



An
Bord
Pleanála

Inspector's Report

ABP-313449-22

Development

Mixed use Development. Removal of outbuilding and bungalow within the curtilage of Athenry House, rehabilitation of Athenry House (protected structure) for use as a community/heritage centre, 59 residential units, 2 retail units, café, discount food store and all associated works. A Natura Impact Statement was lodged with the planning application.

Location

Athenry, Co. Galway.

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

212281

Applicant(s)

Ghost Zapper Limited.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Ghost Zapper Limited.

Observer(s)	Friends of Athenry House Mrs Nora Monaghan & Mr Sean Monaghan Mr Dominic Monaghan
Prescribed Bodies	None
Date of Site Inspection	4 th October 2022.
Inspector	Bríd Maxwell

Introduction

This case arises from the submission of a first party appeal against the decision of Galway County Council to refuse permission, for a mixed-use development proposed by Ghost Zapper Ltd. on a site located at Athenry, Co Galway. An oral hearing held in relation to the case was requested by the first party appellant. An Bord Pleanála approved the holding of a hearing by direction order dated 20th June 2022. The oral hearing was held on the 18th October 2022 in the Raheen Woods Hotel, Athenry, Co Galway. The proceedings of the hearing were recorded and recordings are attached to the Board's file. A summary of the oral hearing is set out in Appendix A attached to this Inspector's report, while significant points of clarification and elaboration presented at the oral hearing area referenced in the relevant section in my report herein.

1.0 Site Location and Description

1.1 This appeal relates to a site located in Athenry Town within the confines of the medieval town walls. Athenry – Baile Átha an Ríogh, (a fording point on the River Clarin) is highly significant in historical terms arising from the intact nature of much of the medieval fabric of the town. The extent of remaining medieval fortification results in the ranking of the town as the most extant walled town in Ireland after Derry City. A number of important heritage features remain in the town including Athenry Castle, the historic town walls, market cross, the ruins of St Mary's Collegiate Church and the Dominican Priory. The River Clarin flows in a southerly direction through the town. It drains into designated site – the Galway Bay Complex cSAC (Site Code: IE0000268), and NHA (Site Code 0000268) Inner Galway Bay SPA (004031) at Clarinbridge.

1.2 The appeal site historically comprised part of the demesne lands related to Athenry House. The site has a stated area of 3.2395 hectares and lies to the south and southeast of the town centre on the western bank of the River Clarin. To the north the site is bounded by mixed residential / commercial properties fronting onto Clarke Street / Cross Street. Adjoining to the northwest is a site currently under

development as an Aldi supermarket. A public car park and Kenny Park GAA grounds are located to the west. Riversdale House and farmstead is located to the southwest. The Clarin River forms the eastern boundary of the site with agricultural lands opposite. There is an existing historical gated entrance to the site from Cross Street while the site also fronts onto the public car park from Swan Gate R891.

- 1.3 The appeal site contains the ruins of Athenry House, (Protected Structure ref 30332038) and adjacent coach house ruin and a derelict modern bungalow dwelling. The site lies within the walled area of medieval Athenry and a section (c80m) of the extant medieval town wall (GA084-001001-) forms the southern site boundary. A triangular-plan dovecote (GA084-001021) is inserted into a boundary wall in the north western boundary of the site.
- 1.4 Within the National Inventory of Architectural Heritage (NIAH) Record Reg No 30332038, Athenry House is described as follows:

“Detached five-bay two-storey country house, built c.1780, facing east and having shallow pedimented breakfront, and flanked by slightly recessed and slightly lower single-bay two-storey wings of c.1820. Rear elevation has three bays to main block, and projecting pedimented middle bay. Pitched slate roof with rendered end chimneystacks, and limestone eaves course and pediment with roundel. Hipped slate roofs to wings. Rendered walls. Square-headed windows, currently boarded up but one tripartite timber sliding sash window visible, with limestone sills. Round-headed window to first floor of rear pedimented bay, and fenestration to wings is irregular. Round-headed doorway with block-and-start surround and triple keystone, and flanked by sidelights, openings currently boarded up. Single-storey outbuilding to west having pitched roof lacking covering, rubble limestone walls and square-headed door and window openings and one elliptical carriage arch.”

In terms of the appraisal, it is noted that :

“Athenry House is the largest house in the town and must once have been a splendid residence, its grounds occupying much of the southern part of the walled medieval town. The formality of its front elevation is emphasised by the prominent

end stacks to the roof, and by the flanking wings. The pedimented bays to front and back also reflect the building's status.”

- 1.5 Athenry House has been abandoned for a number of years and is in a significant state of disrepair with boarded up windows and doors. To the north of Athenry House is a modern bungalow also derelict and to the north of this the upstanding remains of the former coach house associated with Athenry House which is roofless and heavily overgrown. The original gates incorporating ashlar piers and iron gates are located at the corner of Clarke Street / Cross Street at the north western extremity of the appeal site.
- 1.6 Following a previous permission for mixed use development on the site, (PL07.214418 Galway Co Co Ref 04/5562) groundworks and clearance works were carried out on the site circa 2007 and topsoil was evidently mounded towards the centre of the site. The site was subsequently abandoned and as detailed in ecological field survey documentation is characterised by recolonised bare ground, spoil and bare ground, loose rock outcrops and areas of scrub and grassy verges. The site contains a number of mature tree stands particularly towards the Clarin River towards the eastern and southern boundaries.
- 1.7 The appeal site lies within the Athenry Architectural Conservation Area (ACA). I note the statement of significance for ACA which outlines that *‘Athenry’s principal significance lies in its degree of survival as a medieval fortified town, embracing a number of fine monuments and archaeological remains. The street pattern, plot sizes, buildings and architectural coherence visibly emerge directly from this historic role. The majority of buildings span the late 19th Century and share many characteristics. Surviving traditional shop fronts are important features. The open fields and pastures within the walls are of the utmost significance. The form,*

attractiveness and uniqueness of the town, as a whole, are of international significance and a potentially greater cultural attraction'.

2.0 Proposed Development

2.1. The application involves permission for a mixed commercial and residential development. I note that the proposed configuration was modified within the grounds of appeal. The application as ultimately proposed involves

Construction of 59 no residential units consisting of

- 3 no 1 bed apartments
- 16 no 2 bed apartments (as modified in submission to the Bord originally 17)
- 12 no 3 bed apartments (as modified in submission to the Bord originally 11)
- 21 no 3 bed houses
- 7 no 4 bed houses

Provision of 2,641.76 sq.m of commercial floorspace and all associated ancillary and storage space consisting of

- Block 5 – 2 no retail units (Gross Floor Area 263.76 sq.m) *(Unit 1 121.17sq.m net unit 2 142.59sq.m net)
- Block 6 – Café (221 sq.m gross floor area)
- Supermarket with ancillary off license sales (Gross Floor Area 2,157 sq.m / Net Retail Area 1,422sq.m) (including roof mounted solar PV panels)
- Works to provide for pedestrian access via the existing Athenry House Gate at the corner of Clarke Street and Cross Street.
- Demolition of Existing bungalow on application site (106.48sq.m)
- Provision of shared communal and private open space, pedestrian and vehicular access, appropriate landscaping and boundary treatments, outdoor seating

areas, street furniture, signage, bin stores, an ESB substation (37.21sq,m), associated car parking spaces (including accessible parking and EV charging points), bicycle spaces and all other site development works and services ancillary to the proposed development.

- Refurbishment of Athenry House which is a protected Structure (RPS Ref 131 /NIAH Ref 30332038) to provide for use as a community and heritage centre along with the demolition of ancillary derelict outbuilding. (coach house)

A Natura Impact statement has been submitted with the application.

2.2 Vehicular access is proposed by way of way of access road from Swan gate serving the existing public car park adjacent to Kenny Park GAA grounds and a letter from Galway County Council outlines consent with regard to the inclusion of this access roadway as part of the application.

2.3 The application proposal is outlined in detail in the drawings and documentation submitted with the application which includes the following reports:

- Planning Statement - MKO Planning and Environmental Consultants
- Design Statement – CCH Architects
- Housing Quality Statement – CCH Architects
- Natura Impact Statement - MKO Planning and Environmental Consultants
- Ecological Impact Assessment - MKO Planning and Environmental Consultants
- Bat Report - MKO Planning and Environmental Consultants
- Construction & Environmental Management Plan - MKO Planning and Environmental Consultants
- Landscape and Visual Assessment - MKO Planning and Environmental Consultants
- Photomontage and CGI Pack Big Lolly

- Architectural Heritage Impact Assessment - John Cronin and Associates
- Archaeological Impact Assessment – John Cronin and Associates
- Retail Impact Assessment – Planning Partnership
- Landscape design and Outline Maintenance Report Cunnane Stratton Reynolds
- Tree Survey - Cunnane Stratton Reynolds
- Flood Risk Assessment, JBA Consulting
- Civil Works Design Report -Tobin Consulting Engineers
- Traffic and Transportation Assessment Tobin Consulting Engineers
- State 1 Road Safety Audit CST Group Chartered Consulting Engineers

3.0 Planning Authority Decision

3.1. Decision

3.1.1 By order dated 1 April 2022 Galway County Council issued notification of its decision to refuse permission for five reasons as follows:

“1. The Planning Authority is not satisfied based on submissions received that the proposed demolition of the existing structures attendant to Athenry House, protected structure (RPS Ref 131) and former stables and cart-shed would satisfy the criteria for ‘exceptional circumstances’ to justify the demolition of said structure called for in Section 6.8.11 of ‘Architectural Heritage Protection Guidelines for Planning Authorities; Objectives AH2, AH4 and DM Standard 44 the current Galway County Development Plan 2015-2021 and Objectives HG3 and HC5 of the Athenry Local Area Plan 2012-2022. The proposed development would accordingly contravene materially County Development Plan Objective AH2, AH4 and DM Standard 44 and Athenry Local Area Plan Objectives HC3 and HC5. In addition, demolition of said structure, in the absence of sufficient justification or demonstration of exceptional circumstances to warrant said demolition would establish an undesirable precedent for similar future developments in the area. The proposed development would accordingly be contrary to the proper planning and sustainable development of the area.

2. The block typologies of the proposed supermarket unit towards the northern end of the scheme as well as proposed Apartment Blocks 11 and 12 towards the

southern end of the scheme, in the context of concerns in relation to both Sustainable Architectural Conservation Area and urban assimilation generally, potential for undue impacts on the context and setting of Athenry House (Protected Structure Ref 131) and archaeologically and culturally significant Town defences (Athenry Town Walls), in addition to potential for overlooking (in the case of Blocks 4 and 7), scale and massing concerns, animation and active frontage concerns, particularly in the case of the supermarket block and block types 11 and 12 which render these building typologies discordant with this edge of centre setting, would fail to assimilate their setting in terms of character and provide the required standard of urban placemaking, urban assimilation and amenity called for in the current Galway County Development Plan 2015-2021 and Athenry Local Area Plan 2012-2022. The proposed development would accordingly contravene materially County Development Plan Objective AH4 and Development Standards 2 and 44 and Athenry Local Area Plan Objective UD1, Objective UD3, Objective UD5 and Objective HC4. In addition, in the case of the supermarket block, Development Management Standard 10 of the County Development Plan and Objective ED4 of the Athenry Local Area Plan, would detract from the visual amenity of the area, and would establish an undesirable precedent for similar future development in the area. The proposed development would accordingly be contrary to the proper planning and sustainable development of the area.

