPA, with consequent potential for water sensitive habitat/habitat supportive of SCI associated	No effect	Screened <b>in</b> for AA

		with Inner Galway Bay 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.		
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7.8.12. 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.

7.8.13. 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 Galway Bay Complex SAC/European Site Code 000268 and Inner Galway Bay SPA/European Site Code 004031, in view of the Conservation Objectives of these sites, and Appropriate Assessment is therefore required.

#### 7.8.14. **Stage 2 – Appropriate Assessment**

7.8.15. 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.

7.8.16 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).

**7.8.17 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:

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

The possibility of significant effects on other European sites has been excluded on the basis of objective information and noting that there is no possible ecological connection or pathway between the appeal site and other Natura 2000 sites surrounding the proposed development. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

**7.8.18 The Natura Impact Statement.** A NIS, prepared by Planning Consultancy Services/Oran Ecology (dated October 2021), examines and assesses potential adverse effects of the proposed development on Galway Bay Complex SAC and Inner Galway Bay SPA. The NIS identifies the main potential impacts from the proposed development on Galway Bay Complex SAC and Inner Galway Bay SAC as the potential for surface water run-off containing pollutants such as sediments or hydrocarbons to exit the site during the construction and/or operational phase of the proposed development and enter the SAC and SPA, affecting aquatic dependent QI's and SCI supporting habitat. Regarding disturbance impacts on QI associated with Galway Bay Complex SAC arising from the construction phase of the proposed development, the NIS states that the construction phase of the proposal will be short,



and that the appeal site is located in an urban area and is in proximity to industrial docks and as such noise generated during construction will be in line with existing noise levels in the area. Disturbance to mammals such as otter and seal using Lough Atalia (QI of Galway Bay Complex SAC) is not considered to arise during the construction or operational phase of the proposed development as these species are habituated to noise generated by human activity within the area. Additionally, there is no supporting habitat on the appeal site for otter or seal. Similarly, regarding impacts on Inner Galway Bay SPA, given the location of the appeal site, noise generated during construction will be in line with existing noise levels in the area and birds which use Lough Atalia would be habituated to noise generated by human activity within the area and would not be affected by disturbance during the construction or operational phase of the proposed development. The appeal site does not contain supporting habitat for any SCI associated with Inner Galway Bay SAC. The NIS includes an examination of recent planning applications where permission has been granted in the vicinity of the appeal site under the heading of 'cumulative and in-combination effects'. I note that there are no recent planning applications for the surrounding area that share a direct link with the subject site. The NIS states that no potentially adverse cumulative and/or in-combination disturbance or pollution effects on any of the QI's have been identified.

7.8.19. The NIS refers to mitigation measures<sup>5</sup> which will be adhered to. These mitigation measures are indicated on *Drawing No.18.110-PA-11 Rev. A*. Measures are proposed for the construction phase of the proposed development and include;

#### Site Set-Up

- A solid fence will be erected around the perimeter of the site prior to the commencement of construction works, creating a solid boundary between the site and the surrounding area. Hoarding will be erected to straddle public footpath (subject to licence).

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<sup>5</sup> Page 17 of the NIS refers to mitigation measures as being contained in Appendix 2. Reference to Appendix 2 appears to be a typographical error. I note that Section 5.0 of the Preliminary Construction Environmental and Demolition Waste Management Plan refers to a suite of 'Environmental Control Measures' which are intended to address adverse impacts on the surrounding environment and nearby European sites. I consider that these measures are the mitigation measures referred to in the NIS.

- All works will be located within the confines of these fences.
- Existing stone wall to be removed with stonework to be retained and stockpiled. Demolition works to take place outside of the winter bird season (April-September) to prevent disturbance to SCI's associated with Inner Galway Bay SPA. These works are to be carried out in a period of dry weather to prevent surface water runoff into the adjacent Natura 2000 sites.
- Materials from the demolition of the stone wall will be stockpiled in line with guidance stated below, preventing the mobilisation of sediments.
- A silt trap and fencing, which will remain in place for the entirety of the construction phase, are to be erected along the southeastern boundary prior to excavation and construction works.
- A wheel wash is to be installed, preventing the release of sediment from the site and as a measure to control any possible invasive species not previously identified.
- Demolition of the existing stone wall will begin after the silt trap has been erected, this must be carried out in a period of dry weather to prevent surface water runoff into the adjacent Natura 2000 sites.

