



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313768-22

<b>Development</b>	25 dwellings and all ancillary site works
<b>Location</b>	Rockbarton Court, Salthill, Galway City, Co. Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	21307
<b>Applicant</b>	K. King Construction
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	James Kelly Anthony Cahill Margaret Tansey Sinead and Stephen Keyes Noreen O' Regan
<b>Observer(s)</b>	Gort Ard Residents Association Galway Cycling Campaign

**Date of Site Inspection**

8<sup>th</sup> March 2023

**Inspector**

Ian Campbell

## **1.0 Site Location and Description**

- 1.1. The appeal site is located at Rockbarton Court, Salthill, Galway and is situated c. 3km south-west of the centre of Galway (Eyre Square). The appeal site is bound to the west by the rear gardens of Rockbarton Park, to the east by an internal access road serving Gortard Avenue and a dwelling fronting onto Rockbarton Court and to the south by a detached dwelling, beyond which is Carraig Bhartúin Thuaidh. Salthill Knocknacarra GAA Club and Pearse Stadium are situated to the north and north-east of the appeal site respectively.
- 1.2. The appeal site is broadly rectangular in shape and has a stated area of 0.67 ha. The appeal site has an undulating topography, and rises from north to south, with topographical levels indicated as c. 12.5 metres OD Malin to the north of the appeal site, c. 19 metres OD Malin in the centre of the appeal site and c. 17 metres OD Malin to the south of the appeal site. The appeal site is overgrown with scrub and bramble. There are trees throughout the appeal site, with a row of trees along much of the eastern boundary of the appeal site and a copse of trees to the south of the appeal site. The western and southern boundaries of the appeal site are formed by the block walls serving the neighbouring properties within Rockbarton Park and the dwelling to the south.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises;
- Construction of 22 no. houses<sup>1</sup> across 6 no. blocks, comprising 21 no. terraced units and 1 no. detached unit (consisting of 2 no. 2 bedroom units, 5 no. 3 bedroom units and 15 no. 4 bedroom units).
  - Material finishes to the houses comprises grey and white coloured nap render and grey coloured natural stone cladding for the external walls and grey roof tiles. Grey metal standing seam is proposed for the roof of the single storey unit.

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<sup>1</sup> The number of houses proposed was reduced in response to a request for Further Information from 25 no. to 22 no.

- 26 no. surface car parking spaces and 18 no. bicycle parking spaces.
- Provision of new vehicular entrance onto Rockbarton Court, internal access road, lighting, landscaping, public open space and services.

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

- Architectural Design Statement.
- Civil Works Design Report.
- Appropriate Assessment Screening Report.
- Natura Impact Statement.
- Ecological Impact Assessment.
- Arboricultural Assessment.
- Outdoor Lighting Report.
- Stage 1/2 Road Safety Audit.
- Booklet of Views of the Proposed Development.
- Site Statistics.
- Shadow Analysis.

### 3.0 Planning Authority Decision

#### 3.1. Request for Further Information & Clarification of Further Information

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

##### 3.1.1. Further Information was requested on the 12<sup>th</sup> November 2021 as follows:

- Item 1 – Recess gable elevations of House Types E & G along Gort Avenue<sup>2</sup> by 2.5 metres and indicate boundary of site.

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<sup>2</sup> Elsewhere Gort Avenue is referred to as 'Gort Ard Avenue' and 'Gortard Avenue'.

- Item 2 – Increase separation distance between proposed houses and houses to west within Rockbarton Park.
- Item 3 – Increase private amenity spaces to houses within the scheme, so that houses are provided with a quantum of private amenity space which is at least 50% of the floor area of the house.
- Item 4 – Revise the proposal to provide public open at a rate of 15% of the gross site area, and provide a piece of public art.
- Item 5 – An overprovision of car parking is noted, provide car parking in line with City Development Plan requirements.
- Item 6 – Revise bin and cycle parking provision, providing bin stores proximate to houses.
- Item 7 – Address issues raised in observations, specifically regarding boundary wall/legal interest.

### 3.1.2. Further information submitted on 20<sup>th</sup> January 2022.

- Item 1 – The number of houses at the eastern part of the site have been reduced from 6 no. to 3 no. The houses are now located c. 4 metres - c. 5 metres from the eastern site boundary. The three storey building at this location has been removed. Windows facing Gort Avenue are translucent. The site boundary has been clearly outlined in red.
- Item 2 – The separation distance between proposed houses and houses to west within Rockbarton Park have been increased<sup>3</sup>. Rear access is provided to a number of units/gardens along the west of the scheme.
- Item 3 – All houses are now provided with a quantum of private amenity space which is at least 50% of the floor area of the house. Private open space comprises gardens and balconies.
- Item 4 – The proposal has been revised to provide public open at a rate of 15% of the gross site area, i.e. area 1 (c. 352 sqm) and area 2 (c. 706 sqm), equating to 1,053 sqm/15.73% of the gross site area. The public open space does not rely on shared surfaces. An additional footpath has been provided to improve pedestrian desire lines. A piece of public art is provided.

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<sup>3</sup> Whilst not referred to in the applicant's documentation, a new house type ('J') has been provided. The northernmost dwelling along the western boundary consists of this new house type, in lieu of house type C1.

- Item 5 – Car parking has been reduced from 38 no. to 26 no. spaces.
- Item 6 – Bin stores have been omitted. 20 no. of the 22 no. proposed houses now have rear access with bin storage possible in the rear gardens. Bin receptacles are provided to the front of the 2 no. houses without rear access. Cycle parking is provided within communal areas. The majority of houses now have rear access and as such bicycles may be stored in rear gardens in the majority of instances.
- Item 7 – Response given to specific issues raised in observations.

**3.1.3. Clarification of Further Information was requested on the 12<sup>th</sup> April 2022 as follows:**

- Item 1 – Regarding Item 2 of the request for Further Information, the positioning of Block F, along the western boundary of the site, results in overlooking of private amenity space and areas with development potential. The applicant is requested to address this issue. Additionally, the applicant is requested to serve all bedrooms with windows.

**3.1.4. Clarification of Further information submitted on 19<sup>th</sup> April 2022**

- Item 1 – All first and second floor windows are now 11 metres, or greater, from site boundary at the western part of site. All bedrooms are served by windows.

**3.2. Decision**

The Planning Authority issued a Notification of Decision to GRANT Permission on the 16<sup>th</sup> May 2022 subject to 18 no. conditions. The following conditions are of note;

**C2** – submit revised elevation/floor plan for Block D with obscure glazing for first floor windows facing central terraced unit.

**C3** – omit bicycle storage structure/building<sup>4</sup>.

**C5** –no extension, shed, store garage etc. to be erected within curtilage of any house.

**C7** – SuDS to be agreed with Planning Authority.

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<sup>4</sup> Cycle storage was omitted on the basis that the scheme comprised houses and not apartments.

**C10** – lighting design to be agreed.

**C13** – details of art piece to be agreed with Planning Authority.

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

#### **3.3.1. Planning Reports**

The first report of the Planning Officer notes that the density, design and housing mix of the proposal is acceptable. The report generally reflects the issues in the Further Information request.

Further Information Recommended.

3.3.2. The second report of the Planning Officer notes that, with the exception of Item 2, the applicant has generally addressed the issues raised in the Further Information request.

Clarification of Further Information Recommended.

3.3.3. The third report of the Planning Officer notes that the outstanding issue has been addressed, specifically that the first floor areas have been set back 11 metres from the boundary, and that windows which had been omitted from the drawings in error were now indicated.

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

#### **3.3.4. Other Technical Reports**

Drainage Section – no objection.

Transport and Infrastructure – no objection subject to standard conditions.

### **3.4. Prescribed Bodies**

Irish Water (now Uisce Éireann) – no objection subject to standard conditions.

### 3.5. Third Party Observations

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

- Concerns regarding the impact of the proposed development on the amenity of neighboring property from overlooking, overshadowing and proximity to adjacent property.
- Concerns regarding the impact of the proposal on the character of the area.
- Inappropriate density.
- Impact on light to adjacent dwellings.
- Height of boundary wall at 22 Rockbarton Park is excessive.
- Environmental/ecological impact.
- Concerns regarding loss of trees.
- Safety concerns, including traffic safety.
- Flood risk/water displacement.
- Housing mix should be more varied.
- Concern regarding the use of the units as B&B's.
- Proposal does not comply with Development Plan requirements for communal and private amenity open space.
- Bin stores are not positioned in useable locations.
- Pedestrian and cycle access points should be provided to Gortard Avenue.
- There should be no access from the development to Rockbarton North.
- Insufficient parking provided.
- Suggested boundary treatments for specific interfaces recommended.

### 4.0 Planning History

Appeal Site:



None.

## 5.0 Policy Context

### 5.1. National Policy

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

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

- **National Policy Objective 2a:** A target of half (50%) of future population and employment growth will be focused in the existing five cities and their suburbs.
- **National Policy Objective 3a:** Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- **National Policy Objective 3b:** Deliver at least half (50%) of all new homes that are targeted in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford, within their existing built-up footprints.
- **National Policy Objective 4:** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- **National Policy Objective 13:** In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated

outcomes, provided public safety is not compromised and the environment is suitably protected.

- **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- **National Policy Objective 35:** Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

## 5.2 Ministerial Guidelines

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

- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021).
- Design Manual for Urban Roads and Streets (2019).
- Urban Development and Building Height Guidelines, Guidelines for Planning Authorities (2018).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010.
- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- Urban Design Manual - A Best Practice Guide (2009).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

### 5.3. Development Plan

5.3.1. The proposed development was considered by the Planning Authority under the Galway City Development Plan 2017-2023 however the Galway City Development Plan 2023-2029 came into effect on the 4<sup>th</sup> January 2023 and is now the relevant development plan.

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

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

- **Policy 3.3** - Sustainable Neighbourhood Concept
- **Policy 3.6** - Sustainable Neighbourhoods: Established Suburbs
- **Policy 8.7** - Urban Design and Placemaking
- **Policy 10.3** - Salthill

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

- **11.3.1 (c)** Amenity Open Space Provision in Residential Developments
- **11.3.1 (d)** Overlooking
- **11.3.2<sup>5</sup> (f)** Distance between Dwellings for New Residential Development
- **11.3.2 (c)** Car Parking Standards (Established Suburbs)
- **11.3.1 (h)** Cycle Parking Standards
- **11.3.1 (i)** Refuse Storage Standards

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<sup>5</sup> The sequencing of policy objectives at 11.3.2 (f) appears to be a typographical error in the Development Plan.