3. The planning authority have considered the Flood Risk Assessment study submitted with this application, Sections 8.6 and 8.7 of the Galway County Development Plan 2015-2021, relevant provisions of the Athenry Local Area Plan 2012-2022 and development management guidelines and objectives contained therein in relation to flood risk, and the provisions "The Planning System and Flood Risk Management Guidelines" (2009) and are not satisfied based on submissions received that vulnerable uses within portions of the development would not be at risk of flooding in the future or that the measures including increased development levels within known predevelopment flood risk zones, would not result in exacerbating flood risk downstream of the site by reasons of decreased flood storage without compensatory flood storage measures on site and increased floodwater conveyance downstream and therefore, in the absence of proposals (including compensatory flood storage measures and/or comprehensive downstream modelling) to comprehensively address Section 5.15, Box 5.1m Items 2,(i) and 2(iv) of the justification test in accordance with the provisions of Section 5.15 of Planning System and Flood Risk Management Guidelines [2009] the planning authority is not satisfied that the site is not a risk of flooding in the future or not satisfied that the development will not exacerbate the risk of flooding elsewhere. Therefore, it is considered that the proposed development would contravene Policy FL4 and Objective FL 1 of the Galway County Development Plan 2015-2021 and Objectives UI 11, UI12 and DM Guidelines UI 1 of the Athenry Local Area Plan 2012-2022 in relation to flood risk, would be contrary to Ministerial Guidelines issued under Section 28 of the Planning and Development Act, 2000 (as amended) and would accordingly be contrary to the proper planning and sustainable development of the area.

4. *The Planning Authority is not satisfied based on submissions received that the proposed development would not pose a serious road safety issue to the adjacent committed commercial development (granted under PL ref 15/356 and extended under pl ref 20/41 due to the proposed sharp bend in the unnamed road to be extended on the western side of the site, and the proximity of this bend to the entrance of said commercial development, whereby junction visibility splays would be negatively impacted. The proposed development, would accordingly be contrary to the proper planning and sustainable development of the area.*

5. *The Planning Authority is not satisfied based on submissions received that the proposed development would provide for adequate onsite parking facilities to serve the development in accordance with the car parking standards set out in Development Management Standard 22 of the Current County Development Plan 2015-2021. The proposed development would accordingly be contrary to Development Management Standard 22 of the current County Development Plan 2015-2021 and the increased potential for on-road parking and the traffic movements likely to be generated by the development would interfere with the free flow of traffic and endanger public safety by reason of obstruction of road users.*

6. *The Planning Authority is not satisfied based on submissions received, which include proposals as part of the Tree Survey report submitted with the application to remove 5 no mature trees rated as Class A1, particularly tree numbers T4 and T13 and 3 no trees rated as Class B1, would not, when taken in combination and without satisfactory justification, unduly impair ecological connectivity and function, biodiversity and visual amenity, in its urban environmental context and character and setting of the Medieval town walls and Athenry House. It is considered therefore that the proposed development would be contrary to Athenry local Area Plan Policy NH1 and Objectives HN5 and NH8. The proposed development would accordingly be contrary to the proper planning and sustainable development of the area.”*

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Planner's report accepts the findings of the NIS and also screens out the need for Environmental Impact Assessment. Regarding land use zoning, apartments are not acceptable in principle or open for consideration on lands zoned C2. Justification is argued on the basis of proportion of apartments to residential dwellings and the mixed use nature of the scheme. Density is considered to be appropriate. The scale of retail use considered to be compatible with the C2 zone.

3.2.1.2 Concern is expressed that 'exceptional circumstances' to justify the demolition of former stables / cart shed part of protected structure RPS 131 have not been demonstrated. Further concerns regarding flood risk, parking and traffic safety

concerns (conflict with adjacent committed commercial development (15/356 & 20/41) and layout / site configuration. Other concerns are outlined in relation to phasing, discharge of Part V requirements, inconsistencies within the AIA and AHIA regarding conservation works, treatment of landscaping within designated monument buffer zones and identification of areas of archaeological potential. Inconsistencies regarding works to historic walls are noted.

3.2.1.3 Refusal was recommended for the reasons as per subsequent decision.

3.2.2. Other Technical Reports

3.2.2.1 Roads and Transportation Department report outlines requirement for further information regarding junction sightlines at the entrance having regard to the permitted development 15/356 (20/41) (Aldi supermarket currently under development on the adjoining site to the northwest.). Road safety audit to be updated accordingly. Sightlines at internal junctions to be demonstrated having regard to street furniture and landscaping. Revised perpendicular parking to be provided in accordance with DMURS. Increased provision of EV charging points and disabled parking and bicycle storage for apartment blocks. Brick paving is not appropriate in trafficked areas to be taken in charge. Stage 1 and 2 road safety audit required. Surface water drainage design details to be clarified including detail of proposed River Clarin outfall point and attenuation proposals. SUDS systems to include nature based solutions..

3.2.2.2. Architectural Conservation Officer.

Report welcomes the proposal for Athenry House to be considered for community use, however no specific uses are outlined and details are vague. Regarding demolition of former attendant stables / cart shed, these form a context for the big house. Case for exceptional circumstances for demolition, as required in legislation, has not been made. Overall there is a lack of meaningful and sustainable integration of the existing historic fabric into the design of the proposed development.

Regarding dovecote (RMP Ref GA 084-00121) and development in the vicinity of same the proposal to conserve the historic fabric is to be welcomed and a method

statement should be agreed. Concern arises with regard to the proposal to fence this feature building in and remove it from contributing to the future social and community life. Method statement to be agreed regarding works to Ashlar limestone piers and wrought iron entrance gates. No objection to the demolition of the mid-century bungalow within the curtilage of Athenry House. As currently configured concern remains that the proposal would contravene the guidance contained in the Section 28 Guidelines, Galway County Development Plan and Athenry Local Area Plan

3.3. Prescribed Bodies

3.3.1 Submission from Development Applications Unit, Department of Housing Local Government and Heritage. The site is within and proximal to the Zone of Archaeological Potential for the Historic Town of Athenry (RMP GA084-001---) In addition a section of the medieval town wall – RMP GA084-00101 (Town Defences) delimits a section of the proposed development site boundary on the south and southwest and a dovecot (RMP GA084-001021) is located in the north-western corner of the proposed development site. These monuments are all subject to statutory protection in the Record of Monuments and Places established under Section 12 of the National Monuments (Amendment) Act 1930-2014. Further the town defences are designated as a national monument and subject of a conservation management plan (Galway County Council 2008)

The site has been subject of two previous phases of archaeological test trenching and a section of the site was fully archaeologically excavated in 2007 however the Archaeological Impact Assessment notes that there is still potential for unknown sub surface archaeological features or deposits to be present within the site which might be exposed by groundworks. Failure to specify the location of previous excavations is a significant omission and this information required to properly evaluate the mitigation measures proposed.

Concern arises that no information on how RMP GA084-001021, Dovecote, will be protected during development. The dovecote is a recorded monument and any conservation or repair works constitute potential impacts which must be assessed. The 5m buffer zone is not delineated on drawings.

Section 4.6.6 of the design statement notes that the medieval town wall RMP GA084-0010001) will be protected by a buffer zone but also states that the medieval stone wall will be repaired and restored. Conflicting information is given in the Architectural Heritage Impact Assessment and Archaeological Impact Assessment regarding conservation works.

The landscape plan is insufficient in detail to evaluate potential impacts to sub surface archaeological features within the 30m buffer zone proximate to the town defences.

The impact from the amenity walkway is not addressed in Archaeological Impact Assessment and greater consideration should be given to avoidance of subsurface ground disturbance and use of shallow rooted planting.

CEMP does not list any of the archaeological architectural or cultural heritage constraints and does not include any of the mitigation measures in relation to architectural archaeological or cultural heritage.

Further detail / revisions and clarification required as follows:

- Detailed drawing showing location of all previous archaeological investigations within the site.
- Detailed drawing outlining any area of remaining archaeological potential, areas deemed to be fully resolved by way of archaeological excavation, archaeological monuments and features and any proposed buffer zones.
- Consistency across documentation as to location, scale and extent of conservation works or other works which may affect the protected archaeological architectural or cultural heritage sites within the site.
- Revisions to Archaeological Impact Assessment and Architectural Impact Assessment reports to ensure consistency in the identification of impacts to receptors common to both and correlation of proposed mitigation measures to address impacts.
- Detail of the planned landscaping within the 30m buffer zone and the mitigation measures such as the use of shallow rooted plants etc so as to avoid impacts to sub-surface archaeological features or deposits. More

detailed information on 'low impact' walkway and any alternative options for its construction.

- CEMP to be updated to clearly identify and highlight location of archaeological architectural and cultural heritage constraints.

3.3.2 Regarding nature conservation the lands are bordered by the Clarin River providing a hydrological link between the site and the designated European Sites Galway Bay Complex Special Area of Conservation (Site Code 000268) and Inner Galway Bay Special Protected Area (SPA Site Code 004031). The previous application 20/1395 was refused on grounds including concerns regarding proposed storm water discharge to the Clarin River and concern regarding potential significant impact on European site impact individually or in combination with other plans and projects.

The Department has concerns that the proposed project has the potential to negatively impact on protected species and habitats in the absence of suitable mitigation measures, best practice guidelines and works supervision by suitably qualified persons. Galway County Council should be satisfied that the information submitted adequately addresses all potential impacts the proposed development may have on designated sites, protected species, habitats and on water quality.

In the event that permission is granted the Department recommends that:

- All mitigation measures as outlined in Chapter 5 of the NIS and Chapter 5 of the CEMP are a condition of permission and strictly adhered to.
- All Environmental Management measures and controls as outlined in Chapter 3 of the CEMP to be a condition of permission.
- All mitigation measures as outlined in Chapter 5 of the Bat Survey Report should be a condition and strictly adhered to with particular attention to exterior lighting around the periphery of the site, along the Clarin River and avoiding light spillage on trees in order to rule out significant impact to protected bat species.

3.3.3 An Taisce submission, notes the significance of the application. Concerns are expressed that the formulation and presentation of the application is in conflict with

the Athenry Town Walls Conservation and Management Plan in relation to the location and scale of new development in relation to the setting of the walls. Proposed turning head and buildings are inappropriate in terms scale, massing, materials (buff brick, PVC window) and proximity to the wall. Turning head and building footprint are within the 30m archaeological exclusion zone. Concerns arise regarding traffic impact on historic medieval town core. As the vast majority of the population live to the north and west traffic will be drawn through the historic core. Traffic assessment has not taken account of permitted development 20/41 which directly connects to the site access road. Traffic flow of through traffic from Cross Street to the new junction has not been modelled. Certain medieval streets in the town core may not function well under the projected traffic volumes. Reference is made to proposed Part 8 Market Square Public Realm Enhancement Project which proposes amendments to traffic flows in the town core. Exceptional circumstances for demolition of Coach house protected Structure have not been demonstrated. Removal of mature trees within the site wholly avoidable and will impact negatively on the setting of the town walls and Athenry House and destructive to environment and ecological habitats contrary to Athenry LAP Objectives.

Lidl Supermarket design a monolithic block is inappropriate and will impact negatively on the setting of Athenry House in conflict with the fine urban grain character of the medieval town core.

Concerns that wastewater arising will exacerbate the continuing non-compliance of final effluent from treatment plant with ELV in the discharge license held by Irish Water.

3.4. Third Party Observations

- 3.4.1 Submission from Gerald Ahern and Helen Tully Ahern, St Judes, Barrack Street Athenry support the application which will provide much needed housing and shopping store. The conversion of Athenry House into a community resource and heritage centre is a positive outcome.
- 3.4.2 Athenry Traders Group, Co Martin Morrissey, The Square Inn, Cross Street Athenry, outlines support the application particularly the proposed discount store, Current loss

of trade from Athenry for grocery shopping has a negative impact on the local economy. Proposal will result in job creation and environmental benefits.