### Earth Works

- Works such as soil excavations, soil depositing or soil stripping shall not take place immediately following periods of heavy or prolonged rainfall.
- All stockpile areas of sand, gravels and soils should be stored on level terrain and shall be covered during heavy rainfall periods in order to prohibit the mobilisation of sediments.
- If gravel or handstand materials are being brought on site, ensure that the source is free of invasive species.
- Removal of any dense vegetation/tree cutting to be carried out in accordance with the Wildlife Acts 1976-2017.
- Should any ingress of water require pumping, this will be pumped into a sealed clean tanker and removed from the site and spread on to improved agricultural grassland at a distance of 50 metres from any watercourse or disposed of at a licenced waste facility.

#### Air Quality, Dust and Emissions

- Dust and malodours will be kept to a minimum.
- No burning of materials will be allowed on site.
- The deposition of debris on local roads will be kept to a minimum.
- Vehicles bringing in or removing materials must be covered, to prevent spillages and runoff.

#### Refueling, Fuel and Hazardous Materials Storage

- All machinery maintenance and re-fueling shall be carried out off-site.
- Spill kits must be used for contaminants such as fuels and lubricants.
- Ensure staff know how to use a spill kit and that a spill response is put in place.
- All petroleum products to be bunded during the construction stage.

#### Environmental Approvals and Licenses

- Appropriate waste permits will be provided/retained by the supervising engineer for the completion of demolition/waste disposal file.

#### Ground Water Contamination

- All direct discharges of pollutants into groundwater is prohibited.
- Drip trays must be used for all machinery and monitoring undertaken to ensure that there is no risk of overflowing and that they are adequately sized to deal with the specific element of machinery that they are protecting against.
- All staff on site must know how to use a drip tray.

#### Drainage and Water Quality

- The works shall be planned and executed in accordance with Environmental Protection Agency Guidelines.
- Wash water from on-site mixers or lorries shall be disposed of appropriately off-site.
- The contractor should ensure that operations do not give rise to the discharge of large quantities of dirty water into the water courses. Measures must be in place to ensure that silt will not be allowed to enter the water system.

- To prevent run-off from stripped ground, banks are to be placed on the downstream side of stockpiles.
- Water from excavations shall be pumped to land and allowed to settle.
- Good site management will ensure that surface water and groundwater will be protected from accidental contamination.
- Washing out of concrete trucks should not be permitted within the site and should be conducted in hard standing areas.
- Works with concrete shall be done during dry conditions for a period sufficient to cure the concrete (at least 48 hours).
- Concrete pours shall occur in contained areas.
- Portable toilets and sanitary facilities will be provided for site use.
- Plant will be re-fuelled away from watercourses.
- All site operatives will have immediate access to spill kits when machinery is being used.

In addition, I note that Section 7.0 of the Preliminary Construction Environmental and Demolition Waste Management Plan contains noise control measures which I consider to also be mitigation measures. These measures are specified as follows;

- All construction plant and equipment to be used on-site will be modern equipment and will comply with the European Communities (Construction Plant and Equipment) (Permissible Noise Levels) Regulations, 1988 (as amended).
- Regular maintenance of plant will be carried out in order to minimise noise emissions.
- Machines will be turned off during periods when they are not in use.
- A copy of the EPA 'Guidance Note for Noise: License Applications, Surveys and Assessments in Relation to Scheduled Activities NG4' will be available on site for the duration of the works and will be referred to as required during the works.

7.8.20 The NIS concludes that when the mitigation measures are implemented, the project, individually or in combination with other plans and projects, will not have an adverse

effect on the integrity of Galway Bay Complex SAC and Inner Galway Bay SPA, in view of their conservation objectives and in view of best scientific knowledge.

7.8.21 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:

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

The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of the potential impacts on Galway Bay Complex SAC and Inner Galway Bay SPA.

7.8.22 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.

7.8.23 The following sites are subject to Appropriate Assessment:

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

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](http://www.npws.ie)).

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

- Impacts on water quality from the discharge of contaminated surface water run-off during the construction phase of the proposed development to ground water and surface water, affecting aquatic QIs and SCI-supporting habitat.

7.8.25 Assessment of proposed Mitigation Measures - The NIS outlines a number of mitigation measures. For the most part the mitigation measures are intended to avoid

the release of contaminated run-off to from the site and to groundwater and surface water. I am satisfied that the measures are sufficient to address potential impacts from pollution during construction, disturbance to QI/SCI associated with European sites, and that the potential for deterioration of habitats and species identified within the European Sites is not likely.

7.8.26.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 Galway Bay Complex SAC and Inner Galway Bay SPA in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.8.27.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 Galway Bay Complex SAC and Inner Galway Bay SPA. 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 Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031), in view of the Conservation Objectives of these sites. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Galway Bay Complex SAC and Inner Galway Bay SPA.
- 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 Galway Bay Complex SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Inner Galway Bay SPA.