- 11.7.2 Car Parking Salthill

- 11.2.7 Art/Cultural Amenity

#### 5.4. Natural Heritage Designations

- Galway Bay Complex pNHA (Site Code: 000268), c. 300 metres south.
- Galway Bay Complex SAC (Site Code: 000268), c. 300 metres south.
- Inner Galway Bay SPA (Site Code: 004031), c. 300 metres south.

#### 5.5. EIA Screening

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

### 6.0 The Appeal

#### 6.1. Grounds of Appeal

This is a third-party appeal against the decision to grant permission. The grounds for appeal may be summarised as follows;

Margaret Tansey, 10 Gort Ard Avenue

- Appropriate Assessment Screening was inadequate, specifically in relation to habitats, the removal of vegetation/trees, environmental impact, and impacts on hydrology when excavation works are undertaken.
- Concerns in respect of the extent of tree removal from the site.
- Concerns in relation to overshadowing of property within Gort Ard Avenue which it is contended will arise as a result of the proposed development.
- Concerns in respect of potential overlooking of properties within Gort Ard Avenue which will arise as a result of the proposal, specifically from balconies.

The privacy of living areas within the houses of Gort Ard Avenue will be impacted when windows fitted with translucent glass are open.

- The proposed development will result in overshadowing of properties within Gort Ard Avenue, in particular the four northernmost houses.
- Access and egress arrangement to the site is inadequate, in terms of visibility, and will affect the free flow of traffic.
- Separation distances between the rear wall of the development and property within Gort Ard Avenue are inadequate and is a material contravention of the Galway City Development Plan.
- The viability of the existing trees along the site boundary with Gort Ard Avenue could be affected by the proposed development, specifically the crown of these trees, and there is no plan to protect these trees.
- The proposed development materially contravenes the Galway City Development Plan in relation to the scale of new development within existing urban areas.
- The proposed development will interfere with the availability of light to properties within Gort Ard Avenue, with implications for energy consumption, heat, and the functioning of PV panels.
- Potential impact of the proposed development on water pressure in the area.
- The proposed development will entail the removal of 1,800 bats from the site. Foxes inhabit the area and the site is one of the few areas for such wildlife.

Anthony Cahill, 8 Gort Ard Avenue

- Appropriate Assessment Screening was inadequate, specifically in relation to habitats, the removal of vegetation/trees, environmental impact, and impacts on hydrology when excavation works are undertaken.
- Concerns in respect of the extent of tree removal from the site.
- The development of the site will result in a loss in connections between several other sites/parks in the vicinity.

- The proposed development will interfere with the availability of light to properties within Gort Ard Avenue, with implications for the functioning of PV panels and mental health.
- Potential impact of the proposed development on water pressure in the area.
- The proposed development is served by limited car parking and could result in overspill car parking in the area.
- The boundary between the proposed development and Gort Art Avenue would allow noise to travel, give rise to security issues and would reduce the privacy of residents in Gort Ard Avenue.
- The southern part of the site floods and this issue has not been addressed.

Noreen O' Regan, 6 Gort Ard Avenue

- Appropriate Assessment Screening was inadequate, specifically in relation to habitats, the removal of vegetation/trees, environmental impact, and impacts on hydrology when excavation works are undertaken.
- Concerns in respect of the extent of tree removal from the site.
- Concerns regarding the potential for overlooking of properties within Gort Ard Avenue to occur when windows within the proposed development are open.
- The proposed development will result in overshadowing of properties within Gort Ard Avenue.
- Access and egress arrangement to the site is inadequate, in terms of visibility, and will affect the free flow of traffic.
- Separation distances between the rear wall of the development and property within Gort Ard Avenue are inadequate and is a material contravention of the Galway City Development Plan.
- The viability of the existing trees along the site boundary with Gort Ard Avenue could be affected by the proposed development, specifically the crown of these trees, and there is no plan to protect these trees in place.

- The proposed development will interfere with the availability of light to properties within Gort Ard Avenue, with implications for energy consumption, heat, and the functioning of PV panels.
- Potential impact of the proposed development on water pressure in the area.
- The proposed development will entail the removal of a bat colony from the site. Foxes inhabit the area and the site is one of the few areas for such wildlife.

Sinéad & Stephen Keyes, 14 Gort Ard Avenue

- Concerns regarding loss/damage of important ecological urban site.
- Proposed development represents overdevelopment.
- Concerns regarding loss of trees from the site, and in particular the trees which bound Gort Ard Avenue.
- Bats are present on the site and would be negatively affected by the proposed development. The mitigation plan for bats is not appropriate.
- Health and safety concerns. Children will be put at risk by the proposed development.
- Concerns in relation to the traffic impact of the proposal. There is a footpath on one side of the road, despite reference in the application to footpath provision on both sides. There are no cycle lanes in the vicinity. Traffic safety issues are exacerbated during match days at Pearse Stadium.
- The height of the proposed development will result in overshadowing, loss of privacy and the loss of light which the appellants claims to have a right to.

John. M. Gallagher on behalf of James Kelly, 8 Rockbarton Park

- Concerns in respect of the height of House No. 16 and 17 relative to 8 Rockbarton Park. Houses No.'s 15, 16 and 17 will have ridge heights c. 3.3 metres higher than Mr. Kelly's house. The height differential is excessive and the proposed development will tower over the appellant's house, and the house to the south of the site. The Board is requested to insert a condition requiring a reduction in the floor levels of House No.'s 15, 16 and 17 by 0.5 metres and requiring the ridge level be reduced to 26.50 metres with corresponding reductions in the floor levels and roof heights of House No.'s 12, 13 and 14.

## 6.2. Applicant Response

The applicant has submitted a response in respect of the third party appeal submissions.

- The proposed development is sympathetic to pattern of development in the area and is appropriate in terms of design, density, scale, context, character, zoning, environmental and transport considerations.
- The proposed development is located in close proximity to walking, cycling and public transport, and a number of amenities and services.
- The development as permitted has a density of c. 33 dpha, a plot ratio of 0.43 and a site coverage of c. 22%.
- The Further Information and Clarification of Further Information made a number of changes to the proposed development, including,
  - A reduction in the number of houses from 25 no. to 22 no.
  - Repositioning of blocks of houses along the east and west of the site.
  - The omission of three storey buildings from the eastern part of the site.
  - The provision of translucent glass to windows in houses at the eastern part of the site.
  - A redesign of bin and cycle storage facilities.
  - The provision of rear access to the majority of houses.
  - A reduction in car parking provision.
- Responses to the issues raised in each appeal submission. The most recurrent responses include;
  - Re. Bats<sup>6</sup>/Trees/Ecology – Trees on the site are isolated and/or exhibit Ash dieback. The focus has been on retaining category A trees to the south of the site. An extensive tree planting scheme is proposed.
  - Re. Daylight/Shadow Casting, Impact on PV Panels – Shadow analysis has been undertaken (results included). Tree foliage along the east of the site

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<sup>6</sup> The applicant addresses bats under 'impact on Fauna'.



has not been factored in, however evening light experienced by properties within Gort Ard Avenue is currently affected by these trees. The study indicates no direct impact on Gort Ard Avenue (open spaces or houses) during the key periods assessed, apart from at 1700 hours on October 15<sup>th</sup>, however sunset at this period is at 1840 hours, and therefore the impact is short in duration. The proposal will have negligible impacts on the performance of PV panels due to the angle and quality of sunlight.

- Re. Traffic/Parking – Car parking accords with Development Plan requirements. The proposed development is sub-threshold for the purposes of a Traffic and Transport Assessment. The 200 estimated trips was based on 25 no. houses, was based on a ‘worst case’ scenario, and did not take account of public transport. A Road Safety Audit was completed and a swept path analysis addresses the issue of manoeuvrability. Sight lines at the entrance comply with DMURS. Footpaths are available on both side of Rockbarton Court, comprising a mixture of concrete and tarmac, where the footpath drops for in-curtilage car parking. The proposed development entails the continuation of the footpath.
- Re. Water Supply – Irish Water have issued confirmation of feasibility in terms of water supply. All watermain designs will be vetted by Irish Water prior to receiving a connection offer.
- Re. Boundary between proposed development and Gort Ard Avenue – The boundary will be 1.8 metre high (min) on the Gort Ard Avenue side, open space provision will result in a low level of noise. Car parking is located c. 36 metres + from the houses in Gort Ard Avenue.
- Re. Flooding – 3 no. soakways will cater fully for the non-permeable parts of the proposed development for the 1:100 year storm event (+20% for climate change). Soakaway tests were carried out in accordance with BRE Digest 365. Oil interceptors will be used on the site. The site is not indicated as being subject to flooding.
- Re. Nature of Development/Housing Typology/Density/Height – Present day national guidance aspires to higher minimum densities. Whilst a typical response would have been to propose apartments, due to the prevailing

pattern of development in the area the brief was to deliver a development which was more sensitive to the area.

- Re. Overlooking – Balconies serving Block E and F will be 41 – 43 metres from the habitable rooms of houses within Gort Ard Avenue. Windows where translucent glass is proposed will be fixed and non-opening.
- Re. Building Distance to Dwellings on Gort Ard Avenue – Block E and F will be 41 – 43 metres from the habitable rooms of houses within Gort Ard Avenue. Gable distances to Gort Ard Avenue exceed Development Plan requirements.
- Re. Building Heights in relation to dwellings on Gort Ard Avenue – The distance between Blocks E and F mitigate any impact on the houses within Gort Ard Avenue in terms of building height. There is minimal difference in height between Block D and the dormer bungalows in Gort Ard Avenue, and Block D is lower than the two storey houses in Gort Ard Avenue.
- Re. Building Heights (Block E & F) relative to Rockbarton Park and house to south - The first party intimates that they are amenable to reducing the height of Block E and F by 0.8 metres, relating to 10 no. houses. No appeal has been made by the owners of the property to the south.
- Re. Nature of Materials to be used – Details of materials finished have been indicated on the relevant drawings.
- Re. Hydrogeological Impacts – The NS submitted identifies standard best practice measures to address potential ground water pollution impacts. The earthmoving associated with the proposed development will not create a gradient towards Galway Bay.
- Re. Removal of Vegetation – The EclA takes account of the removal of trees from the site and concludes that this will not result in any significant effects on biodiversity at any great geographic scale. Many of the trees to be removed are diseased and are not native trees. A scheme of tree planting will mitigate tree loss and ensure ecological connectivity.
- Re. Impact on Fauna – A small number of trees are of ‘low-moderate’ suitability for bats in terms of roosting. Mitigation measures in the EclA

includes pre-construction surveys on trees which are to be felled and the provision of bat boxes. The landscape plan seeks to retain the trees in the south east corner of the site where bats are most prevalent. The lighting plan for the proposed development considers that Bat Conservation Guidelines, to minimise light spill and disturbance. No evidence of foxes were found on the site during the multidisciplinary walkover of the site.