- 3.4.3 James Roche Consulting Engineer on behalf of Mrs Nora Monaghan and Mr Sean Monaghan, Riversdale House, Athenry owners of lands directly to the south, object to the proposal outlining concerns regarding shared boundaries to agricultural lands, safety issues. Note knowledge of flooding with higher flood levels in recent years. Galway County Council have had to excavate a trench from the road /bridge to the Clarin river to release water where the river continued to rise in both 2019 and 2020. Abbey Row flooded quite badly. Ground conditions are poor and the likelihood of further flooding remains high. Coach house should be preserved and upgraded. Social and affordable houses should be mixed within the scheme.
- 3.4.4 Submission from Allan & Maire Daly, Ballygarraun South, Athenry, Co Galway. While welcoming enhanced competition and choice in the retail grocery sector question whether the site is suitable for this form and intensity of development. Proposed demolition of stables / coach house is unacceptable. Details of intended use, ownership, management and maintenance of Athenry House for heritage use should be provided and full restoration completed in advance of construction. Concerns regarding treatment of riparian zone, loss of trees, flooding concerns, traffic impact. Question requirement for Environmental Impact Assessment.
- 3.4.2 Dominic Monaghan, Riversdale House, Athenry . Given the site's unique character and historical significance, the proposed discount foodstore is grotesquely inappropriate. Swangate junction cannot accommodate this volume of traffic. Design is inappropriate. Notable inaccuracies within the application. Concerns regarding the availability of documentation online.
- 3.4.3 Nick Hitchcox, 1 Abbey Row, Athenry while welcoming retail development concern arises that the site has been left unsecured for some time. Lack of firm commitment and detail in relation to Athenry House and demolition of stables / coach house is inappropriate. Negative visual impact on the setting of Athenry House and breach of 30m heritage buffer. Visual viewpoints (plate 3) inaccurate and place undue focus on Lidl building. Traffic congestion would be detrimental to historic core and civic amenity. Negative visual impact of Lidl supermarket with least appealing side facing outwards towards the river and town walls resulting in negative impact on protected

views. Sustainability issues and greenwashing concerns given Lidl's record on supermarket building lifecycle. Flooding concerns.

4.0 Planning History

20/1384 Refusal of Permission 18/11/2020 for a mixed use development consisting of construction of 92 residential units, provision of 3,979sq.m of commercial floorspace including 4 comparison retail units, creche, 2 office units, café, 4 convenience retail units, discount food store with ancillary off license. Change of use of Athenry House protected structure to office use.

There were nine reasons for refusal based on inappropriate design, negative impact on the ACA, Athenry House and Athenry Town Walls. Apartments not acceptable in principle in accordance with C2 land use zoning matrix. Retail impact statement inadequate in terms of the sequential approach having regard to the level of vacancy within Athenry Town Centre. Food risk. Potential negative impact on Natura 2000 sites. Traffic hazard and road safety issues.

PL98/2159 Proposal for mixed housing development 103 houses and apartments, and conversion of Athenry House to 4 apartments. Withdrawn 12/4/1999

PL04500 Application for 30 houses, 39 apartments, 5 retail units, 4 offices 1 café and outline permission for 18 houses, creche, 48 apartments, leisure centre, hotel, pub, shopping centre, treatment plant polishing filter underground parking and associated services. Incomplete application.

Relating to a larger site spanning east and west sides of the River Clarin

PL 07 214418 (Galway County Council Ref PL04/5562) Mixed development incorporating retail, offices, hotel and residential development, creche and ancillary development on a site of approximately 7.05 hectares. Following third party appeal of the decision to grant permission the Board granted permission for development on the western side of the Clarin River subject to 27 conditions. Development on the eastern side of the river was refused on grounds of prematurity pending provision of municipal sewerage facilities, traffic hazard, inappropriate design and layout.

PL07. 227445 (Galway County Council Ref PL073703) Amendments to mixed use development previously permitted under PL.07.214418, reg. ref. 04/5562 on the Athenry House (Protected Structure) lands.

Adjacent site – Currently under Construction

PL2041 Extension of duration granted 5/3/2020 of PL15356 for demolition of existing retail warehousing, storage agricultural sheds and associated structures and services and construction of single storey discount foodstore to include off license with gross floor area of 1760sq.m (net retail area 1,379sq.m). New access link road/ street to connect to Cross Street / Clarke Street with the Council Car park access road and Swangate Road. Signage, lighting, 92 car parking spaces, bicycle parking, bin storage plant, landscaping and boundary treatment and alterations to existing stone walls previously forming part of the Athenry House Demesne (Protected Structure Reference 131. Previous permission ref 15/356.

ABP Ref 245198 Galway County Council Ref 15/356 Permission granted for demolition of warehouse / sheds and erection of a single storey discount foodstore with off license and associated works.

Adjoining 21/1721

Permission granted for amendments to permitted discount foodstore, 15/356 Amendments to include reduction on gross floor area of permitted store from 1,760sq.m to 1,660sq.m. Amendments to parking layout including provision of 4 EV charging points. Amendments to external appearance including alterations to elevations, fenestration and material finishes. Provision of signage.

Site to northwest of the town centre off Church Street. PL07.244999 (Galway Co Council Ref 15/149)

Refusal of Permission for construction of a single storey, discount foodstore (to include off-licence use) with a gross floor area of 2,047 square metres (net floor area 1,743 square metres). An on-site effluent treatment system is proposed with treated effluent discharging to the public foul sewer at Church Street, Raheen, Athenry, County Galway. Refusal by the Board following third party appeal of the planning

authority's decision to grant permission. Refusal reasons referred to level of retail vacancy in the Town Centre/Commercial C1 and C2 land use zoning areas and that the Retail Impact Statement submitted had not given sufficient regard to the sequential approach and possible alternative sites within the town centre. Based on the edge of town location of the site, the Board is considered that the proposed development on this greenfield site on land zoned 'BE' Business and Enterprise outside the town walls of Athenry would represent a significant threat to the vitality and viability of the town centre. The proposed development was also deemed to be premature pending the availability of the upgrade in the capacity of the public sewer and town wastewater treatment plant to serve the existing development and to facilitate the orderly expansion of the town of Athenry.

5.0 Policy Context

5.1. National Policy Context.

National Policy / Section 28 Ministerial Guidelines

Climate Action Plan 2023 provides the framework through which the government intends to meet the legally-binding, economy-wide carbon budgets and sectoral ceilings agreed in July 2022, and the emissions reductions targets set out in the Climate Action and Low Carbon Development Acts. These targets are a key pillar of the Programme for Government.

Project Ireland 2040 National Planning Framework

The National Planning Framework (NPF) is a high-level strategic plan shaping the future growth and development of Ireland to 2040. The NPF includes 75 no. National Policy Objectives.

National Policy Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and/or brownfield sites.

National Policy Objective 13 is that, 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 prioritises 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 promotes increased densities through measures including infill development, area or site-based regeneration and increased building height.

Housing for All – A New Housing Plan for Ireland to 2030 (2021) A multi-annual, multi-billion euro plan which will improve Ireland’s housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- to purchase or rent at an affordable price.
- built to a high standard and in the right place.
- offering a high quality of life.

Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (DoEHLG 2009), and the accompanying Urban Design Manual These guidelines encourage higher densities on residential zoned lands, particularly on inner suburban and infill sites and along public transport corridors, identifying minimum densities of 50/ha in such corridors, subject to appropriate design and amenity standards. In respect of infill residential development, potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining dwellings, the protection of established character, and the need to provide residential infill.

Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2022) These guidelines provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone planning schemes.

Urban Development and Building Heights - Guidelines for Planning Authorities (2018) These guidelines set out national planning policy guidance on building heights in relation to urban areas. Greatly increased levels of residential development in urban centres and significant increases in the building height and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. Building height is identified as an important mechanism to delivering compact urban growth.

Design Manual for Urban Roads and Streets DMURS 2013.

The Planning System and Flood Risk Management including the associated technical appendices) Department of the Environment Heritage and Local Government 2009.

Retail Planning Guidelines and Retail Design Manual 2012.

5.2. Development Plan

At the time of the Planning Authority decision on the 1st April 2022 the Galway County Development Plan 2015-2021 was the relevant County development Plan. The Galway County Development Plan 2022-2028 (adopted on 9 May 2022 and came into effect on 20th June 2022) now refers. I note that The Athenry Local Area Plan 2012-2022 expired on 23 May 2022. I understand that a draft Athenry LAP is due to go on public display in March / April 2023.

I note that within the expired Local Area Plan the main body of the site was zoned 'C2 Commercial – Mixed Use' while a small section adjacent to the river was zoned OS Open Space Recreation and Amenity.

Within the current Galway County Development Plan 2022-2028 Settlement Hierarchy, Athenry is identified as having Strategic Potential - a large economically active service centre that provides employment to the surrounding areas.

Policy Objective **SS3 Strategic Potential (Level 3)** - is *“to support the development of Athenry as a town of Strategic Potential as outlined in the Core Strategy and Settlement Strategy in order to sustain a strong, vibrant urban centre which will act as an important driver for the local economy, reduce travel demand and support a large rural hinterland, while providing a complementary role to the Key Towns and MASP and the smaller towns and villages in the County.”*

Chapter 3 Placemaking, Regeneration and Urban Living includes a number of I note a number of relevant policy objectives including

PM 1 Placemaking “to promote and facilitate the sustainable development of a high-quality built environment where there is a distinctive sense of place in attractive streets, spaces, and neighborhoods that are accessible and safe places for all members of the community to meet and socialise.”

PM 2 Regeneration “to prioritise projects and proposals which will result in both social and economic rejuvenation and regeneration within towns and villages.

PM 4 Sustainable Movement within Towns

“It is a policy objective of the Planning Authority to encourage modal shift in our towns to more sustainable transport alternatives through mixed use development that enables local living and working which is well connected to sustainable transport infrastructure such as walking, cycling, public bus and rail transport.”

PM 6 Health and Wellbeing

“Promote the development of healthy and attractive places by ensuring:

(a) Good urban design principles are integrated into the layout and design of new development;

(b) Future development prioritises the need for people to be physically active in their daily lives and promote walking and cycling in the design of streets and public spaces

(c) New schools and workplaces are linked to walking and cycling networks

(d) The provision of open space considers different types of recreation and amenity uses with connectivity by way of safe, secure walking and cycling routes.

(e) Developments are planned for on a multi-functional basis incorporating ecosystem services, climate change measures, Green Infrastructure and key landscape features in their design.”

PM 7 Inclusivity

To ensure our urban settlements are inclusive and welcoming to all people of all ages regardless of their physical ability ensuring that they have access to the services available in the towns and villages across the County.

PM 8 Character and Identity

Ensure the best quality of design is achieved for all new development and that design respects and enhances the specific characteristics unique features of the towns and villages throughout the County.

PM 9 Vitality in Towns and Villages

(a) To provide an appropriate mix of uses and densities in settlements that are responsive to the needs of people and market demand to support delivery of sustainable, viable and thriving walking neighbourhoods;

(b) To encourage a greater usage of backland areas and to promote the redevelopment of sites in the town or village centre where development will positively contribute to the commercial and residential vitality of the town or village settlement.

PM 10 Design Quality

To require that new buildings are of exceptional architectural quality, and are fit for their intended use or function, durable in terms of design and construction, respectful of setting and the environment and to require that the overall development is of high quality, with a well-considered public realm.

PM 11 Details of Materials

To ensure that the appearance of buildings, in terms of details and materials (texture, colour, patterns and durability), is of a high standard with enduring quality and has a positive impact on the visual quality of the area.

PM 12 Permeability

Encourage improved permeability in town centres including the connection of blueways and greenways to adjacent towns. Ensure appropriate signage strategies are in place to direct visitors and residents to key public spaces and attractions.

PM 13 Public Realm Opportunities

Promote enhanced and increased public realm opportunities including the shared use of spaces, for outdoor experiences, with a priority on pedestrian uses.