## **8.0 Recommendation**

- 8.1. Having regard to the above it is recommended that permission is granted based in the following reasons and considerations and subject to the attached conditions.

## **9.0 Reasons and Considerations**

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 City Development Plan 2023-2029, including the Residential zoning of the site, and the Urban Design and Building Height Study which accompanies the Galway City Development Plan 2023 – 2029,
- (d) The Urban Development and Building Heights, Guidelines for Planning Authorities, December 2018,
- (e) The ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020,
- (f) Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009),
- (g) 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, would not adversely impact the built heritage of the area, specifically the character and setting of Forster Street House, and would not have a significant impact on ecology or on European sites in the vicinity, and, would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars received on the 19<sup>th</sup> November 2021 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>All mitigation measures in the Natura Impact Statement, dated October 2021, which refer to environmental control measures contained in the Preliminary Construction Environmental and Demolition Waste Management Plan, dated November 2021, shall be implemented in full and shall be supervised by a suitably qualified ecologist.</p> <p><b>Reason:</b> In the interest of environmental protection, public health and orderly development.</p>
3.	<p>All structural works on the site, including excavations, piling and the propping of any site boundary, shall be supervised by a suitably qualified engineer.</p> <p><b>Reason:</b> In the interest of environmental protection, public health and orderly development.</p>
4.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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.</p> <p>(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p>



	<p>(c) provide arrangements, acceptable to the Planning Authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> 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.</p>
5.	<p>Landscaping shall be carried out as indicated on the Landscape Plan (Drawing Title 'Soft Landscaping'). Landscaping shall include only native species.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
6.	<p>Prior to commencement of development, the developer shall submit a method statement to the Planning Authority for its written agreement, detailing the reuse of stone from the boundary wall along Lough Atalia Road and the stone archway and wooden lintel from this boundary wall within the development.</p> <p><b>Reason:</b> In order to conserve and retain material of heritage value.</p>
7.	<p>Prior to commencement of development, the developer shall submit revised elevations/details to the Planning Authority for its written agreement providing the following;</p> <ul style="list-style-type: none"> <li>(i) All above ground windows on the side elevations of the apartment building with a lower cill level positioned 2 metres above internal finished floor level.</li> <li>(ii) The balustrades to the sides of the balconies serving the penthouse apartments with a height of 1.8 metres, measured from finished floor level, and comprising opaque glass.</li> <li>(iii) The bicycle shelter to the front of the apartment building. This structure shall not comprise Perspex.</li> </ul>

	<b>Reason:</b> To prevent overlooking of adjacent property, and in the interests of residential amenity.
8.	<p>The external finishes to the proposed development shall be as indicated on Drawing No.'s 18.110-PA-06/07 &amp; 08 Rev. A – Nov 2021, unless otherwise agreed with the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> 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><b>Reason:</b> In the interest of public health.</p>
10.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
11.	<p>The developer shall liaise with the Department of Defence/Irish Air Corps in advance of the erection of any crane(s) on the site.</p> <p><b>Reason:</b> In the interest of the safe navigation of aircraft.</p>
12.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> <li>a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</li> <li>b) Location of areas for construction site offices and staff facilities;</li> <li>c) Details of site security fencing and hoardings;</li> <li>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;</li> </ul>

	<p>e) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>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;</p> <p>h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <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><b>Reason:</b> 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</p>

	<p>development shall be erected until the developer has obtained the Planning Authority's written agreement to the proposed name(s).</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
14.	<p>All parking areas serving the apartments shall be provided with ducting for electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>
15.	<p>The car parking spaces serving the development shall not be sold, rented, or otherwise sub-let or leased to parties who are not resident in the apartment block on the site.</p> <p><b>Reason:</b> In the interest of good traffic management.</p>
16.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures; lift overruns; plant; machinery; telecommunications structures; or any external fans, louvres or ducts, without a prior grant of planning permission.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
17.	<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><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
18.	<p>During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling shall not exceed:-</p> <p>(i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.</p>

	<p>(ii) An Leq,15 min value of 45 dB(A) at any other time.</p> <p>The noise at such time shall not contain a tonal component. All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.</p> <p><b>Reason:</b> To protect the residential amenities of property in the vicinity of the site.</p>
19.	<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><b>Reason:</b> In the interests of visual and residential amenity.</p>
20.	<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><b>Reason:</b> To ensure the satisfactory completion and maintenance of this development.</p>
21.	<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</p>

	<p>referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> 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>
22.	<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><b>Reason:</b> 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>
23.	<p>Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the Local Authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p>

	<b>Reason:</b> To ensure the satisfactory completion of the development.
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Ian Campbell

Planning Inspector

23<sup>rd</sup> February 2023