- The proposed development is appropriate for the area in terms of sustainable planning policy, guidance and standards, scale, design density, zoning etc. and contributes much needed housing stock to Galway City.

### **6.3. Planning Authority Response**

None received.

### **6.4. Observations**

The following observations were received in respect of the appeal.

#### Galway Cycling Campaign

- Conditions No. 3 and 5 disimprove the situation for cyclists.
- Two houses do not have rear access and will have to take bicycles through the living areas of the house.
- The route residents will need to use to take bicycles to the rear of the houses is constrained, particularly for non-standard bicycles.

#### Gort Ard Residents Association

- There are bats on the appeal site and the proposed development, which entails the removal of these bats, is in contravention of the aims of the Habitats Directive.
- Appropriate Assessment Screening was inadequate, specifically in relation to habitats, the removal of vegetation/trees, environmental impact, and impacts on hydrology when excavation works are undertaken.
- Concerns in respect of the extent of tree removal from the site.

- Concerns in relation to overshadowing of property within Gort Ard Avenue.
- Concerns in respect of potential overlooking of properties within Gort Ard Avenue, specifically from balconies. The privacy of living areas within the houses of Gort Ard Avenue will be impacted when windows fitted with translucent glass are open.
- Access and egress arrangement to the site is inadequate in terms of visibility, and will affect the free flow of traffic.
- There is a footpath on only one side of the road, despite reference in the application to there being two. Traffic safety issues are exacerbated during match days at Pearse Stadium.
- The viability of the existing trees along the site boundary with Gort Ard Avenue could be affected by the proposed development, specifically the crown of these trees, and there is no plan to protect these trees.
- The proposed development materially contravenes the Galway City Development Plan in relation to the scale of new development within existing urban areas.
- The proposed development will interfere with the availability of light/right to light to properties within Gort Ard Avenue, with implications for energy consumption, heat, and the functioning of PV panels.
- Potential impact of the proposed development on water pressure in the area.
- The proposed development will entail the removal of 1,800 bats from the site. Foxes inhabit the area and the site is one of the few areas for such wildlife.

## 6.5. Further Responses

Four of the five appellants have submitted a response in respect of the first party response to the third party appeal submissions. These are summarised below.

Sinéad & Stephen Keyes, 14 Gort Ard Avenue c/o BPS Planning and Development Consultants

- The trees located along the eastern boundary of the site within Gort Ard Avenue will find it difficult to survive once the wall is constructed as their root protection areas are within the development site.
- The loss of the trees along the east of the development site would adversely affect the amenity of the appellant's property, and the character of the area. Trees and hedgerow along this boundary should be retained. 5 metre high screen planting should be instated along this boundary. The proposed development is contrary to the Galway City Development Plan 2017-2023 in relation to the incorporation of trees into new developments. The landscape plan does not address the eastern boundary of the site, trees cannot be accommodated along the eastern site boundary as there is no space to do so, in particular noting the constrained area of rear gardens serving Block D.
- The applicant's drawings may not be accurate as properties outside the site have not been surveyed. For a proper assessment of the proposed development to be undertaken it is necessary to understand the full extent of the appellant's property, and its boundary relative to the development site. No Folio of the appellant's property exists as its title is Registry of Deeds. The appellant's ownership extends to include the road to the front of their house up the tree lined border with the development site. The applicant has treated the ownership of the appellant's property as beginning at the front garden wall, and has not correctly referenced the full extent of the appellant's ownership, with subsequent reference to separation distances between Block D and the appellant's property not taking account of this.
- Block D is overbearing and intrusive on the appellant's property and should be stepped back by a further 7 metres. Backing Block D onto the road in Gort Ard Avenue raises security concerns, and does not accord with the Urban Design Manual (2009). The northern end of Block D should also be set back. Block D will affect the privacy of the appellant's property, in particular the front garden and road which is used for amenity purposes. Block D should be provided for with a 11 metre deep rear garden. The eastern elevation of Block D is not a side elevation and it cannot be held that a 1.5 metre set back would be sufficient from a boundary, the applicant has misinterpreted the policy in relation to

separation distances. The proposed development is contrary to the Galway City Development Plan 2017-2023 in relation to separation distances, contrary to the residential zoning of the lands, which requires the protection of existing residential amenity, and the core strategy which requires development to compliment the character and built form of the city. There should be no development along Gort Ard Avenue as existing trees need to be protected. Block D does not accord with the Sustainable Residential Development in Urban Areas Guidelines (2009) which requires the protection of existing residential amenities. Block D should be amended or removed, using this area for open space and retaining the trees along the eastern boundary of the site.

- The proposed development will result in moderate overshadowing of the appellant's property in the evenings from September to March.
- Car parking along the boundary with Gort Ard Avenue will result in noise and air pollution, affecting the appellant's property.
- A 1.8 metre high boundary along the eastern site boundary would affect the character of the cul-de-sac.
- The construction of Block D will affect the appellant's property in terms of noise and dust generation. No mitigation is proposed to address same.
- The amenity space provided to Block D is inadequate, its sloping nature will affect its functionality, it will prove difficult to plant trees or hedges in it, and will be overshadowed by the block.
- The potential impact of the proposed development on habitats on the site have not been adequately addressed. Birds, bats and foxes use the site. The Board should undertake its own separate, independent ecological assessment of the site.
- The NIS relies on a mitigation approach but should instead adopt an approach of avoidance. The mitigation measures may not be sufficient.
- Increased parking and traffic from the proposed development would create traffic safety issues along Rockbarton Road.

Anthony Cahill, 8 Gort Ard Avenue c/o BPS Planning and Development Consultants

- The trees located along the eastern boundary of the site, within Gort Ard Avenue, will find it difficult to survive once the wall is constructed.
- The loss of the trees along the east of the development site would adversely affect the amenity of the appellant's property, and the character of the area. Trees and hedgerow along this boundary should be retained. 5 metre high screen planting should be instated along this boundary. The proposed development is contrary to the Galway City Development Plan 2017-2023 in relation to the incorporation of trees into new developments.
- The applicant's drawings may not be accurate as properties outside the site have not been surveyed. For a proper assessment of the proposed development to be undertaken it is necessary to understand the full extent of the appellant's property, and its boundary relative to the development site. The appellant's ownership extends to include the road to the front of their house up the tree lined boarder with the development site. The applicant has treated the ownership of the appellant's property as beginning at the front garden wall, and has not correctly referenced the full extent of the appellant's ownership, with subsequent reference to separation distances between Block D and the appellant's property not taking account of this.
- Block D is overbearing on the appellant's property and should be stepped back by a further 7 metres. Backing Block D onto the road in Gort Ard Avenue raises security concerns, and does not accord with the Urban Design Manual (2009). Block D will affect the privacy of the appellant's property. Block D should be provided for with a 11 metre deep rear garden. The eastern elevation of Block D is not a side elevation and it cannot be held that a 1.5 metre set back would be sufficient from a boundary, the applicant has misinterpreted the policy in relation to separation distances. The proposed development is contrary to the Galway City Development Plan 2017-2023 in relation to separation distances, contrary to the residential zoning of the lands, which requires the protection of existing residential amenity, and the core strategy which requires development to compliment the character and built form of the city. There should be no development along Gort Ard Avenue as existing trees need to be protected. Block D does not accord with the Sustainable Residential Development in

Urban Areas Guidelines (2009) which requires the protection of existing residential amenities. Block D should be amended or removed, using this area for open space and retaining the trees along the eastern boundary of the site.

- The proposed development will result in moderate overshadowing of the appellant's property in the evenings from September to March.
- A 1.8 metre high boundary along the eastern site boundary would affect the character of the cul-de-sac.
- The construction of Block D will affect the appellant's property in terms of noise and dust generation.
- The amenity space provided to Block D is inadequate, its sloping nature will affect its functionality, it will prove difficult to plant trees or hedges in it, and will be overshadowed by the block.
- The potential impact of the proposed development on habitats on the site have not been adequately addressed. Birds, bats and foxes use the site. The Board should undertake its own separate, independent ecological assessment of the site.
- The NIS relies on a mitigation approach but should instead adopt an approach of avoidance. The mitigation measures may not be sufficient.

Noreen O' Regan, 6 Gort Ard Avenue c/o BPS Planning and Development Consultants

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- The applicant's drawings may not be accurate as properties outside the site have not been surveyed. For a proper assessment of the proposed



development to be undertaken it is necessary to understand the full extent of the appellant's property, and its boundary relative to the development site. The appellant's ownership extends to include the road to the front of their house up the tree lined boarder with the development site. The applicant has treated the ownership of the appellant's property as beginning at the front garden wall, and has not correctly referenced the full extent of the appellant's ownership, with subsequent reference to separation distances between Block D and the appellant's property not taking account of this.

- Block D is overbearing on the appellant's property and should be stepped back by a further 6 metres. Elsewhere reference is made to stepping back Block D by 11 metres. Backing Block D onto the road in Gort Ard Avenue raises security concerns, and does not accord with the Urban Design Manual (2009). Block D will affect the privacy of the appellant's property. Block D should be provided for with a 11 metre deep rear garden. The eastern elevation of Block D is not a side elevation and it cannot be held that a 1.5 metre set back would be sufficient from a boundary, the applicant has misinterpreted the policy in relation to separation distances. The proposed development is contrary to the Galway City Development Plan 2017-2023 in relation to separation distances, contrary to the residential zoning of the lands, which requires the protection of existing residential amenity, and the core strategy which requires development to compliment the character and built form of the city. There should be no development along Gort Ard Avenue as existing trees need to be protected. Block D does not accord with the Sustainable Residential Development in Urban Areas Guidelines (2009) which requires the protection of existing residential amenities. Block D should be amended or removed, using this area for open space and retaining the trees along the eastern boundary of the site.
- A 1.8 metre high boundary along the eastern site boundary would affect the character of the cul-de-sac.
- The construction of Block D will affect the appellant's property in terms of noise and dust generation.