Chapter 12 of the Galway County Development Plan 2022-2028 sets out policies in relation to Architectural Archaeological and Cultural Heritage. In relation to

Protected Structures AH2 seeks to (a) *Ensure the protection and sympathetic enhancement of structures including their curtilage and attendant grounds included and proposed for inclusion in the Record of Protected Structures (RPS) that are of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest, together with the integrity of their character and setting.*

(b) *Review the Record of Protected Structures in order to provide a comprehensive schedule for the protection of structures of special importance in the County during the lifetime of the plan.*

(c) *Ensure that development proposals are appropriate in terms of architectural treatment, character, scale and form to the existing protected structure and not detrimental to the special character and integrity of the protected structure and its setting.*

(d) *Ensure high-quality architectural design of all new developments relating to or which may impact on structures (and their settings) included in the Record of Protected Structures.*

(e) *Promote and ensure best conservation practice through the use of specialist conservation professionals and craft persons.*

(f) *Prohibit development proposals, either in whole or in part, for the demolition of protected structures, save in exceptional circumstances.*

Development Management Standards are set out in Chapter 15.

Residential density table 15.1 notes in relation to strategic potential / self-sustaining towns the guideline on town centre / infill /brownfield sites 25 units or site specific and 15-25 on edge of centre greenfield sites.

Table 15.5 sets out car parking standards (maximum quantum of car parking requirement) for different types of development. It is stated that a flexible approach to these standards may be applied where such a case is substantiated, there is no traffic safety issue and it is clearly demonstrated to the Planning Authority in the interest of proper planning and development, that the standards should be adjusted to facilitate the site specific context.

5.3. Natural Heritage Designations

The site is not within a designated area.

5.4 EIA Screening

5.3.1 An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

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

It is proposed to construct 59 residential units and 2,641sq.m of commercial floorspace. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 3.2395ha and is located adjacent to an existing built-up area but not in a business district. The site area is therefore well below the applicable threshold of 10 ha. The introduction of a mixed use development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site and there is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing and commercial development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Galway County Council, upon which its effects would be marginal.

5.3.2 Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for development under the provisions of the Athenry Local Area Plan 2012-2022, and the results of the strategic environmental assessment of the Galway County Development Plan 2022-2028, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential and commercial development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The first party appeal is submitted by MKO on behalf of the applicant Ghost Zapper Ltd. The appeal statement is accompanied by a number of documents including

- Flood risk technical note by JBA Consulting,

- Revised site layout by Tobins detailing an area of compensatory flood storage.
- Route alignment and visibility splay drawing and technical note by Tobins. Conservation and Archaeological Appeal Response by John Cronin and Associates.
- Revised Drawings and Design Statements by CCH Architects,
- Building Lifecycle report by CCH Architects,
- Updated CEMP
- Revised Plans

6.1.2 Grounds of appeal are summarised as follows:

- Revised site layout is submitted. Block 4 has been reconfigured to remove fenestration from the northern elevation in order to prevent overlooking of existing development to the north.
- All building works lie outside the 30km zone of archaeological significance adjacent to the medieval walls. A revision of the road configuration / turning head removes the potential requirement for excavation within the 30m zone.
- It is disappointing that the Planning Authority did not provide an opportunity for further information given the site context, sequential appropriateness and acute housing shortage and core strategy.
- Proposal addresses previous refusal for mixed use development 20/1384 for inter alia 92 residential units and approximately 4,000 sq.m of commercial floorspace.
- Proposed design for apartment and duplex units accords with the requirements of Sustainable Urban Housing Design Standards for Apartment Guidelines for Planning Authorities 2020 as set out in the Housing Quality Assessment.
- The only means of developing these zoned lands is via the revised road configuration as now proposed which necessitates the removal of the coach house. Justification for demolition is based on the clear benefits for the regeneration of the site, the regeneration of Athenry House and the benefit to the town as a whole. Precedent case Custom House Quay Cork. PL 308596 which involves demolition works to part of a protected structure at Custom House Quay Cork.

- Previous application involved a proposed road alignment which did not require the demolition of the existing outbuilding but yet was unacceptable and refused on road alignment / design matters as the bend was too sharp and did not incorporate forward sight to accommodate the adjacent permitted entrance (15/356 ABP245198 and 20/41.)
- The deterioration of the historic elements of the site through natural weathering, lack of maintenance and vandalism as demonstrated in the photographic record appended points to the importance of a viable development proposal on the site and the benefits which will accrue to the retained historic and environmental assets as a result.
- The loss of the coach house building is acceptable given its limited historic and architectural significance and the fact that its removal will facilitate an appropriate development of the site which in turn will sustain the ongoing maintenance and contribution of the historic fabric to the wider range of architectural heritage in Athenry.
- Removal of the derelict outbuilding and bungalow will be a catalyst for the regeneration of the site, the development of the area and the refurbishment of Athenry House. The scheme will result in a significant positive impact on material condition of the extant built fabric of the house, gateway and dovecote as well as providing a sustainable rationale for the ongoing consideration and integration of their contribution to architectural heritage, in a more accessible resource that enhances the wider public amenity value of the historic town of Athenry.
- The pragmatic balance between heritage conservation, restoration and rejuvenation of the site and Athenry House has informed the design to the fullest practicable extent meeting the exceptional circumstances test.
- Regarding flood risk, given the zoning of the land it is submitted that the principle of development within the site is plan led in that the first justification test has been met under the SFRA of the Athenry Local Area Plan.
- Comprehensive flood risk assessment carried out by JBA which includes detailed hydraulic modelling of the Clarin River. Modelling shows that the design and site

layout does not result in an increased flood risk to third party lands upstream or downstream.

- No increase in flood extents off site and only a small change in flood extents within the site boundary.
- Risk to the site is managed by setting flood levels to the 1% AEP climate change water level plus a freeboard allowance of at least 300mm. Finished floor level provides a minimum of 150mm above surrounding ground levels to protect against pluvial flooding.
- Floodzone AB is predominantly kept as open space. A small loss of flooded area as a result of the access road. This area is principally a conveyance route rather than storage.
- Stormwater system is designed to manage surface water runoff from the site. The stormwater attenuation system has been designed to cater the 1% AEP event with an additional allowance of 20% volume included to account for possible climate change and to limit any outflow from the site to the existing greenfield runoff rate of 2l/sec/ha.
- It is submitted that as a result of the mitigation and application of the justification test the development is in compliance with Objective LU11 of the Athenry LAP and the core principles of the Planning System and Flood Risk Management Guidelines.
- Regarding Appropriate Assessment the NIS proves that the proposal individually or in combination with other plans or projects will not have a significant effect on any Natura 2000 site.
- The site represents an optimum location for new retail development to serve Athenry and there is sufficient capacity within the retail catchment to accommodate the proposed development.
- Refusal reason no 2 refers to alleged deficiencies in overarching design strategy of the proposal in the context of the edge of centre setting. In response it is asserted that there are no well-defined characteristics which define the existing development in the areas located outside the historic core of Athenry. A variety of different building typologies and heights prevail with a mixture of older and more contemporary developments.

- Overarching design strategy has been to deliver a development which is sympathetic to its context. The height of the blocks have been carefully considered. Adjoining site permission Galway Co Co Ref 15/356 20/41 and ABP Ref 245198 establishes a clear pattern of emerging contemporary style of development in the 'edge of centre' setting.
- Regarding overlooking western end of block 4 has been reconfigured to remove fenestration from northern elevation. Given separation distance and orientation of block 4 it is submitted that it will not result in overlooking, particularly as the adjacent lands have permission for a car park and discount foodstore as per permission 15/356 PL245198 and 20/41. All units in Block 7 are restricted to two storeys in height and the rear gardens range between 4.4m and 5.7m deep with only bedrooms at 1st floor level. There is no development on lands to the west of Block 7 and it is considered that the proposed back garden depths are sufficient to avoid any undue overlooking in accordance with DM Standard 2 of the Galway County Development Plan.
- NPF, Urban Building Height Guidelines seek to encourage such infill/brownfield re-development site and also the Guidelines Sustainable Residential Development in Urban Areas. A balance has to be struck between achieving compact urban forms and separation distance.
- Regarding Refusal reason no 4 in relation to road safety the position and alignment of the internal access road is dictated by the constraints of the site and requirement to comply with DMURS design guidance. The provision of the requisite sight distance for the adjacent permission will be accommodated with the removal of a section of the existing boundary wall. The required 23m sightline for a 30km/h design speed can be achieved from the adjacent commercial development access.
- Regarding refusal reason no 5 relating to car parking, given the central location the requirement to provide 179 spaces for foodstore is excessive. In practical terms and on review of comparable development these stores typically require somewhere in the order of 75-100 no car parking spaces. Reduced parking provision should be considered in the context of the NPF, Smarter Travel and Sustainable Urban Housing Design Standard. Given that the site is immediately adjacent to an existing town centre and adjacent public car park it is considered that some reduction in

respect of the level of car parking provision is warranted. Parking survey undertaken on 27th April 2022 included in appendix 2 of the appeal submission noted that there was 90% parking capacity remaining at 08:30 65% capacity at 13:00 and 70% capacity at 16.30. The public car park has capacity for approximately 100 cars.

- Regarding refusal reason no 6 – Every effort has been made to maximise tree retention. The loss of some trees is inevitable to achieve urban renewal as proposed. It is intended to remove 8 no category A1 and B1 (high and moderate quality) and 20 category U trees. (Not suitable for retention for longer than 10 years)
- The proposal retains 75% of the existing trees on the application site. Extent of removal of Category A1 and B1 trees (high and moderate quality) equate to only 10% of all trees on site. A comprehensive programme of compensatory and new tree hedge and shrub planting is proposed (proposal to plant 128 no native and non-native parkland street and ornamental tree species).
- The magnitude of impact of tree removal is slight at a local scale and there is no adverse impact in terms of the character or setting of the Medieval Town Walls and Athenry House. Proposed landscaping will provide significant improvements of the public realm in contrast to what has been a derelict site for over 15 years.
- Updated CEMP provided in appendix 6 includes reference to and commentary on a suite of mitigation measures specified in the Archaeological impact assessment specifically relating to the protection of the 30m buffer around Athenry Town Walls.
- The proposed development is consistent with national regional and local planning policy framework and the proposal will provide for an effective and efficient use of the site which is highly accessible and well served by public transport.

6.2. Planning Authority Response

6.2.1 The Planning Authority did not respond in writing to the grounds of appeal. The Local Authority's brief of evidence to the Oral hearing sets out the response of the local authority to the first party appeal statement and is summarised in Appendix A. The Local Authority maintains that while the applicant has as part of the appeal statement addressed some of the matters within the ground of appeal by way of amended

documentation and further information however some of the more substantive issues remain outstanding. I note that in closing statement on behalf of the Local Authority Mr John O Donnell asserted that three of the six reasons for refusal had not been resolved. (Reason 1 related to demolition of former stables, Reason 2 regarding design and reason no 5 regarding car parking)

6.3. Observations

6.3.1 Submission from James Roche, Consulting Engineer on behalf of Mrs Nora Monaghan and Mr Sean Monaghan of Riversdale House, Athenry residents and owners of the adjoining agricultural lands to the south. Submission is summarised as follows:

- Privacy and amenity would be severely impacted by the proposal.
- Concern in relation to Part 5 Allocation as it is poorly integrated.
- Location of roadway adjacent to the observer's dwelling is of concern.
- Concerns regarding site boundaries given that the observers operate a working farm. In the event of permission a condition would be required regarding upgraded boundaries.
- Dispute first party assertions regarding flooding. The link road and bridge has been subject to higher flood levels in recent years and Galway County Council have had to excavate a trench from the road/bridge to the river to release water where the river continued to rise and in both 2019 and 2020 and Abbey Row flooded badly. Pinch points and narrow channels have contributed to further flooding issues.
- Traffic problems in Athenry will be exacerbated.
- Coach house should be preserved.

6.3.2 Submission from Friends of Athenry House, c/o Gerard O'Brien, Rahard, Athenry.

- Dispute allegation that demolition of coach house an element of the protected structure is unavoidable given previous proposal to retain and renovate.

- Welcome proposal for refurbishment of Athenry House and the repurposing of the house for use as a community and heritage centre however details are inadequate.
- Phasing of any development on the site should be contingent on the developer restoring and making the house operational as per previous decision PL07.227445.
- Question whether the current layout protects the setting of the historic and protected structures on the site. Proposal severs the dovecote from its original setting and connection to the house and the direct alignment of Athenry House's main entrance doorway with both the river Clarin and the medieval tower.
- Finish of all new structures should be in keeping with the sites location within the Athenry ACA.
- River Clarin has an ecological Q value score of 4 (Good status) at Athenry (Athenry south bridge) and 2-3 Poor downstream of Athenry. Proposal for two discharges to the River Clarin must not be allowed to negatively impact on the improving water quality.
- It is not clear how the project engages with Galway County Heritage and Biodiversity Plan 2017-2022 specifically the integration of biodiversity into the plan.
- All of the mature trees on site should be retained. Only native species certified native Irish stock should be used as replacements.

6.3.3 Submission by Dominic Monaghan, Riversdale House, Athenry, Co Galway.

- Note limited timeframe to prepare submission in contrast to the time available to the first party.
- Precedent cited at Custom House Quay bears no relevance or significance to the Athenry House site.
- Concern regarding impact on the setting of Riversdale House and farm operation
- Three storey height of block 12 is inappropriate.
- Concerns regarding vehicular / pedestrian safety at Swangate junction.
- 2007 archaeological excavation report remains unpublished.
- CEMP report inadequate.

- Written and visual drawings give the impression that the discount superstore at Ghost Zapper site is similar in size to the permitted Aldi discount store in former Arrabawn Co Op Site. Note change of plan submitted under 21/1721,
- Concerns regarding traffic impact.
- Appeal documentation dotted with inaccuracies and contradictions.
- Appeal site is a unique archaeological and historical site in the context of European cultural heritage left virtually untouched in the medieval and post medieval periods.
- Concern regarding parity of esteem in oral hearing context.

6.4. Further Responses

6.4.1 Submissions from Dominic Monaghan and the First Party Appellant welcome Board's decision to hold a hearing.

6.5 Oral Hearing

6.5.1 I refer the Board to the summary of the oral hearing set out in Appendix A. The summary provides an outline of the proceedings whilst points of clarification and elaboration presented at the oral hearing are set out in the relevant section of the report herein.

7.0 Assessment

7.1 The principle of development of this site is welcomed by all parties and I consider that the main issues that arise for assessment by the Board in relation to this appeal are associated with the matters outlined in the reasons for refusal by the local authority and can be considered under the following broad headings:

- Justification for Demolition of former Coach House.
- Design, layout and configuration. Impact on visual amenity and cultural heritage.
- Impact on residential and other amenities. Landscaping and biodiversity.
- Traffic, Transport and Parking
- Flooding
- Appropriate Assessment

7.2 Justification for demolition of Coach House

7.2.1 The question of whether exceptional circumstances to justify demolition of the former stables / cart shed having regard to Section 6.8.11 of “Architectural Heritage Protection Guidelines for Planning Authorities Department of Arts, Heritage and the Gaeltacht 2011 in the context of its location within the curtilage of Athenry House Protected Structure Ref 131, its association with the house and location within the Athenry ACA is a key issue to be addressed within the appeal and this issue remained a main point of disagreement between the parties as deliberated in detail at the oral hearing.

7.2.1 The Local Authority maintains that the coach house is afforded protected structure status given its location within the curtilage of Athenry House protected structure ref 131. To support this case the Planning Authority refers to Section 1.3(f) of the Architectural Heritage Protection Guidelines, Department of the Arts Heritage and the Gaeltacht 2011, where it is stated that

“where a structure is protected the protection includes the structure, its interior and the land within its curtilage and other structures within that curtilage (including their

interiors) and all fixtures and features which form part of the interior or exterior of all these structures.”

7.2.2 The first party appellant questioned the status of the coach house structure noting that the description of the protected structure within the Record of Protected Structures RPS refers to:

“ Athenry House - Ruins of detached five bay two storey gable ended house with round headed stone doorcase with sidelights. C1780. The façade is rough dash rendered. Single bay two storey extensions added at either end c1820. The interior had an oval hall. Entrance gateway with quadrant walls, ashlar piers with ball finials and iron gates. Set within its own grounds in centre of town.”

Mr O Donnell, barrister, on behalf of the first party appellant referred, during the course of the Oral Hearing, to *Begley V An Bord Pleanála 2003WKSC-HC1075*, which related to an application for permission at Riversdale House, Rathfarnham and refusal by the Board to grant permission for a number of apartments (ABP Ref PL06S.124384). The applicant subsequently sought judicial review proceedings whereby a case was put forward that the Board had wrongfully decided that the lands in question were within the curtilage of a protected structure (which was situated on the lands) and were themselves part of the protected structure. In addition, the applicants contended that the respondent had wrongfully interpreted the Development Plan with regard to protected structures in that it added three specific elements only within the lands of Riversdale House to the record of protected structures. Mr O Donnell noted that in the case of Athenry House the Record of protected structures entry does not refer to the coach house whereas the NIAH entry includes the following reference *“Single-storey outbuilding to west having pitched roof lacking covering, rubble limestone walls and square-headed door and window openings and one elliptical carriage arch.”* The RPS in contrast refers to the House and Entrance gates only. I note the outcome of *Begley V An Bord Pleanála* where Ó Caoimh J refused leave to seek judicial review stating that the applicants had

failed to advance substantial grounds that the respondent had erred in law, therefore the case does not strictly support these arguments.

7.2.3 I would concur with the Planning Authority that as the coach house clearly falls within the curtilage of the protected structure and is located within the Athenry Architectural Conservation Area therefore the need for exceptional circumstances to justify its demolition arises. I note the question of demolition is addressed at 14.1.3 of the Architectural Heritage Protection Guidelines as follows:

“There is a presumption in favour of the preservation of all protected structures and demolition may only be permitted in exceptional circumstances. Some structures may have been added to the Record of Protected Structures as ruins, others protected structures may, through accident have become ruinous.

A proposal to demolish a ruin, where the demolition would adversely affect the character of an adjacent protected structure or of an ACA should be carefully considered.”

7.2.4 On behalf of first party Mr Cronin, Cronin and Associates set out the case for justification of demolition of the Coach House asserting that the removal of the coach house is necessary to facilitate safe vehicular access to the site and will facilitate the conservation and appropriate regeneration of significant heritage aspects on the site namely Athenry House, the Dovecote and entrance gateway. Whilst acknowledging that the loss of the coach house will result in loss of historic fabric, it is a ruinous and significantly altered (truncated) structure.

7.2.5 Regarding alternative access, I consider that the provision of alternative roadway access to the south of Athenry House is discounted on the basis of proximity to Athenry House and the negative impact such access arrangement would have on its setting. The provision of alternative roadway access running to the north, as had been proposed in the previous application to the local Authority 201384, and was ultimately refused on the basis of traffic hazard related to the difficult geometry of the access road. The case is made by the first party that the positive impact arising on the material condition of the extant built fabric of Athenry House, the gateway and

the dovecote and the provision of a sustainable rationale for ongoing consideration and integration of their context to the architectural heritage of the town is mitigation and justification for the loss of the coach house. I consider that on balance the case for exceptional circumstances for demolition of the coach house has been demonstrated and the proposal is acceptable in terms of the cultural and built heritage of the site.

7.3 Design, layout and configuration. Impact on visual amenity and cultural heritage.

7.3.1 On the matter of the proposed design and layout the Council's second reason for refusal was as follows:

The block typologies of the proposed supermarket unit towards the northern end of the scheme as well as proposed Apartment Blocks 11 and 12 towards the southern end of the scheme, in the context of concerns in relation to both Sustainable Architectural Conservation Area and urban assimilation generally, potential for undue impacts on the context and setting of Athenry House (Protected Structure Ref 131) and archaeologically and culturally significant Town defences (Athenry Town Walls), in addition to potential for overlooking (in the case of Blocks 4 and 7), scale and massing concerns, animation and active frontage concerns, particularly in the case of the supermarket block and block types 11 and 12 which render these building typologies discordant with this edge of centre setting, would fail to assimilate their setting in terms of character and provide the required standard of urban placemaking, urban assimilation and amenity called for in the current Galway County Development Plan 2015-2021 and Athenry Local Area Plan 2012-2022. The proposed development would accordingly contravene materially County Development Plan Objective AH4 and Development Standards 2 and 44 and Athenry Local Area Plan Objective UD1, Objective UD3, Objective UD5 and Objective HC4. In addition, in the case of the supermarket block, Development Management Standard 10 of the County Development Plan and Objective ED4 of the Athenry Local Area Plan, would detract from the visual amenity of the area, and

would establish an undesirable precedent for similar future development in the area. The proposed development would accordingly be contrary to the proper planning and sustainable development of the area.

- 7.3.2 I have noted the desire expressed by the local authority, and evidently encouraged during the pre-planning process that the development of the site would involve a coarse grain type urban development with animated streets. The local authority contends that the designation of the site within Athenry ACA is the fundamental determinant of necessary design standards and requirements for new development on the site. The Local Authority contends that the proposal as set out is unduly suburban in character and fails to achieve the vision.
- 7.3.3 The first party in promoting the proposed design configuration and layout asserts that the scheme is responsive to the site context and is in keeping with the character of the area whilst providing a contemporary and new viable urban form. In relation to the residential elements of the scheme it is contended that the residential units presenting as a sequence of terraced houses overlooking streets reflect the urban grain whilst allowing for required access and permeability.
- 7.3.4 As regards the first party response to refusal reason no 2, I note that the Planning Authority during the course of the oral hearing asserted that the redesign proposals to block 11 and 12 in the appeal submission mitigate the overall massing issue expressed within the reason for refusal, however the Planning Authority it was suggested that units 11 and 12 be reorientated and integrated with the units to the north to create perimeter block typologies. It was suggested that this might be addressed by condition. I have considered the potential benefits of such a revision, however I have concluded that this alteration to the designers context and setting, in particular the impact on eastern vistas over the open space and river frontage would amend the character area concept and rhythmic clustered structure as detailed in the applicant's design statement by CCH Architects submitted with the application 2 December 2021. Having considered the submissions in detail I am inclined to

conclude that the proposal is acceptable in terms of its design response to the unique sensitivities and characteristics of the site.

7.3.5 On the matter of the design and layout of the proposed supermarket retail unit the Planning Authority outlined significant concerns with regard to its scale (75.4mx31.8m) and form and the sought a site specific design. Concerns were expressed with regard to the need for greater animation to the southern elevation in particular, greater enclosure, definition and animation. An L-Shaped footprint was suggested. In terms of justification for the design the first party noted the precedent case of permission for 15/356 on the adjoining site and asserts that the proposal is contemporary and in keeping with the emerging pattern of development. The first party in its submissions to the oral hearing noted operational difficulties in terms of an L shaped structure for supermarket use and emphasised the necessity that form should follow function. I acknowledge the concerns of the planning authority regarding the standardised format of the retail unit and the scale of the structure in particular its unrelieved southern and eastern elevations, however I acknowledge that the operational and functional needs of the retail operator need to be met to ensure the viability of the proposal. I consider that the quality of the material finish and landscaping treatment can integrate the retail unit into the site. I consider that the proposed design is acceptable and can be accommodated on this site. I am satisfied that the proposed mixed use development on this site provides an appropriate contemporary layout and design that will be a significant evolution in terms of the town of Athenry particularly having regard to the public realm, the provision of public open space including the proposed linear park along the banks of the River Clarin and the other conservation and architectural heritage benefits of the proposal.

7.3.6 In relation to Athenry House this has been vacant and derelict for a number of years, and its condition has deteriorated over this time. I note that all parties welcome its restoration and agree that a sustainable community use for the house is a significant planning gain arising in the redevelopment of the site. I note that the restoration of the house is intended within phase 1 of the development. A management company will be responsible for the day to day running. I consider that the proposed development is acceptable in terms of its design, layout and configuration and its

impact on visual amenity and cultural heritage. I consider subject to conditions relating to the provision of a landscaping scheme, boundary treatment, the proposed development would have a positive impact on the public realm of Athenry. The proposed development represents an appropriate and sequential extension from Athenry town centre and provides for an appropriate transition from commercial to community and residential use. I am satisfied that the design and layout is satisfactory and would accord with the proper planning and sustainable development of the area.