- The amenity space provided to Block D is inadequate, its sloping nature will affect its functionality, it will prove difficult to plant trees or hedges in it, and will be overshadowed by the block.
- The potential impact of the proposed development on habitats on the site have not been adequately addressed. Birds, bats and foxes use the site. The Board should undertake its own separate, independent ecological assessment of the site.
- The NIS relies on a mitigation approach but should instead adopt an approach of avoidance. The mitigation measures may not be sufficient.

Margaret Tansey, 10 Gort Ard Avenue c/o BPS Planning and Development Consultants

- The trees located along the eastern boundary of the site, within Gort Ard Avenue, will find it difficult to survive once the wall is constructed.
- The loss of the trees along the east of the development site would adversely affect the amenity of the appellant's property, and the character of the area. Trees and hedgerow along this boundary should be retained. 5 metre high screen planting should be instated along this boundary. The proposed development is contrary to the Galway City Development Plan 2017-2023 in relation to the incorporation of trees into new developments.
- The applicant's drawings may not be accurate as properties outside the site have not been surveyed. For a proper assessment of the proposed development to be undertaken it is necessary to understand the full extent of the appellant's property, and its boundary relative to the development site. The appellant's ownership extends to include the road to the front of their house up the tree lined boarder with the development site. The applicant has treated the ownership of the appellant's property as beginning at the front garden wall, and has not correctly referenced the full extent of the appellant's ownership, with subsequent reference to separation distances between Block D and the appellant's property not taking account of this.
- Block D is overbearing on the appellant's property and should be stepped back by a further 6 metres. Elsewhere reference is made to stepping back Block D

by 11 metres. Backing Block D onto the road in Gort Ard Avenue raises security concerns, and does not accord with the Urban Design Manual (2009). Block D will affect the privacy of the appellant's property. Block D should be provided for with a 11 metre deep rear garden. The eastern elevation of Block D is not a side elevation and it cannot be held that a 1.5 metre set back would be sufficient from a boundary, the applicant has misinterpreted the policy in relation to separation distances. The proposed development is contrary to the Galway City Development Plan 2017-2023 in relation to separation distances, contrary to the residential zoning of the lands, which requires the protection of existing residential amenity, and the core strategy which requires development to compliment the character and built form of the city. There should be no development along Gort Ard Avenue as existing trees need to be protected. Block D does not accord with the Sustainable Residential Development in Urban Areas Guidelines (2009) which requires the protection of existing residential amenities. Block D should be amended or removed, using this area for open space and retaining the trees along the eastern boundary of the site.

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- The amenity space provided to Block D is inadequate, its sloping nature will affect its functionality, it will prove difficult to plant trees or hedges in it, and will be overshadowed by the block.
- The potential impact of the proposed development on habitats on the site have not been adequately addressed. Birds, bats and foxes use the site. The Board should undertake its own separate, independent ecological assessment of the site.
- The NIS relies on a mitigation approach but should instead adopt an approach of avoidance. The mitigation measures may not be sufficient.

## 7.0 Assessment

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

- Principle of Development
- Density, Unit Mix, Open Space Provision, Parking
- Compliance with Relevant Guidelines/Standards
- Placemaking & Design
- Impact on Residential Amenity
- Other Issues
- Appropriate Assessment

### 7.2. Principle of Development

- 7.2.1. The proposed development, located on zoned serviced land, within the development boundary of Galway City accords with the overarching objectives of the National Planning Framework (NPF) and contributes towards achieving the targeted pattern of population growth for the city.
- 7.2.2. The appeal site is zoned 'Residential' (R) under the Galway City Development Plan 2023 – 2029 and residential use class as proposed is therefore compatible with the prevailing land use zoning.
- 7.2.3. The appeal site is located within the 'Established Suburbs'. It is the stated policy of the Galway City Development Plan 2023 - 2029 *'to facilitate the consolidation of existing residential development and densification where appropriate, while ensuring a balance between the reasonable protection of the residential amenities and the character of the established suburbs and the need to provide for sustainable residential development and deliver population targets'*<sup>7</sup>. Having regard to the

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<sup>7</sup> Policy 3.5 of the Galway City Development Plan 2023-2029.

applicable land use zoning, the scale and design of the proposed development, and to the pattern of development in the vicinity of the appeal site, I consider the principle of the proposed development to be acceptable at this location.

### 7.3. Density, Unit Mix, Open Space Provision, Parking

#### 7.3.1. Density

In relation to density, the proposal entails 22 no. units on a site of 0.67 ha., equating to a density of c. 33 dpha. Section 5.6 of the *Sustainable Residential Development in Urban Areas 2009* states that *‘in order to maximise inner city and town centre population growth, there should in principle, be no upper limit on the number of dwellings that may be provided within any town or city centre site, subject to safeguards’*, which include compliance with open space requirements; the avoidance of undue adverse impact on the amenities of existing or future adjoining neighbours; good internal space standards; conformity with any vision of the urban form of the town or city as expressed in development plans, particularly in relation to height or massing; the preservation of protected buildings and their settings/Architectural Conservation Area; and compliance with plot ratio and site coverage standards. Section 5.8 of the *Sustainable Residential Development in Urban Areas 2009* recommends that increased densities should be promoted at locations within 500 metres walking distance of a bus stop and within one kilometre of a rail station and in general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. SPPR 4 of the Urban Development and Building Height Guidelines, Guidelines for Planning Authority 2018, provides that *‘it is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure, the minimum densities for such locations set out in the “Sustainable Residential Development in Urban Areas (2007)”<sup>8</sup>*. I note that there are a number of bus stops in the vicinity of the

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<sup>8</sup> Reference in SPPR 4 to the publication date of the Sustainable Residential Development in Urban Areas as being 2007 appears to be a typographical error. I note that the Sustainable Residential Development in Urban Areas Guidelines were published in 2009.

appeal site, including along Threadneedle Road and the R336. Whilst the density of the proposed development, at c. 33 dpha, is considerably lower than that provided for in the Sustainable Residential Development in Urban Areas 2009, noting the pattern of development on the area, where the predominate building typology is single/two storey houses, I consider that the density proposed is appropriate in this context.

### **7.3.2. Unit Mix**

The proposed development comprises a mix of 2, 3 and 4 bedroom houses. I consider that the proposal provides for an acceptable mix of unit type.

### **7.3.3. Open Space Provision**

The Galway City Development Plan 2023 – 2029 requires communal amenity space<sup>9</sup> at a rate of 15% of the gross site area, or 10% on restricted sites. The Galway City Development Plan 2023 – 2029 provides that private open space shall be provided at a rate of not less than 50% of the gross floor area of the residential unit, and that such areas shall generally not be overlooked from a public road and are exclusive of car spaces. The proposed development provides 1,053 sqm of communal open space, which equates to c.15.7% of the gross site area. Area 1 consists of c. 351 sqm of open space while area 2 comprises an area of c. 702 sqm. Site statistics have been submitted indicating the quantum of private amenity space relative to the site area of each unit, which I note accords with the Galway City Development Plan 2023 – 2029. Private amenity space is provided by gardens and balconies serving each dwelling. I therefore consider that the proposed development accords with the requirements of Policy 11.3.1 (c) of the Galway City Development Plan 2023 – 2029 in terms of the provision of open space, both communal and private.

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<sup>9</sup> In residential development over ten units, a recreational facility is required to be provided as part of the communal open space. For developments of 21-50 units this is stated as being comprised of a small playground, kick about area, landscaped garden/small park. These open space typologies are stated as being 'indicative examples.'

#### **7.3.4. Parking**

In respect of car parking provision, Policy 11.3.2 (c) of the Galway City Development Plan 2023 – 2029 requires 1 on-site per dwelling and 1 grouped visitor per 3 dwellings, or 1 space per dwelling if grouped. However, Policy 11.7.2 provides that for new developments in Salthill, a reduced overall car parking standard can apply, in particular on grounds of sustainability or urban design. The proposed development consists of 22 no. dwelling served by 26 no. in-curtilage and on-street/grouped car parking spaces. In my opinion, noting the design and layout of the proposal, the proposed development generally satisfies the requirements of Policy 11.7.2. Regarding bicycle storage, I note that the majority of dwellings have accessible rear gardens and as such the proposed development makes adequate provision for bicycle parking/storage. A bicycle store is also provided within the scheme which would facilitate the storage of visitor bicycle parking. Condition no. 3 of the Planning Authorities Notification of Decision to grant permission omitted this bicycle store on the basis that the proposal comprises houses and not apartments, and that the houses could accommodate bicycle parking. In my opinion, subject to details of the finishes of this store being agreed with the Planning Authority, I consider that the bicycle store would provide additional capacity within the development and should be retained within the scheme.

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

- 7.4.1. The Galway City Development Plan 2023 – 2029 does not specify a standard in respect of internal layout for houses. I have therefore given consideration to the recommendations contained within Quality Housing for Sustainable Communities (2007). I note that the proposed houses achieve or exceed the recommendations contained in Section 5.3.2 and Table 5.1 of these guidelines. Having reviewed the plans and particulars submitted with the application and the appeal, I consider that the proposal generally accords with the Sustainable Residential Development in Urban Areas (DoEHLG May 2009) and Quality Housing for Sustainable Communities (DoEHLG 2007) in respect of the design and layout of residential developments. I have also reviewed the proposed development in the context of the 12 criteria contained in

the Urban Design Manual - A Best Practice Guide (2009) and consider that the proposal is generally in accordance with same.

- 7.4.2. The Section 28 Guidelines, Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021), issued by the Department of Housing, Local Government and Housing, applies to developments comprising 5 or more houses or duplex units. Having regard to the Section 28 Guidelines in respect of 'Commercial Institutional Investment in Housing', I consider that the development, comprising/including 5 or more own-door units and falling within the definition of structure to be used as a dwelling to which these guidelines applies, should include a condition to restrict the first occupation of these units as outlined by the Guidelines. In the event that the Board are minded to grant permission for the proposed development I recommend that 'Condition RCIIH1' as per the wording provided in the Guidelines is used as it enables the developer to carry out any enabling or preparatory site works, unlike condition RCIIH2, and as the effect in respect of the residential component is the same.