7.4 Impact on Residential and other Amenities. Landscaping and Biodiversity.

7.4.1 As regards residential amenity of the proposed dwelling units I note the proposal equates to a net density of 30 units per hectare. It is noted that the Guidelines for Planning Authorities on sustainable Residential Development in Urban Areas recommend that centrally located sites in smaller towns and villages should yield 30-40+ dwellings per hectare. It is submitted that in the context of the constraints applying to the appeal site that the proposal represents an appropriate density for the site.

7.4.2 As regards the range of units the proposal involves a mix as follows: 3 no 1 bed apartments, 16 no 2 bed apartments 12 no 3 bed apartments 21 no 3 bed houses and 7 no 4 bed houses. I consider that the proposed mix is appropriate to this site. As regards the standard of residential amenity provided 28 of the 31 apartment units are dual aspect and all units meet the required standards in terms of minimum floor areas as set out in the Sustainable Urban Housing Design Standards for New Apartments, Guidelines for Planning Authorities Department of Housing Local Government and Heritage December 2022.

7.4.3 As regards standards of *daylight / sunlight* I note Section 3.2 of the Urban Development and Building Height Guidelines (2018) states that the form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light. The Guidelines state that appropriate and

reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and / or an effective urban design and streetscape solution. The Sustainable Urban Housing Design Standards for New Apartments Guidelines, 2020 also state that planning authorities should have regard to these BRE or BS standards. I note that the applicant provided an analysis of Internal Daylight entitled Athenry Residential Development Galway, Internal Daylight Analysis 8/8/2022 by IN2 which was circulated to the parties at the oral hearing.

7.4.4 The applicant's assessment of daylight, sunlight and overshadowing relies on the standards in the following documents: - BRE report, Site layout planning for daylight and sunlight: a guide to good practice (BR 209) which is referenced in the guidelines. I have considered the report submitted by the applicant. The daylight assessment was undertaken for Average Daylight Factor (ADF) which is the ratio of the light level inside a structure to the light level outside of structure expressed as a percentage. The results show a high level of compliance with BREs BR 209 second edition with 91% of rooms achieving or exceeding the prescribed targets. The report notes that in terms of Spatial Daylight Autonomy (SDA) a climate based methodology for assessing natural light performance accounting for both direct (sunlit) and diffuse light. The assessment of SDA demonstrate a high compliance rate with 95% of all rooms meeting or exceeding target values.

7.4.5 As regards those rooms which were identified as failing to achieve the "2% or 1% targeted ADF they are as follows:

Block 3 - One KLD on first floor with (ADF 1.2%)

Block 4 - One KLD on ground floor (ADF 1.9%)

Block 11 - 4 bedrooms on ground floor of 4 two bed units. (ADF 0.7%-0.9%)

Block 12 - 2 bedrooms on ground floor of 2 no 2bed units (ADF 0.9%)

7.4.6 I am satisfied that the results represent the worst case scenario. I consider this reasonable having regard to the information provided in the assessment in the Daylight and Sunlight report. I note that the 2% ADF is more appropriately conceived in a traditional house layout, and in apartment developments, it is a significant challenge for large open plan kitchen/living/dining rooms to achieve 2% ADF. In urban schemes there are challenges in meeting the 2% ADF in all instances, and to do so would unduly compromise the design/streetscape therefore an alternate 1.5% ADF target is generally considered to be more appropriate. I consider that having regard to the information outlined above, the level of compliance with the ADF target is considered to be a reasonable compliance with the BRE standards. In particular noting that the BRE standards allow for a flexible and reasonable alternative for ADFs, and which in any event K/L/Ds are not specifically stipulated in the BRE guidance. I also note that SPPR3 allows compensatory proposals where non-compliance is proposed.

7.4.7 Having regard to the proposed density and urban location, the shortfalls are not significant in number or magnitude. Regard is also had to the need to develop sites, such as this, at an appropriate density, and, therefore, full compliance with BRE targets is rarely achieved, nor is it mandatory for an applicant to achieve full compliance. Justification for non-compliance exists in this case, and the design and associated design solutions are appropriate. ADF is only one measure of the residential amenity and in my opinion the rooms within the apartments would receive adequate daylight and will ensure an acceptable residential amenity afforded future residents.

7.4.8 As regards impact on established residential and other amenities, I note that in relation to the issue of overlooking raised by the Planning Authority regarding block 4 and block 7 the planning authority was satisfied in relation to block 4 that the amendments outlined in the appeal response appropriately mitigate this issue. As regards block 7 the setback distance from the western boundary is its shortest 4.5m from the boundary which is significantly less than the standard 11m. This shortfall

will have to be taken into account in terms of possible future development on the adjoining site to the west. I note that the Quality Housing for Sustainable Communities Best Practice Guidelines provide for flexibility in terms of rear garden minimum length in the case of single storey development and/or innovative schemes where it can be demonstrated that adequate levels of privacy, natural lighting sunlight can be achieved. I consider that flexibility can be applied in this regard. As regards the southernmost house on block 7, I have concerns regarding overlooking and perceived proximate overlooking of the adjacent Riversdale House notwithstanding the existence of the tree canopy (on the grounds of Riversdale House) and the angle involved. I consider that the upper floor attic window should be eliminated to mitigate this issue. The attic space can be provided as storage. As regards other concerns raised by the observers in relation to impact on Riversdale House, clearly the development on the site will result in an altered context, however I consider that subject to appropriate mitigation in terms of boundary treatment and landscaping no undue negative impacts will arise.

7.4.9 Regarding landscaping and the loss of existing trees and wider impact on biodiversity, I note that the Planning Authority indicated in its submissions to the oral hearing that based on the first party appeal submissions including survey of existing trees and the intended landscaping approach to priorities groupings of trees to emphasise ecological function and focus on native species.

7.4.10 On the issue of impact on biodiversity I note that Ecological Impact Assessment by MKO Planning and Environmental Consultants included with the application which concluded that following implementation of best practice and mitigation there will be no residual significant impacts on biodiversity. Residual impacts on ecological receptors were deemed to be not significant with no potential for the development to contribute cumulative impacts on biodiversity when considered in combination with

other plans and projects. I consider that the proposal is acceptable in terms of its landscape and ecological impact subject to the detailed mitigation as outlined.

7.4.11 Bat Survey Report MKO, Planning and Environmental Consultants noted that six bat species were recorded across the site. Bat roosts were identified within Athenry House and the adjacent bungalow while foraging and commuting was notable in mature trees along the boundaries. Detailed mitigation measures are outlined and assessment of likely effects concludes that the development will not result in significant loss of habitats of high ecological significance for bat species and will not have a significant impact on the ecology of the wider area for bats. Having regard to the detailed submitted I consider that the proposed development is acceptable in terms of its landscape and ecological impact subject to detailed mitigation as outlined.

7.5 Traffic, Transport and Parking

7.5.1 As regards traffic and access, I note the details of access route alignment and visibility splay arrangement as outlined in drawing No 10794-2217 Tobin Consulting Engineers which was provided with the grounds of appeal. The Planning Authority concurred that this satisfies the requirement in terms of visibility splays at the entrance. On this basis the Planning Authority confirmed that the fourth reason for refusal in their decision had been adequately addressed and that the development should be subject to road safety audits 2, 3 and 4. The proposed development is in accordance with the requirements of the Design Manual for Urban Roads and Streets (DMURS) with design speed of 30kph. I have noted the amendments to the road configuration to ensure that the proposal does not encroach on the 30m zone of archaeological potential for the historic town wall of Athenry (RMP GA084-001). Having reviewed the detail of the proposed roads layout I am satisfied that the proposal is acceptable from a road safety perspective.

7.5.2 On the issue of car parking the fifth reason for refusal set out that the proposal does not provide for adequate onsite car parking facilities to serve the development, in accordance with the car parking standards set out in the Development Plan and

would give rise to increased potential for on road parking and would thereby interfere with the free flow of traffic and endanger public safety by reason of obstruction or road users. The car parking standards are set out within Table 15.5 of the current Galway Development Plan 2022. The standards require the provision of 1 car parking space per 12 sq. m. GFA for larger shops >1,000 sq. m, while smaller shops of <250sq.m require 1 space per 24sq.m gfa. I note that this is the maximum quantum of car parking requirement. The proposal provides for a total of 106 spaces for the commercial element of the proposal whereas the requirement would be 200. The Planning Authority's concerns arise in relation to the large supermarket unit where the provision of 93 spaces falls short of the calculated requirement 180m spaces representing a shortfall of 87 spaces.

7.5.3 The first party within the grounds of appeal and in submissions to the oral hearing provided detailed analysis of parking levels at comparable Lidl stores which suggest an average ratio of 0.07 parking spaces per m² of sales area. It is contended that the proposed ratio 0.065 spaces per m² of sales area will be adequate. The first party also provided an analysis based on TRICS data to determine the parking requirement for the proposed supermarket. The analysis suggests sufficient capacity to cater for the projected car parking requirement. The first party notes the central location of the site, dual usage opportunities and the notable spare capacity within the existing car park located adjacent to the west of the site. Analysis was provided in respect of the existing car park based on survey carried out at 08:30, 13:00 and 16:30 over three dates on 27th April 2022, and 7th and 8th October 2022. Results indicated an average remaining capacity of 90% 08:30, 61% 13:00 and 70% 16:30. The first party also highlighted the negative visual impacts of a large surface car park on this sensitive heritage site. The applicant proposes that a workplace travel plan will be devised to promote a modal shift and facilitate sustainable transport options.

7.5.4 I note that the Planning Authority questioned the feasibility of use of the existing public car park on the basis of its distance from the proposed supermarket. The issue of potential underground car parking provision was also raised by the planning authority at the oral hearing. Having considered all submissions on the matter I consider that the applicant has made a reasonable case regarding the adequacy of car parking provision. I am satisfied that given the location of the appeal site which

extends from the town centre and includes strong connectivity to the established built up area that car parking proposals are adequate and would accord with the Development Plan policy in terms of the application of a flexible approach to parking provision within town centres. I am satisfied based on the information provided during the course of the appeal that the car parking proposals are adequate to cater for the scale retail development proposed on this site. I note that a special contribution would apply in lieu in accordance with the Galway County Council Development Contribution Scheme 2016.

7.6 Flooding

7.6.1 In relation to flood risk the proposed development incorporates an increase in existing ground levels within the site to ensure all residential commercial units and the road/footpath are positioned outside the flood plain. The associated works proposed results in a minor change in flood extents however this is confined to within the site boundary where open space is proposed. Floor levels are set at least 300mm above the high-end future scenario flood level to mitigate vulnerable uses from future flood risk.

7.6.2 The Council's third reason for refusal with regard to flood risk emanated from concerns that the proposal would result in loss of flood storage and in the absence of compensatory storage would result in increased downstream flood risk. The first party in its submissions and elaborations in relation to the flood risk assessment and by reference to detailed hydraulic modelling asserts that the areas of floodplain within the site are principally conveyance routes rather than static areas of storage and maintained therefore that compensatory storage is not strictly necessary in accordance with the parameters of the Planning System and Flood Risk Management Guidelines 2009. It was noted however that based on the planning authority's precautionary approach with regard to flood risk, it is proposed that 54m³ of floodplain compensatory storage would be provided in the south-eastern corner of the site. The Planning Authority was satisfied with this proposal which can be addressed by way of condition. I note that as the proposal to locate this within the

30m buffer of the town wall the National Monument Service of the Department of Housing Local Government and Heritage an evaluation on this matter is required. I consider that the issue of flood risk has been mitigated and the matter can be addressed by condition.

7.7 Appropriate Assessment

7.7.1 Appropriate Assessment Screening

Compliance with Article 6(3) Of the Habitats Directive.

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, Section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

7.7.2 Background to Application

An Appropriate Assessment Screening Report and a Natura Impact Statement compiled by MKO Planning and Environmental Consultants were submitted as part of the planning documentation. I am satisfied that adequate information is provided in respect of the baseline conditions, and potential impacts are clearly identified, and sound scientific information and knowledge was used. The information contained within the reports is considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development. The screening is supported by associated reports, including a Site-Specific Flood Risk Assessment as well as a review of National Parks and Wildlife Survey (NPWS) datasets, Ordnance survey mapping and aerial photography.

The AA Screening Report states that this assessment was reached without considering or taking into account mitigation measures or best practice protective measures .

Section 4.2 of the applicants AA Screening Report concludes “It cannot be excluded beyond reasonable scientific doubt, in view of best scientific knowledge, on the basis of objective information and in light of the conservation objectives of the relevant

European sites, that the proposed development, individually, or in combination with other plans and projects, would be likely to have a significant effect on the Galway Bay Complex SAC (000268) and Inner Galway Bay SPA (004031). As a result, an Appropriate Assessment is required, and a Natura Impact Statement shall be prepared in respect of the proposed development”.

Having reviewed the documents and the observations received by the Planning Authority, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.7.3 Screening for Appropriate Assessment - Test of likely significance

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 Special Areas of Conservation (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

7.7.4 Brief Description of the development

The proposed development is located on a largely greenfield site adjacent to the town centre of Athenry Co Galway. The site is partly enclosed by the historic town walls and includes Athenry House, a protected structure. The River Clarin runs along the eastern site boundary. Athenry Town Centre is located to north and northwest with Kenny Park GAA grounds to the west of the site. Agricultural lands and a

residential property adjoin to the southwest. The development would be connected to the public foul and surface water sewer networks.

The proposed development involves a mixed use development comprising 59 residential units, provision of 2,641sq.m commercial floorspace, works to provide pedestrian access via the Athenry House gateway from the corner of Clarke Street / Cross Street, vehicular access via Swan Gate, demolition of bungalow and former coach house, provision of shared communal and private open space, refurbishment of Athenry House to provide for use as a community and heritage centre and all associated site works.

The appeal site is described in Section 2.2.2. of the AA screening report. It is described as comprising disturbed ground which was previously cleared for construction and is now comprised predominantly of recolonising bare ground, spoil and bare ground with some loose rock outcrops, small areas of scrub and rank grassy verges. The site contains Athenry House and adjacent bungalow and coach house ruin and dovecote classified as buildings and other artificial surfaces and stone walls and other stonework. The Clarin river runs adjacent to the eastern boundary. The river is classified as an eroding/upland river while a strip of dry meadows and grassy verges is located along the western bank. A riparian treeline

runs parallel with the river and grassy verge on the western bank. Flooded areas were noted on the east and west of the Clarin River.

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 implications for likely significant effects on European sites.

Construction related - uncontrolled surface water / silt construction related pollution.
Construction noise disturbance.

Habitat loss / fragmentation

Habitat disturbance / species disturbance (Construction and or operational)

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

7.7.5 Submissions/Observations

I have reviewed the submissions made. I note that the submission of the Development Applications Unit Department of Housing Local Government and Heritage to the local authority referred to previous refusal 20/1384 regarding storm water discharge to the Clarin River. Submission recommends that in the event of permission all mitigation measures outlined in the NIS and Chapter 5 of the CEMP are strictly adhered to. All Environmental Management Measures outlined in Chapter 3 of the CEMP to be implemented. Mitigation measures outlined in Chapter 5 of the

Bat survey report to be strictly implemented. Other third party submissions note concerns regarding biodiversity impacts.

7.7.6 European Sites

The development site is not located within or immediately adjacent to a European site. The closest European Sites are Monivea Bog SAC and Rahasane Turlough SAC within 7.3km of the site, however both of these European sites are not hydrologically connected to the site and therefore not within the likely zone of impact.

A potential zone of influence has been established for the development having regard to the location of European sites, the Qualifying Interests (QIs) of the sites, the source-pathway receptor model and potential environment effects of the proposed project. A summary of European sites that occur within 15km within the possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European Site as been identified these sites are examined in more detail.

Table 1 Summary Table of European Sites within a possible zone of influence of the proposed development.

European Site	List of Qualifying Interest /Special Conservation Interest	Distance from the proposed development km	Connections (Source pathway receptor)	Considered further in screening. Y/N
Monivea Bog SAC Site Code 002352	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]	7.3km	No surface water connectivity therefore no source pathway receptor chain.	No
Rahasane Turlough SAC (Site Code 000322)	Turloughs [3180]	7.3km	No surface water connectivity therefore no source pathway receptor chain.	No

<p>Lough Corrib SAC</p> <p>Site Code 000297</p>	<p>Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</p> <p>Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]</p> <p>Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</p> <p>Active raised bogs [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p>Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Bog woodland [91D0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p>	<p>8km</p>	<p>No hydrological connectivity.</p> <p>No indirect impacts as a result of disturbance displacement or loss of foraging habitats.</p>	<p>No</p>
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	Salmo salar (Salmon) [1106] Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303] Lutra lutra (Otter) [1355] Najas flexilis (Slender Naiad) [1833] Hamatocaulis vernicosus (Slender Green Feather-moss) [6216]			
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Galway Bay Complex SAC	<p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Turloughs [3180]</p> <p><i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Alkaline fens [7230]</p> <p>Limestone pavements [8240]</p> <p><i>Lutra lutra</i> (Otter) [1355]</p> <p><i>Phoca vitulina</i> (Harbour Seal) [1365]</p>	10.4km	<p>No direct effects.</p> <p>The Clarin River has downstream connectivity > 14km hydrological distance therefore potential for pollution to surface waters and groundwaters impacting on Qis.</p> <p>Potential for noise disturbance to otter due to nature of works adjacent to the Clarin River.</p> <p>There is no potential for indirect effect on the following terrestrial Qis</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</p> <p><i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</p>	Yes
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Castletaylor Complex SAC	<p>Turloughs [3180]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Limestone pavements [8240]</p>	12.2km	No hydrological connectivity	No
Lough Fingall Complex SAC (Site Code 000606)	<p>Turloughs [3180]</p> <p>Alpine and Boreal heaths [4060]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Calcareous fens with Cladium mariscus and species of the Caricion davalliana [7210]</p> <p>Limestone pavements [8240]</p> <p>Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303]</p>	13.6km	<p>No hydrological connectivity</p> <p>No source pathway receptor chain</p>	No
Kiltiernan Turlough SAC Site Code 001285	<p>Turloughs [3180]</p>	14.2km	<p>No hydrological connectivity</p> <p>No source pathway receptor chain</p>	No
Ardrahan Grassland SAC Site Code 002244	<p>Alpine and Boreal heaths [4060]</p> <p>Juniperus communis formations on heaths or calcareous grasslands [5130]</p> <p>Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</p> <p>Limestone pavements [8240]</p>	14.5km	<p>No hydrological connectivity</p> <p>No source pathway receptor chain</p>	No

<p>Rahasane Turlough SPA</p> <p>Site Code 004089</p>	<p>Whooper Swan (<i>Cygnus cygnus</i>) [A038]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p> <p>Wetland and Waterbirds [A999]</p>	<p>7.3km</p>	<p>No hydrological connectivity</p> <p>No source pathway receptor chain</p>	<p>No</p>
<p>Creganna Marsh SPA (Site Code 004142)</p>	<p>Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395]</p>	<p>11.7km</p>	<p>No hydrological connectivity</p> <p>No source pathway receptor chain</p>	<p>No</p>

<p>Inner Galway Bay SPA</p> <p>Site Code 004031</p>	<p>Black-throated Diver (<i>Gavia arctica</i>) [A002]</p> <p>Great Northern Diver (<i>Gavia immer</i>) [A003]</p> <p>Cormorant (<i>Phalacrocorax carbo</i>) [A017]</p> <p>Grey Heron (<i>Ardea cinerea</i>) [A028]</p> <p>Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</p> <p>Wigeon (<i>Anas penelope</i>) [A050]</p> <p>Teal (<i>Anas crecca</i>) [A052]</p> <p>Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Turnstone (<i>Arenaria interpres</i>) [A169]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Common Gull (<i>Larus canus</i>) [A182]</p> <p>Sandwich Tern (<i>Sterna sandvicensis</i>) [A191]</p> <p>Common Tern (<i>Sterna hirundo</i>) [A193]</p> <p>Wetland and Waterbirds [A999]</p>	<p>11.7km</p> <p>(14.4km) hydrological distance)</p>	<p>Clarín river is hydrologically connected >14.4km.</p> <p>Potential pathway for indirect impact on SPI species via water quality impacts during construction and operational phase.</p>	<p>Yes</p>
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7.7.7 Identification of Likely Effects.

As set out above the following sites : Monivea Bog SAC, Rahasane Turlough SAC. Lough Corrib SAC, Castletaylor Complex SAC, Lough Fingall Complex SAC, Kiltiernan Turlough SAC, Ardrahan Grassland SAC and Rahasane Turlough SPA and Creganna Marsh SPA were screened out from the need for appropriate assessment on the basis of lack of source pathway receptor or potential for significant effect in view of their Conservation Objectives.

I have therefore, concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on these particular European sites listed above in view of the site's Conservation Objectives and Appropriate Assessment and submission of an NIS in relation to these sites is not therefore, required.

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

Galway Bay Complex SAC (Site Code: 000268)

Inner Galway Bay SPA (Site Code: 004031).

Therefore, In relation to The Galway Bay Complex SAC and Inner Galway Bay SPA these require further assessment due to there being potential hydrological connectivity between the appeal site and these sites via the River Clarin. Based on the potential for surface water deterioration during construction and operational phases of the development and potential for adverse impact on habitats/species, either alone or in combination. Potential for disturbance to otter due to noise pollution / disturbance was also identified given the proximity to the Clarin River. I do not consider that any other European Sites fall within the zone of influence of the project, based on a combination of factors including the intervening distances, the lack of suitable

habitat for qualifying interests, and the lack of hydrological or other connections.

7.7.8/ 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.

7.7.9 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 (or in combination with other plans or projects) could potentially adversely impact on two European Sites, namely the Galway Bay Complex SAC and the Inner Galway Bay SPA in view of the Conservation Objectives of the sites could not be ruled out, and Appropriate Assessment and the submission of a Natura Impact Statement is therefore, required.

This determination is based on:

- Potential surface water drainage and groundwater pathways.
- Potential impacts upon Qualifying interests and Conservations interests of the two European sites listed above.

7.7.10 Stage 2- Appropriate Assessment Introduction

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.

7.7.11 Compliance with Article 6(3) of the 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).

7.7.12 Screening the need for Appropriate Assessment

The development has been screened in relation to any possible interaction with European sites designated as Special areas of Conservation (SAC, s) or

Special Protected Areas (SPA, s) to assess whether the development may give rise to significant effects on any European site(s).

7.7.13 Screening Determination

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 mixed use development Athenry, individually or in-combination with other plans or projects will have a significant effect on the following European Sites:

Galway Bay Complex SAC (000268)

Inner Galway Bay SPA (004031)

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

7.7.14 Natura Impact Statement

The application included a Natura Impact Statement (NIS) Proposed Mixed Use Development Athenry Town Centre, Athenry Co Galway by MKO Planning and Environmental Consultants.

The NIS provides a description of the project and the existing environment. It also provides a background on the screening process and examines and assesses potential adverse effects of the proposed development on the Galway Bay Complex SAC and Inner Galway Bay SPA.

The methodology for the NIS is clearly set out at Section 4.1. The desk study included a review of available ecological data including review of webmappers. (NPWS EPA), review of site specific objectives for European sites within the zone of impact, review of habitats directive Article 17 and

Article 12 reports. Walkover field surveys were undertaken in September 2019, June and July 2020 and July 2021.