## **7.5. Placemaking and Design**

- 7.5.1. The appeal site is located within the 'established suburbs' of Galway. Policy 3.6 of the Galway City Development Plan 2023 – 2029 requires that development within such locations is required to assimilate into the neighbourhood, respecting and contributing to existing amenity and character. Additionally, Policy 8.7 of the Galway City Development Plan 2023 – 2029 sets out specific principles to achieve good urban design and effective placemaking. I consider the layout and design of the proposed development to be appropriate to its location and to the character of the area. A terrace of three storey houses running north-south within the scheme creates the spine of the development. An urban edge is provided to the front/north of the site onto Rockbarton Court. The proposal entails a degree of cutting within the site which allows for the houses to be sited in a manner which mitigates their height relative to adjacent property. Specific design responses have been employed at interfaces with site boundaries to minimise potential impacts on adjacent property. The contemporary design of the proposed houses adds a degree of visual interest to the area and active elevations have been incorporated at interfaces with public areas. Areas of public open



space are adequately overlooked with appropriate interfaces with houses within the scheme. In my opinion, the design rational is responsive to the specific characteristics of the site, and to the pattern of development in the vicinity and I am satisfied that the proposed development complies with the requirements of Policy 3.6 and 8.7 of the Galway City Development Plan 2023 – 2029.

## **7.6. Impact on Residential Amenity**

- 7.6.1. Concerns are raised by a number of appellants and an observer in relation to potential impact of the proposed development on the residential amenity of adjoining property arising from overlooking, overshadowing and overbearance. I note that the proposed development was amended following a request for Further Information and Clarification of Further Information, with increased separation distances provided between the proposed dwellings and the eastern and western site boundaries, the omission of a three storey building typology along the east of the site and the use of translucent glass for windows facing Gort Ard Avenue.
- 7.6.2. In relation to overlooking, having regard to the separation distances provided between the proposed dwellings along the eastern boundary of the appeal site and the dwellings within Gort Ard Avenue, including their amenity space and the provision of translucent fixed glazing serving first floor windows on the eastern elevation of these dwellings, the proposed development in my opinion will not result in any significant degree of overlooking of property within Gort Ard Avenue. Additionally, given the distance between the balconies serving Block E and F and the properties within Gort Ard Avenue, in excess of 40 metres, I am satisfied that significant overlooking will not occur. Noting the separation distance between the proposed dwellings along the western boundary of the appeal site and the dwellings within Rockbarton Park, the provision of obscure and high level glazing serving first and second floor windows to Unit 13 (in response to the tapered rear site boundary at this part of the site and consequent closer distance between this particular unit and Rockbarton Park), I do not consider any significant overlooking of property within Rockbarton Park to arise. The side elevation of a dwelling faces the property to the immediate south of the appeal site, however given the absence of windows serving habitable rooms on the southern elevation of the proposed dwelling at this location there is no potential for overlooking

of the property to the south to occur. Having regard to the forgoing I consider that the proposed development accords with Policy 11.3.1. (d) of the Galway City Development Plan 2023 – 2029.

- 7.6.3. Regarding overlooking within the scheme, Condition No. 3 of the Notification of Decision to grant permission required the provision of obscure glazing for first floor windows facing the garden of the mid terrace unit within Block D. Having reviewed the proposal (see *Drawing 3307 Rev 1*) I am satisfied that the extent of overlooking from the first floor bedroom windows within Block D of the private amenity space of the mid-terrace unit will not be significant and I do not recommend that these bedroom windows comprise obscure glazing.
- 7.6.4. Regarding overshadowing, a shadow analysis was submitted with the planning application and this was updated in the first party appeal submission to the Board dated 13<sup>th</sup> July 2022. The updated shadow analysis takes account of the proposal to reduce the height of Blocks E and F. The shadow analysis examines the impact of the proposed development for the periods of winter/January 15<sup>th</sup>, spring/April 15<sup>th</sup>, summer/July 15<sup>th</sup> and Autumn/October 15<sup>th</sup>, and for the times of 0900 hours, 1200 hours and 1700 hours. I consider this range to be acceptable in terms of providing a representation of overshadowing. The first party notes that the preparation of the shadow analysis has not factored in tree foliage along the east of the site and that evening light experienced by properties within Gort Ard Avenue is currently affected by these trees. From reviewing the shadow analysis submitted I note that a degree of overshadowing of the rear of no. 12, 14 and 16 Rockbarton Park occurs at 0900 hours in winter and autumn, a degree of overshadowing of the roadway of Gort Ard Avenue occurs at 1700 hours in spring and autumn and of the front façades of no.'s 4 to 14 Gort Ard Avenue in autumn. The proposal does not result in any significant overshadowing of the rear gardens of the properties within Gort Ard Avenue. Having reviewed the shadow analysis, as revised, I do not consider the extent of overshadowing indicated in respect of property within Rockbarton Park, Rockbarton Court, Gort Ard Avenue or the property to the immediate south to be significant having regard to periods/durations concerned and I consider that the degree of overshawing indicated would fall within the bounds of acceptance for an urban site.

- 7.6.5. In respect of overbearance, noting the separation distances between Block E and Block F and the properties within Rockbarton Park and Block D and Gort Ard Avenue to the east, and the heights of these blocks relative to adjacent property I do not consider the proposed development to give rise to any significant overbearance of adjacent property. The proposed development entails a degree of cutting of the site which serves to accommodate the height of dwellings proposed and mitigates potential overbearing on adjacent property. I also note that the height reduction proposed in the first party appeal submission to the Board dated 13<sup>th</sup> July 2022 in respect of Blocks E and F will serve to further reduce any potential for overbearance on Rockbarton Park and in the event that the Board are minded to grant permission for the proposed development I recommend that a condition be attached providing for the reduction in the height of Blocks E and F as proposed. I note that the height reduction proposed is achieved through a change in roof pitch from 35 degrees to 28 degrees which would not in my opinion render the houses inconsistent with the other houses within the scheme.
- 7.6.6. A number of appellants who reside in Gort Ard Avenue contend that their property ownership extends to include the road to the front of their houses up the tree lined boarder with the development site, whereas it has been treated by the applicant as beginning at the front garden wall, and that subsequent reference to separation distances between Block D and the appellant's property is therefore inaccurate. Supporting documentation in support of this contention has been submitted and having consulted the Galway City Council website I note that Gort Ard Avenue is not listed as being a public road/in the charge of the Local Authority. Notwithstanding that the lands beyond the eastern site boundary would appear to be in the ownership of the residents of Gort Ard Avenue, noting that this area comprises a roadway and footpath I do not consider this area to be susceptible to overlooking, overshadowing or overbearance in the same way as the front gardens and houses within Gort Ard Avenue are, and noting the relationship between Block D and the front gardens and houses within Gort Ard Avenue I do not consider that the proposed development, in particular Block D, would have a deleterious effect on adjoining properties, that being property within the curtilage of the houses in Gort Ard Avenue. Furthermore, I note that a number of appellants have requested that Block D be set-back further from the eastern site boundary. In my opinion the siting and design of Block D is acceptable in relation to the

eastern boundary of the site and will not result in significant negative impacts on Gort Ard Avenue.

## **7.7. Other Issues**

### **7.7.1. Ecological Impact**

An Ecological Impact Assessment was submitted with the planning application. A multi-disciplinary walkover of the appeal site was conducted in May and July 2021 to identify habitats. The habitats present on the appeal are deemed low value, comprising spoil and bare ground, recolonising bare ground and scattered trees and parkland. The EcIA examines the potential ecological impact of the proposed development, noting the location of the appeal site, impacts on bats, birds, trees and water quality predominate the assessment. No evidence of badgers was recorded on the appeal site and the site does not provide a suitable habitat for otter.

Bats – a daytime and a dusk survey of the site was undertaken. The appeal site, consisting of spoil and bare ground and recolonising bare ground was deemed to have a ‘negligible – low’ suitability for foraging and commuting bats, however treelines, scattered trees and boundary walls provide good connectivity to the surrounding landscape and as such the appeal site was deemed to have a ‘moderate’ suitability for bats. A search for roosts was carried out, including an inspection of trees within the appeal site. The trees on the site were found to lack potential roost features and the appeal site was considered to be of negligible value to bats. Bat activity was however recorded at the southwest corner of the site, where treeline habitats converge. Mitigation measures to address potential impact on bats include; pre-construction surveys of trees which are to be felled on the appeal site, with a derogation licence sought in the event of bats being found; the erection of bat boxes within the appeal site; the landscape plan proposed is designed to minimise habitat loss, with the retention of trees at the southwest of the appeal site, and the majority of works to be undertaken during daylight hours, with lighting used during construction designed in accordance with relevant guidelines. Subject to the implementation of these measures the EcIA concludes that no significant effects are anticipated. Having regard to the findings of the bat survey undertaken by the applicant, specifically the lack of potential roost features within the appeal site, the negligible value of the appeal site to bats, and the suite of mitigation measures proposed, including the retention of trees to the south-

west of the site where bat activity was recorded, I am satisfied that the proposed development will not result in adverse effects on bats.

Birds – 10 no. bird species were identified within the appeal site. No evidence of Annex I or Special Conservation Interest (SCI) bird species associated with any SPA were recorded. The appeal site does not provide supporting habitat for any species of bird listed as SCI of Inner Galway Bay SPA. Given the lack of suitable habitat on the appeal site no further bird surveys were undertaken. Mitigation is proposed in the form of a landscape plan designed to minimise habitat loss and to provide suitable foraging and nesting habitat for birds, and following its implementation effects from habitat loss and disturbance are deemed to have no significant effect. Having regard to the nature of the habitat on the appeal site and the mitigation measures proposed, I am satisfied that the proposed development will not result in adverse effects on birds.

Trees – the proposal entails the removal of 0.23 ha of scattered trees and parkland from the appeal site, approximately 25 no. trees. It is stated that a number of the trees which are to be removed are exhibiting Ash dieback. Whilst this loss is slight at a local scale it is not deemed significant at a county or national scale. A landscape plan which includes the retention of trees to the southeast of the site and additional tree planting is proposed. I note that there is a concentration of Category A trees in the south-east corner of the site I am satisfied that the landscape plan proposed sufficiently off-sets the loss of trees on the site which arises on foot of the proposed development, whilst at the same time preserving the majority of Category A trees.

Water Quality – there are no watercourses on the appeal site but the appeal site is located in an area of extreme ground water vulnerability. Adopting an extremely precautionary approach, potential for polluted run-off, in particular for hydrocarbons, cement and sediment to enter underlying limestone bedrock<sup>10</sup> during construction and operational phases of the proposed development are identified. Best practice design, environmental control and mitigation measures<sup>11</sup> are proposed to address potential pollution of groundwater. Subject to the implementation of these measures no significant effects are anticipated. I am satisfied that the measures proposed to protect

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<sup>10</sup> Table 6-6 of the EclA refers to the underlying bedrock as limestone however having consulted the GSI map viewer I note that the underlying bedrock is indicated as 'Murvey Granite'.

<sup>11</sup> Paragraph 2.2.1.5 of the EclA sets out Best Practice Mitigation and Environmental Control Measures at a location further south.

groundwater are appropriate and that subject to their implementation that the proposed development would not result in any significant impacts on groundwater.

The EclA concludes that the proposed development will not result in the loss of habitats or species of high ecological significance and will not have any significant effects on the ecology of the wider area, and provided that the development is constructed in accordance with the design and best practice that is described within the application, significant effects on biodiversity are not anticipated at any geographic scale. Having reviewed the EclA submitted, its findings, and the mitigation measures proposed, I am satisfied that the proposed development would not result in significant impacts on biodiversity or ecology.

#### 7.7.2. Road Safety & Traffic Impact

A number of appellants and one observer raise concerns in relation to the access/egress arrangement for the proposed development in terms of visibility, express concerns in respect of the effect of the proposal on the traffic flow, footpath and cycle lane provision in the area, and traffic safety issues which it is contended will be exacerbated during match days at Pearse Stadium.

Access - regarding the proposed access arrangement serving the proposed development, I note that sightlines of 45 metres in either direction are indicated at the entrance of the site onto Rockbarton Court, where the speed limit is 50 kmph. I therefore consider the proposal to comply with DMURS in respect of sightlines.

Swept Path - The applicant has also submitted a swept path analysis which demonstrates that vehicles can safely move within the site.

Road Safety Audit - A Stage 1/2 Road Safety Audit (RSA) was undertaken as part of the proposal. The RSA notes that no collisions were recorded in the area between 2005 and 2016. The RSA makes 12 no. recommendations in respect of the layout and detailed design of the proposal from a road safety perspective. 10 of the recommendations were accepted and incorporated into the scheme. The 2 no. recommendations which were not incorporated into the design of the scheme, specifically the omission of the 2 no. parallel car parking spaces at the entrance to the development, and the provision of a turning area at the southern part of the development, are justified on the basis of there being no feasible alternative/the option

is available to carry out a three point turn or carry out a turning manoeuvre further south, and on the basis of that the provision of a turning head would reduce the area of open space within the scheme, and that motorists would be able to see the rear of each car parking space in advance in advance of driving to the southern part of the site. In relation to the 2 no. parallel spaces at the entrance, noting that this issue is limited to 2 no. spaces serving a single house and noting that the occupants of this house would have the option of turning their car at a location further south, I consider this element of the proposal to be generally acceptable. Regarding the absence of a turning area to the south of the scheme, I note that there is a turning head in the centre of the area of open space which is broadly positioned equidistance relative to houses at this part of the scheme. I also concur with the first party that the rear of the spaces would be visible. Notwithstanding this, I consider that the car parking spaces within the scheme should be allocated to the houses they serve. In my opinion this would address the issue of spaces being unavailable to residents and would reduce the frequency of reverse manoeuvres within the scheme which would occur where residents are searching for an available space.

**Pedestrian and Cycle Infrastructure** - I consider that the footpath provision made within the scheme is acceptable. A footpath is provided across the majority of the front of the site, connecting into the footpath on Rockbarton Court west of the entrance. There is footpath provision east of the entrance, save for a small area which forms part of the front garden and driveway of the adjoining property to the immediate east of the entrance to the proposed development. The provision of a pedestrian crossing at this location to allow for a connection to be provided to the northern side of Rockbarton Court would improve pedestrian connectivity however as this area is outside the site such works would fall within the remit of the Local Authority. Noting the scale of the proposal I do not consider there to be a need incorporate cycle lanes within the proposal.

**Trip Generation** - based on the information submitted by the first party the proposal will result in 200 vehicular movements per day. This is however based on 25 no. houses and as such the impact will be lower as 22 no. units are now proposed. In my opinion, the proposed development would not generate a significant volume of traffic/trips in the area. I also note that the site is located in proximity to public transport

which will also reduce traffic volumes. Issues concerning the management of traffic on match days in the vicinity of Pearce Stadium are matters for An Garda Síochána.

In summation, I am satisfied that that the proposed development will not result in any significant traffic safety issues.

#### 7.7.3. Right to Light

A number of appellants and an observer refer to their rights to light, with implications for energy consumption, heat, and the functioning of PV panels. As the issue of determining rights to light is a matter for the courts, I do not consider that the Board is in a position to draw any conclusions in relation to the matters raised. As detailed at paragraph 7.6.3, I do not consider that the proposed development would have a significant negative impact in terms of overshadowing.

#### 7.7.4. Flooding

The issue of flood risk is raised by one of the appellants. I note that the appeal site is not indicated as being within an area which is at risk of flooding, based on floodmaps.ie or the Strategic Flood Risk Assessment which accompanies the Galway City Development Plan 2023-2029. Additionally, I note that the surface water design regime proposed caters for the 1:100 year storm event, and includes a 20% allowance for climate change. I consider that the proposed development is acceptable in terms of flood risk and that it accords with the Planning System and Flood Risk Management Guidelines 2009.

#### 7.7.5. Impact on Water Pressure

Concerns are expressed in a number of appeal submissions and an observation in relation to the potential impact of the proposed development on water pressure in the area. I note that Uisce Éireann, formally Irish Water, have issued confirmation of feasibility in terms of water supply, that the design of the scheme will be subject to review prior to a connection agreement being issued, and as such I do not consider that the proposed development would give rise to any significant issues in relation to water pressure in the area.

#### 7.7.6. Construction Phase Impacts



A number of appeal submissions cite concerns in relation to potential construction phase impacts arising from the proposed development, specifically noise and dust generation. Noting the location of the appeal site within a built up area, should the Board be minded to grant the proposed development I recommend that a condition is attached requiring the submission of a construction management plan to address noise, dust and vibration emissions. Subject to the implementation of such measures I do not consider that the construction phase of the proposed development would result in significant impacts on the adjoining area/property.

#### 7.7.7. Eastern Site Boundary

Concerns are raised in the appeals and one of the observations that the proposed boundary treatment along the east of the site, a wall with railing atop and elsewhere a wall (see *Drawing No. 3200 Rev A*), will compromise existing trees located along the eastern boundary of the site which are located within Gort Ard Avenue, as the root protection zone of these trees is likely located within the appeal site. I note that the boundary proposed at this location are indicated a retaining walls and as such it is not possible to require a fence in lieu of the wall at this location. Should the Board be minded to grant permission for the proposed development I recommend that a pre and post condition survey is carried out in respect of the eastern boundary along Gort Ard Avenue, and that should damage occur to the trees located within Gort Ard Avenue the applicant shall replace any damaged specimen with a similar species of a similar height.

#### 7.7.8. Rear Access

The majority of the houses within the scheme comprise terraced units, with the majority of rear gardens being served with access via pedestrian laneways to the side/rear of the houses. Details of how access to these areas is to be managed has not been provided and in my opinion this issue requires consideration to avoid the potential for anti-social behaviour. The use of gates with fob key access may be an appropriate solution in this regard. Should the Board be minded to grant permission for the proposed development I recommend that details of how these areas are to be managed, and how access to these areas is to be reserved for residents should be agreed with the Planning Authority prior to commencement of development.

#### 7.7.9. Landscape Plan

The initial application was accompanied by a Landscape Master Plan (*Drawing No. 21643-2-101*), however an updated Landscape Masterplan was not submitted to reflect the changes made to the scheme in response to the Planning Authorities request for Further Information/Clarification of Further Information, which I note included changes to Block D. In the interests of clarity, should the Board be minded to grant permission for the proposed development I recommend that a condition is attached to any grant of permission requiring the submission of a revised Landscape Masterplan to the Planning Authority.

### 7.8. **Appropriate Assessment**

#### 7.8.1. Stage 1 Screening

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

7.8.3. Background. The applicant submitted an Appropriate Assessment Screening report for the proposed development (prepared by MKO) to the Planning Authority<sup>12</sup>. 11 no. European sites within a 15km zone of influence of the appeal site were examined in the Stage 1 Appropriate Assessment Screening report. Following this screening exercise, and adopting an extremely precautionary approach in light of the location of the appeal site within an area of extreme ground water vulnerability, 2 no. European sites were identified on the basis of there being potential for polluted run-off from the appeal site to be transmitted indirectly via ground water<sup>13</sup> during construction and operational phases and reaching Galway Bay Complex SAC and Inner Galway Bay SPA, with a potential for a deterioration of water quality potentially impacting Galway Bay Complex SAC and Inner Galway Bay SPA. The applicant's Stage 1 Appropriate Assessment Screening report was prepared in line with current best practice guidance

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<sup>12</sup> The Appropriate Assessment Screening report relates to 25 no. houses, that being the development as initially proposed.

<sup>13</sup> Paragraph 5.2.1.1 of the NIS refers to the underlying bedrock as limestone however having consulted the GSI map viewer I note that the underlying bedrock is indicated as 'Murvey Granite'.

and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. Having reviewed the document, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.8.4. Supplementary Reports/Studies. An Ecological Impact Assessment (EclA) was submitted with the planning application – see paragraph 7.7.1.

7.8.5. Likely Significant Effects. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated as SACs and SPAs to assess whether it may give rise to significant effects on any European site.

7.8.6. The Proposed Development. The development comprises permission for;

- The construction of 22 no. dwellings.
- Connection to services and all associated site works.