Having reviewed the documentation available to me, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the Galway Bay Complex SAC and Inner Galway Bay SPA, alone, or in combination with other plans and projects.

The applicants NIS was prepared in line with current best practice guidance and provides an assessment of the potential for the proposed development to result in significant effects on the following European Sites, Galway Bay Complex SAC and Inner Galway Bay SPA.

The applicants NIS concluded that following assessment of all potential direct or indirect pathways for adverse effects on the QI's/SCI habitats and species of Galway Bay Complex SAC and Inner Galway Bay SPA. All identified potential pathways for impacts are robustly through the use of avoidance, appropriate design and mitigation measures as set out in the report. The measures ensure that the proposed development does not adversely affect the integrity of the European sites. Therefore, it can be objectively concluded that the proposed development, individually or in combination with other plans or projects, will not adversely affect the integrity of any European site.

I note that the submission of the Development Applications Unit Department of Housing Local Government and Heritage to the local authority referred to previous refusal 20/1384 regarding storm water discharge to the Clarin River. Submission recommends that in the event of permission all mitigation measures outlined in the NIS and Chapter 5 of the CEMP are strictly adhered to. All Environmental Management Measures outlined in Chapter 3 of the CEMP to be implemented. Mitigation measures outlined in Chapter 5 of the Bat survey report to be strictly implemented. Other third party submissions

raised issue with regard to biodiversity implications of the proposed development of the site.

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 or projects:

Galway Bay Complex SAC

Inner Galway Bay SAC.

7.7.15 Appropriate Assessment of implications of the proposed development on the European Site

The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the, the Galway Bay Complex SAC and the Inner Galway Bay SPA using the best scientific knowledge in the field. All aspects of the project which could result in

significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

I have relied on the following guidance as part of this assessment:

- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009).
- Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002).
- Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011);
- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

7.7.16 European Sites

The following sites are subject to Appropriate Assessment

Galway Bay Complex SAC

Inner Galway Bay SPA

A description of the designated sites and their Conservation Objectives and Qualifying Interests, including any relevant attributes and targets, are set out in the NIS and considered in the screening assessment above. 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).

Aspects of the proposed development. The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites include:

Impact to water quality through construction related pollution events or operational impacts surface water foul water management.

Potential for indirect effects disturbance to QI species during construction operation.

Section 4 of the applicant's NIS sets out in detail the potential for indirect effects on the European Sites.

Table 2 AA Summary Matrix

Galway Bay Complex SAC site code 000268:

Summary of Key issues that could give rise to adverse effects

- Water Quality impact on aquatic marine downstream QIs
- Habitat degradation/loss.
- Disturbance of QI species

Conservation Objectives: To maintain or restore the favourable conservation condition of the protected habitats and species within Galway Bay.

Summary of Appropriate Assessment

Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combinati on effects	Can adverse effects on integrity be excluded ?
Mudflats and sandflats not covered by water at low tide.[1140] Coastal Lagoons [1150] Large shallow inlets and bays [1160] Reefs [1170]	To restore the favourable conservation condition of the protected QI	Deterioration in water quality arising from sedimentation and release of hydrocarbons to Clarin River and/or groundwater arising from construction operational activities on site and potentially adversely impacting upon protected habitat.	Best practice environmental control measures Fenced off construction footprint Site set up, Riparian buffer Silt fence Dust supression Licensed waste disposal	No significant in combinatio n effects identified	Yes

Salicornia and other annuals colonising mud and sand [1310]

Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]

Mediterranean salt meadows (Juncetalia maritimi) [1410]

Turloughs [3180]

Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]

Alkaline fens [7230]

Lutra lutra (Otter) [1355]

Phoca vitulina (Harbour Seal) [1365]

Perennial vegetation of stony banks [1220]

Juniperus communis formations on heaths or calcareous grasslands [5130]

Semi-natural dry grasslands

Pollution prevention
Waste Management
Environmental monitoring
Biosecurity measures
Best practice measures in respect of construction of surface water outfalls.
Measures outlined in Section 5.2 of NIS and CEMP

Due to terrestrial nature of the Qis there is no potential for direct or indirect effects

and
 scrubland
 facies on
 calcareous
 substrates
 (Festuco-
 Brometalia)
 (* important
 orchid sites)
 [6210]

Overall conclusion: Integrity test

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

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

Inner Galway Bay SPA Site Code 004031

Summary of Key issues that could give rise to adverse effects

- Water Quality impact on supporting habitat, Wetlands and Waterbirds
- Habitat degradation/loss.
- Disturbance of QI species

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

Summary of Appropriate Assessment

Qualifying Interest Feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded ?
Wetland and Waterbirds [A999]	To maintain the favourable conservation condition of wetland habitat in Inner Galway Bay SPA as a resource for the regularly occurring migratory	Deterioration in water quality arising from sedimentation and release of hydrocarbons to Clarin River and/or groundwater arising from construction activities on site and potentially adversely impacting upon SCI	Best practice environmental control measures Fenced off construction footprint Site set up Riparian buffer Silt fence	No significant in combination effects identified	Yes

waterbirds that utilize it.

Wetlands and Waterbirds

Dust suppression
Licensed waste disposal
Pollution prevention
Waste Management
Environmental monitoring
Biosecurity measures
Best practice measures in respect of construction of surface water outfalls.
Measures outlined in Section 5.2 of NIS and CEMP

Overall conclusion: Integrity test

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

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

7.7.17 Appropriate Assessment Conclusion

The proposed mixed use development Athenry Town Centre, Athenry has been considered in light of the assessment requirements of Section 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 the Galway Bay Complex SAC and Inner Galway Bay SPA. Consequently, an Appropriate Assessment was required on

the implications of the project on the qualifying features of those sites in light of their conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Galway Bay Complex SAC or the Inner Galway Bay SPA in view of the sites' conservation objectives.

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

The conclusion is based on a complete assessment of all implications of the project alone and in combination with plans and projects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives of the aforementioned designated sites.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals, and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Galway Bay Complex SAC
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Inner Galway Bay SPA.

8.0 Recommendation

- 8.1 I recommend that planning permission should be granted, subject to conditions, as set out below.

Reasons and Considerations

Having regard to the scale and nature of the mixed use retail and residential development and town centre site location and sequential suitability of the site within the development area of Athenry, and, to the established pattern and character of existing development in the vicinity it is considered that the proposed development would not adversely affect the vitality and viability of Athenry town centre, would not seriously injure the visual amenities of the area, would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 28th day of April 2022 and by the further plans and particulars received by An Bord Pleanála on the 18th day of October 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development, the applicant shall agree a phasing scheme for the development permitted herein. This scheme shall be agreed in writing with the Planning Authority and shall ensure that all works to the protected structure at Athenry House, the entrance and dovecote are completed prior to the completion or occupation of any new build element of the development.

Reason: In the interest of orderly development, and to safeguard the architectural and built heritage of the area.

3. The development shall be managed in accordance with a management scheme which shall be submitted to, and agreed in writing with the planning authority, prior to the occupation of the development. This scheme shall provide adequate measures relating to the future maintenance of the development; including the management /operation of Athenry House, landscaping, open space, roads paths, lighting, waste storage facilities and sanitary services together with management responsibilities and maintenance schedules.

Reason: In the interest of residential amenity and orderly development.

4. Athenry House shall be made available to community / cultural / arts events on reasonable demand and at a not-for-profit cost. A legal agreement providing for same shall be entered into by the developer and Galway County Council.

Reason: In the interest of social and cultural amenity.

5. The proposed development shall be amended as follows:

In respect of the southernmost house in block 7.

(i) The second floor (attic) gable window and bedroom shall be omitted and attic space may be provided as storage space.

(ii) First floor gable end window shall be obscurely glazed.

Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason : In the interest of residential amenity and to prevent overlooking of the adjoining residential property.

6. No conservation or repair works shall be undertaken in respect of the town wall as part of the development. Full details of landscaping and a method statement in respect of the amenity walkway within and adjacent to the buffer zone and compensatory drainage details and a program of archaeological monitoring shall be submitted to and agreed with the Development Applications Unit of the Department of Housing Local Government and Heritage and the Planning Authority prior to commencement of development.

Reason: In order to conserve the archaeological and architectural heritage of the area.

7. A full architectural survey of the coach house proposed for demolition shall be carried out and shall be submitted to the planning authority prior to the commencement of development. Archive standard drawings and a photographic survey shall be prepared in accordance with the requirements of the planning authority.

Reason: In order to facilitate the conservation, preservation and recording of the architectural heritage of the building.

8. All works to the protected structure, Athenry House, the gateway and dovecote shall be carried out under the supervision of a qualified professional with specialised conservation expertise.

Reason: To ensure the authentic preservation of this protected structure and to ensure that the proposed works are carried out in accordance with best conservation practice.

9. All of the mitigation measure cited in Section 5 of the Natura Impact Statement and Chapter 5 of the CEMP and mitigation within the Bat Survey Report submitted to the Planning Authority on the 2nd day of December 2021, shall be implemented in full.

Reason: In the interest of the natural heritage of the area and protecting the environment.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Final details of compensatory storage which shall take account of the buffer zone for the town wall shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interest of public health.

11. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of public health.

12. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs and car parking bay sizes shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii within the development shall be in accordance with the guidance provided in the National Cycle Manual.

(b) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of pedestrian, cyclist, and traffic safety.

13. Bicycle parking spaces shall be provided within the site within covered stand(s) in accordance with the standards outlined in the National Cycle Manual by the National Transport Authority. The layout and demarcation of these spaces shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

14. A minimum of 10% of the proposed car parking spaces in on-surface car parking shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces in the surface car park shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

15. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking

spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of sustainable transportation.

16. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

17. The landscape masterplan shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

18. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area

19. Site development and building works shall be carried out only between the hours of 0700 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.

Reason: In order to safeguard the residential amenities of property in the vicinity

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

21. No signage, advertising structures / advertisements, security shutters or other projecting elements, including flagpoles, shall be erected within the site unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

22. Comprehensive details of the proposed public lighting system to serve the development shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The lighting scheme shall incorporate mitigation in respect of bat species in accordance with Bat Survey Report. The agreed lighting system shall be fully implemented and operational before the development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

23. All plant / machinery shall be located within the buildings and shall not extend beyond roof level unless authorised by a prior grant of planning permission.
Reason: In the interest of visual amenity.
24. 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:
- (a) Location of the site and materials compound including area identified for the storage of construction refuse
 - (b) Location of areas for construction site offices and staff facilities
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on parking / transport facilities for site workers during the course of construction
 - (e) Details of 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.
 - (f) measures to obviate queuing of construction traffic on the adjoining road network
 - (g) Measures to prevent the spillage or deposit of clay rubble or other debris on the public road network;
 - (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of closure of any public road or footpath during the course of site development works;
 - (i) details of appropriate mitigation measures for noise, dust and vibration and monitoring of such levels.
 - (j) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(k) Off-site disposal of construction / demolition waste and details of how it is proposed to manage excavated soil;

(l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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

Reason: In the interest of amenities, public health and safety.

25. Prior to the opening of the retail element of the development, a mobility management strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car-pooling by staff employed in the development and to reduce and regulate the extent of staff parking. The mobility strategy shall be prepared and implemented by the management company within the development. Details shall be agreed with the planning authority and shall include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

26. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

27. Details of the bilingual naming of the development along with a wayfinding and road marking strategy, for the internal site layout and a co-ordinated signage strategy

shall be submitted to the planning authority for written agreement prior to occupation of the development.

Reason: To provide for the future maintenance of this development in the interest of amenity and orderly development.

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

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

29. Prior to the commencement of any dwelling house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses to first occupation by individual purchasers i.e., those not being a corporate entity, and /or by those eligible for the occupation and / or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

30. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

31. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of car parking facilities. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the

proposed development.

32. The developer shall pay to the planning authority a financial contribution in respect of the Athenry Outer Relief Road in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Bríd Maxwell
Planning Inspector
21st January 2023