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

- The uncontrolled release of pollutants to ground water and surface water (e.g. run-off, silt, fuel, oils, etc.) and subsequent impacts on water quality sensitive habitats of Galway Bay Complex SAC (Site Code – 000268) and Inner Galway Bay SPA (Site Code – 004031).
- Potential for the release of contaminated surface water generated by the proposal at operational stage of the proposal.
- Should any bird species which are Special Conservation Interests (SCI) of Inner Galway Bay SPA (Site Code – 004031), or another European site use the site for resting, foraging, breeding etc., then the proposed development would have

the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

7.8.8. Submissions and Observations. A number of the appeal submissions and one observation refer to the inadequacies in the Appropriate Assessment Screening report submitted by the applicant, specifically in relation to habitats, the removal of vegetation/trees and impacts on hydrology when excavation works are undertaken. In addition, a number of subsequent responses from the appellants question the reliance on mitigation measures over avoidance, and raise concerns in relation to the efficacy of the mitigation measures.

7.8.9. European Sites and Connectivity. A summary of European sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. I note that the applicant included a greater number of European sites in their initial screening consideration with sites within 15km of the development site considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination. I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

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

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Galway Bay Complex SAC (Site Code:000268)	<ul style="list-style-type: none"> <li>Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>Coastal lagoons [1150]</li> <li>Large shallow inlets and bays [1160]</li> </ul>	c. 280 metres south of appeal site.	There are no watercourses or drainage ditches on the appeal site. Groundwater	Y

	<ul style="list-style-type: none"> <li>• Reefs [1170]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> <li>• Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Turloughs [3180]</li> <li>• <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</li> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</li> <li>• Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</li> <li>• Alkaline fens [7230]</li> <li>• Limestone pavements [8240]</li> <li>• Lutra (Otter) [1355]</li> <li>• <i>Phoca vitulina</i> (Harbour Seal) [1365]</li> </ul>		<p>vulnerability is indicated on the GSI website as 'extremely vulnerable'.</p> <p>Noting the proximity of the appeal site to Galway Bay Complex SAC a likelihood of significant effects exists.</p>	
Inner Galway Bay SPA (Site Code: 004031)	<ul style="list-style-type: none"> <li>• Black-throated Diver (<i>Gavia arctica</i>) [A002]</li> <li>• Great Northern Diver (<i>Gavia immer</i>) [A003]</li> <li>• Cormorant (<i>Phalacrocorax carbo</i>) [A017]</li> <li>• Grey Heron (<i>Ardea cinerea</i>) [A028]</li> <li>• Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046]</li> <li>• Wigeon (<i>Anas penelope</i>) [A050]</li> <li>• Teal (<i>Anas crecca</i>) [A052]</li> <li>• Red-breasted Merganser (<i>Mergus serrator</i>) [A069]</li> </ul>	c. 280 metres south of appeal site.	<p>There are no watercourses or drainage ditches on the appeal site. Groundwater vulnerability is indicated on the GSI website as 'extremely vulnerable'</p> <p>Noting the proximity of the appeal site to Inner Galway Bay SPA a likelihood of significant effects exists..</p>	Y

	<ul style="list-style-type: none"> <li>• Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</li> <li>• Golden Plover (<i>Pluvialis apricaria</i>) [A140]</li> <li>• Lapwing (<i>Vanellus vanellus</i>) [A142]</li> <li>• Dunlin (<i>Calidris alpina</i>) [A149]</li> <li>• Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</li> <li>• Curlew (<i>Numenius arquata</i>) [A160]</li> <li>• Redshank (<i>Tringa totanus</i>) [A162]</li> <li>• Turnstone (<i>Arenaria interpres</i>) [A169]</li> <li>• Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</li> <li>• Common Gull (<i>Larus canus</i>) [A182]</li> <li>• Sandwich Tern (<i>Sterna sandvicensis</i>) [A191]</li> <li>• Common Tern (<i>Sterna hirundo</i>) [A193]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>			
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7.8.10. Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1 above), Galway Bay Complex SAC and Inner Galway Bay SPA have been screened in having regard to their proximity with the appeal site and potential connectivity.

In terms of the potential for ex-situ effects, the appeal site is located within an urban area and does not represent a favourable habitat for birds species connected with Inner Galway Bay SPA or other SPA's for resting, foraging, breeding etc. The EcIA submitted with the planning application notes that no evidence of Annex I or Special Conservation Interest (SCI) bird species associated with any SPA were recorded on the site and that the appeal site does not provide supporting habitat for any species of bird listed as SCI of Inner Galway Bay SPA. Similarly, the appeal site would not be suitable habitat for otter or harbour seal, qualifying interests of Galway Bay Complex SAC. All other Natura 2000 sites surrounding the proposed development have been 'screened out' due to a lack of connectivity.

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

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

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

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

7.8.12. Identification of Likely Effects. In light of the above Conservation Objectives, the main elements of the proposal which may give rise to impacts on the European sites listed above are as follows;

Construction Phase Impacts on Galway Bay Complex SAC - During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and flow into the SAC. There is the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons.

Operational Phase Impacts on Galway Bay Complex SAC - During the operational phase, effluent from the proposed development will be discharged into the public sewer. Surface water from impermeable areas within the proposed development will flow by gravity to soakways via an oil/petrol interceptor prior to percolating into the ground. The storm water network and soakaways are designed to accommodate the 100-year return period plus an additional 20% to account for the effects of climate change. There is therefore no potential for the water quality pertinent to this European Site to be negatively affected by the proposed development during the operational phase.

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

Galway Bay SPA to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons.

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

In the absence of mitigation, the proposed development has the potential to result in negative impacts on Galway Bay Complex SAC and Inner Galway Bay SPA. I consider that such impacts could be significant in terms of the stated conservation objectives of Galway Bay Complex SAC and Inner Galway Bay SPA when considered on their own in relation to the discharge of polluted run-off to groundwater which could flow into the Galway Bay Complex SAC and Inner Galway Bay SPA, with consequent potential for water sensitive habitat/habitat supportive of QI/SCI associated with Galway Bay Complex SAC and Inner Galway Bay SPA.

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

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

Table 7.2 - Summary Screening Matrix				
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Galway Bay Complex SAC (Site	c. 280 metres south of appeal site.	During the construction phase there is potential for surface water runoff from site works to	No effect	Screened in for AA



Code 000268)		temporarily discharge to groundwater and surface water and reach the SAC. There is the potential for the water quality pertinent to this European Site to be negatively affected by contaminants, from site clearance and other construction activities and also from the release of hydrocarbons.		
Inner Galway Bay SPA (Site Code 004031)	c. 280 metres south of appeal site.	During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and flow into the SPA, with consequent potential for water sensitive habitat/habitat supportive of SCI associated with Inner Galway Bay SPA to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons.	No effect	Screened in for AA

7.8.13. Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

7.8.14. Screening Determination. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it

has been concluded that the project individually **could have a significant effect** on Galway Bay Complex SAC/European Site Code 000268 and Inner Galway Bay SPA/European Site Code 004031, in view of the Conservation Objectives of these sites, and Appropriate Assessment is therefore required.

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

7.8.16. Article 6(3). The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act, 2000, as amended, are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- The Natura Impact Statement and associated documents.
- Appropriate assessment of implications of the proposed development on the integrity each European site.

7.8.17 Compliance with Article 6(3) of the EU Habitats Directive. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

7.8.18 Screening The Need for Appropriate Assessment. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in-combination with other plans or projects will have a significant effect on the following European sites:

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

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

7.8.19. The Natura Impact Statement. A NIS, prepared by MKO examines and assesses potential adverse effects of the proposed development on Galway Bay Complex SAC and Inner Galway Bay SPA. The NIS identifies the main potential impact from the proposed development on Galway Bay Complex SAC and Inner Galway Bay SAC as being the potential for pollution to enter groundwater during the construction phase of the proposed development and enter the SAC and SPA, affecting aquatic dependent QI's and SCI supporting habitat. The appeal site is has a low habitat value and as such there is therefore no potential for SCI associated with Inner Galway Bay SPA to be negatively affected by the proposed development during the construction or operational phase in terms of disturbance. The NIS includes an examination of recent planning applications where permission has been granted in the vicinity of the appeal site under the heading of 'other projects considered in the wider area'. I note that there are no recent planning applications for the surrounding area that share a direct link with the subject site. A review of plans is also included in the NIS. The NIS states that as the proposed development will not result in any residual adverse effects on any European site, their integrity or conservation objectives when considered on its own, there is therefore no potential for the proposed development to contribute to any cumulative adverse effects on any European site when considered in combination with other plans or projects.

7.8.20. The NIS refers to mitigation measures which will be adhered to. Measures are proposed for the construction phase of the proposed development and include;

#### Site Set-Up

- Erection of hoarding around the boundaries of the site.

- Establishment of site compound.
- Access routes will be clearly identified. Access restricted to within work area.

#### Pollution Control

- There will be no release of suspended solids to any watercourse as a direct or indirect result of the proposed works.
- No temporary instream crossings or temporary culverting will take place. Instream works will not take place.
- Any requirement for temporary fills or stockpiles will be damped down or covered to avoid sediment release.
- Prior to the commencement of earthwork silt fencing will be placed down-gradient of the construction areas where drains or drainage pathways are present.
- In the event of encountering groundwaters during excavation, the excavation will be dewatered using a pump equipped with a silt bag on the outlet, to capture any silty material prior to subsequent natural percolation to ground. Alternatively, this water will be tankered off site if required.
- Discharge onto ground will be via a silt bag which will filter any remaining sediment from the pumped water. The entire discharge area from silt bags will be enclosed by a perimeter of double silt fencing.
- The design, construction and maintenance of an on-site drainage system can prevent sediment related pollution of nearby surface waters. Ground disturbance should be kept to a minimum, water from excavations should be filtered, other sediment trapping technologies such as silt fences or "wheel wash" tanks can prevent sediment leaving the site. Exposed surfaces should be re-vegetated as soon as possible following construction.
- The minimum amount of soil subsoils and bedrock material should be removed from site. Soil may be reused for landscaping elsewhere on the site.

#### Refueling, Fuel and Hazardous Materials Storage

- Storage/refuelling in a designated area, located a suitable distance from excavation works. This area should be underlain by concrete hard standing and tanks should be inspected for leaks regularly. Spill kits should be supplied at

these stations and staff should be trained in their use and in spill control. Drainage from these areas shall be diverted for collection and not discharged into waterbodies without treatment and other best management practices.

- Minimal refuelling or maintenance of construction vehicles or plant will take place on site. Off-site refuelling will occur at a controlled fueling station.
- On-site refuelling will take place by direct refuelling from the delivery truck or using a mobile double skinned fuel bowser. The fuel bowser will be parked on a level area in the construction compound when not in use. Mobile measures such as drip trays and fuel absorbent mats will be used during all refuelling operations.
- Vehicles will never be left unattended during refuelling. Only dedicated trained and competent personnel will carry out refuelling operations and plant refuelling procedures shall be detailed in the contractor's method statements.
- All fuels, lubricants and hydraulic fluids will be stored at the site compound. The storage area will contain a small bund lined with an impermeable membrane in order to prevent any contamination of the surrounding soils and vegetation.
- Fuels volumes stored on site will be minimised. Any fuel storage areas will be bunded appropriately for the volume of fuel stored for the time period of the construction. The bunded area will be roofed to prevent the ingress of rainwater.
- Fuels, lubricants and hydraulic fluids for equipment used on the site will be carefully handled to avoid spillage, properly secured against unauthorised access or vandalism, and provided with spill containment.
- All site plant will be inspected at the beginning of each day prior to use. Defective plant shall not be used until the defect is satisfactorily fixed. All major repair and maintenance operations will take place off site.
- Potential impacts caused by spillages etc. during the construction phase will be reduced by keeping spill kits and other appropriate equipment on-site.
- Spill kits will be used to deal with any accidental spillage in and outside the refuelling area. Spill control measures as outlined fully in the CEMP accompanying this application will be adhered to.
- Harmful materials shall be stored on site for use in connection with the construction works only. These materials shall be stored in a controlled manner.

Where on site fuelling facilities are used, there shall be a bunded filling area using a double bunded steel tank at a minimum.

#### Measures to avoid the release of cement based material during construction

- No batching of wet-cement products will occur on site. Ready-mixed supply of wet concrete products and pre-cast elements for culverts and concrete works will be used.
- No washing out of any plant used in concrete transport or concreting operations will be allowed on-site.
- Where concrete is delivered on site, only chute cleaning will be permitted, using the smallest volume of water possible. No discharge of cement contaminated waters to the construction phase drainage system or directly to any artificial drain or watercourse will be allowed.
- Use weather forecasting to plan dry days for pouring concrete.
- Ensure pour site is free of standing water and plastic covers will be ready in case of sudden rainfall event.

#### Measures to avoid effects associated with the disposal of waste water

- A self-contained port-a-loo with an integrated waste holding tank will be used at the site compounds, maintained by the providing contractor, and removed from site on completion of the construction works.
- No wastewater will be discharged on-site during either the construction or operational phase.

#### Waste Management

- All waste will be collected in skips and the site will be kept tidy and free of debris at all times.
- Waste oils and hydraulic fluids will be collected in leak proof containers and removed from the site for disposal or recycling.
- All construction waste materials will be stored within the confines of the site, prior to removal from the site to a licenced waste facility.

#### Environmental Monitoring

- The contractor will assign a member of the site staff as the environmental officer with the responsibility for ensuring the environmental measures prescribed in this document are adhered to. Any environmental incidents or non-compliance issues will immediately be reported to the project team.

7.8.21 The NIS concludes that when the mitigation measures are implemented, there is no potential for adverse impact on the QI or SCI of Galway Bay Complex SAC and Inner Galway Bay SPA as a result of deterioration of water quality.

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

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

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

7.8.23 Appropriate Assessment of implications of the proposed development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

7.8.24 The following sites are subject to Appropriate Assessment:

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

A description of the sites and their Conservation and Qualifying Interests/Special Conservation Interests are set out in Table 7.1 of this report. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

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

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

7.8.26. Assessment of proposed Mitigation Measures - The NIS outlines a number of mitigation measures. For the most part the mitigation measures are intended to avoid the release of contaminated run-off to from the site and to groundwater and surface water. I am satisfied that the measures are sufficient to address potential impacts from pollution during construction and that the potential for deterioration of habitats and species identified within the European Sites is not likely.

7.8.27. Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Galway Bay Complex SAC and Inner Galway Bay SPA in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.8.28. Appropriate Assessment Conclusion. The proposed development has been considered in light of the assessment requirements of Sections [177U and 177V] of the Planning and Development Act, 2000, as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Galway Bay Complex SAC and Inner Galway Bay SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031), in view of the Conservation Objectives of these sites. This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of Galway Bay Complex SAC and Inner Galway Bay SPA.



- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Galway Bay Complex SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Inner Galway Bay SPA.

## **8.0 Recommendation**

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

## **9.0 Reasons and Considerations**

Having regard to:

- (a) The design, scale and layout of the proposed development,
- (b) The pattern of development in the area,
- (c) The provisions of the Galway City Development Plan 2023-2029, including the Residential zoning of the site,
- (d) Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009),
- (e) The conclusion of the Appropriate Assessment,

it is considered that subject to compliance with the conditions set out below, the proposed development would not be visually intrusive or seriously injurious to the amenities of the area or the residential amenities of properties in the vicinity, would be acceptable in terms of traffic safety, would not have a significant impact on ecology or on European sites in the vicinity, and, would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars received on the 20<sup>th</sup> January 2022 and 19<sup>th</sup> April 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>This development hereby permitted relates to 22 no. houses.</p> <p><b>Reason:</b> In the interest of clarity.</p>
3.	<p>The height of Block E and Block F shall be reduced as indicated on Drawings 3140 Rev C, 3202 Rev D, 3207 Rev B, and 3144 Rev C, submitted to the Board on the 13<sup>th</sup> July 2022.</p> <p><b>Reason:</b> To protect the residential amenity of adjacent property.</p>
4.	<p>A pre and post condition survey, undertaken by a qualified Arborist, shall be carried out of the trees/hedgerow which form the eastern boundary of the site, and are situated within Gort Ard Avenue. In the event that the retaining wall(s) along the eastern site boundary result in significant damage, or the failure of the existing trees and hedgerow located within Gort Ard Avenue, the applicant shall replace any specimen with the same/similar species or a similar height.</p> <p><b>Reason:</b> To record the condition of existing trees/hedgerow along the eastern boundary of the site, and/or to remedy any damage to same.</p>
5.	<p>Prior to commencement of development, the applicant shall agree in writing with the Planning Authority, details of how the areas providing access to the rear of properties within the scheme are to be managed, and how access to these areas is to be reserved for residents.</p>

	<b>Reason:</b> To protect residential amenity.
6.	<p>Prior to commencement of development, the applicant shall agree in writing with the Planning Authority, details of the bicycle store, including material finishes.</p> <p><b>Reason:</b> In the interest of clarity.</p>
7.	<p>All mitigation measures in the Natura Impact Statement (dated 2<sup>nd</sup> September 2021) submitted with the application shall be implemented in full and shall be supervised by a suitably qualified ecologist.</p> <p><b>Reason:</b> In the interest of environmental protection and nature conservation.</p>
8.	<p>The mitigation measures outlined in the Ecological Impact Assessment (dated 2<sup>nd</sup> September 2021) submitted with the application, shall be carried out in full, except where otherwise required by conditions of this permission.</p> <p><b>Reason:</b> In the interest of environmental protection and nature conservation.</p>
9.	<p>Prior to commencement of development, the applicant shall submit a revised/updated Landscape Masterplan reflecting the changes made to the scheme in response to the Further Information and Clarification of Further Information, to the Planning Authority for its written agreement. Landscaping shall be carried out as indicated on the revised Landscape Masterplan. Landscaping shall include only native species.</p> <p><b>Reason:</b> In the interest of visual amenity and in the interests of clarity.</p>
10.	<p>Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the Planning Authority, prior to commencement of development, including the location of bat boxes. These measures shall be implemented as part of the development.</p> <p><b>Reason:</b> In the interest of nature conservation and wildlife protection.</p>
11.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled and/ or contoured, as applicable, soiled, seeded, and landscaped in accordance with the landscape plans and report submitted to the Planning Authority with the application, unless otherwise</p>

	<p>agreed in writing with the Planning Authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the Local Authority.</p> <p><b>Reason:</b> In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
12.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be as submitted with the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
13.	<p>All boundary walls within the scheme and at interfaces with adjacent third party property shall be rendered on both sides and suitably capped.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
14.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the Planning Authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
15.	<p>Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Uisce Éireann.</p> <p><b>Reason:</b> In the interest of public health.</p>
16.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p>

	<p>a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;</p> <p>b) Location of areas for construction site offices and staff facilities;</p> <p>c) Details of site security fencing and hoardings;</p> <p>d) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;</p> <p>e) Measures to obviate queuing of construction traffic on the adjoining road network;</p> <p>f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>g) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;</p> <p>h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the Planning Authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.</p>
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	<b>Reason:</b> In the interest of amenities, public health and safety.
17.	<p>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 for the preparation of resource &amp; waste management plans for construction &amp; demolition projects”, published by the EPA, 2021. The plan shall include details of waste to be generated during site clearance and construction phases, including potential contaminated soil, 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.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
18.	<p>Proposals for naming and numbering of the proposed scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the Planning Authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the Planning Authority’s written agreement to the proposed name(s).</p> <p><b>Reason:</b> In the interest of urban legibility.</p>
19.	<p>All parking areas shall be provided with ducting for electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>
20.	The car parking spaces serving the development shall not be sold, rented, or otherwise sub-let or leased to parties who are not resident in the

	<p>apartment block on the site. All car parking within the development shall be allocated to specific houses.</p> <p><b>Reason:</b> In the interest of good traffic management.</p>
21.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
22.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.</p> <p><b>Reason:</b> In order to safeguard the amenities of property in the vicinity.</p>
23.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
24.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the Local Authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of this development.</p>
25.	<p>(a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the</p>

	<p>land shall enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000, that restricts any such residential units permitted (the number and location of each housing unit being specified in such agreement), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the Planning Authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(c) The determination of the Planning Authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.</p> <p><b>Reason:</b> 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.</p>
26.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the Planning Authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and</p>



	<p>been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
27.	<p>The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the Planning Authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
28.	<p>Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the Local Authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the</p>

	<p>security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Ian Campbell  
Planning Inspector

13<sup>th</sup> June 2023