



An
Bord
Pleanála

Inspector's Report

ABP-314254-22

Development	Construction of ten dwelling units and all associated site works. A Natura Impact Statement accompanies the proposals.
Location	Dungory West, Gort Road, Kinvara, County Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	22/60466
Applicant(s)	Vervine Enterprises Ltd
Type of Application	Permission
Planning Authority Decision	Refuse Planning Permission
Type of Appeal	First Party V. Refusal
Observer(s)	None
Date of Site Inspection	11th April 2022
Inspector	Fergal Ó Bric.

1.0 Site Location and Description

- 1.1 The appeal site is located on the northern side of the Gort Road (L4509) and to the rear of a number of individual dwellings on generous plot sizes that front onto the Gort Road, south-east of Kinvara Village. The site is located west of a residential development (Bothar na Mias) which was recently completed, and additional residential development is under construction immediately east of the Bothar na Mias development, further removed from the village centre. There is a water tower structure located immediately south west and west of the appeal site. The Gort Road is characterised by large two storey dwellings on generous plot sizes. The appeal site is bound to the east by the rear garden space of a property and fronts onto Gort Road. Immediately west, is a cul-de-sac road with a carriageway width of approximately 3.5 metres that serves as an access to a number of individual dwellings and to the water tower, To the north, north-west south-east and south-west are individual dwellings on generous plot sizes. The appeal site comprises largely a green field site. The area is generally characterised low density individual housing units on generous plot sizes.
- 1.2 The site has a stated area of 0.53 hectares, is T-shaped and site levels fall gradually from north to south within the appeal site towards the public road. There are no drainage ditches within the appeal site boundaries. The site boundaries include hedgerow along the western, northern and southern boundaries and a stone wall and hedging along the north-eastern boundary. The site is open to the dwelling to the south-east of the site and a stone walled gated entrance forms the eastern site boundary. There is a public footpath and streetlighting along the site frontage along the Gort Road.

2.0 Proposed Development

- 2.1 It is proposed to construct ten two-storey dwellings as follows:
- Two number Type A1 two-storey, four bedroom detached dwellings, with a stated floor area of 178.28 square metres.

- Eight number Type B1/B2, two bed semi-detached storey and a half dwellings with a stated floor area of 110.48 square metres.
- Alteration of existing entrance onto the L85531.
- Two dedicated surface car park spaces for each dwelling plus 3 visitor spaces to serve overall development.
- Open space provision.
- Landscaping and new stone boundary treatments.
- Wastewater drainage connection to Kinvara mains drainage system.
- SuDS surface water drainage system, attenuation and associated site works.
- Upgrade of cul-de-sac access road.
- Upgrade of footpaths and new streetlighting along the L85531 and along L4509.

2.2 Access to the eight semi-detached dwellings is proposed from an existing agricultural entrance which accesses directly onto the cul-de-sac, the L85531 immediately west of the appeal site which in turn accesses directly onto the Gort Road. The two detached dwellings have individual access points directly onto the Gort Road, the L4509. The detached dwellings have driveways with off-street car parking provision for two cars and the remaining semi-detached dwelling units each have their own two dedicated parking spaces along their frontage. Three additional visitor spaces are proposed within the development with access off the internal access road. A two-metre wide footpath with streetlighting is proposed along each side of the internal service road, the L85531 cul-de-sac and along the site frontage along the Gort Road, which is to be set back under the proposals.

2.3 It is proposed that the development would connect to the public main foul sewer and mains water supply.

2.4 Letters of consent have been received from the developer of the Bothar na Mias residential development further east of the appeal site, Mr Michael Burke, consenting to connecting into the foul and surface water sewer networks within his lands **and also from an adjoining property owner, Mr Joe Gormley for the**

removal of a septic tank system and connection to the foul sewer network, consenting to setting back his roadside (Gort Road) boundary in order to facilitate improved sightlines and the development of a wider footpath and streetlighting at this location.

2.5 The Board referred the planning appeal to the National Parks and Wildlife Section of the Department of Culture, Heritage and the Gaeltacht, An Taisce and to the Arts Council for comment. No responses were received from any of these prescribed bodies.

3.0 Planning Authority Decision

3.1 Decision

Refuse planning permission for five reasons which can be summarised as follows:

- 1 The application site is located in an area zoned Residential (Phase 2) and residential (existing) in the Kinvara Settlement Plan (Galway County Development Plan 2022-2028). It is the policy of the Development Plan SGV 1, to support the development of lands designated as residential (phase 1) within the lifetime of the plan, in compliance with the Core Strategy and subject to normal planning, access and servicing requirements, and to reserve the lands designated as residential (phase 2) for the longer term growth needs of each village. It is also the policy of Galway County Council to encourage the orderly and phased development of residential lands in accordance with the principles of the sequential approach set out in the Sustainable Residential Development Guidelines in Urban Areas-Guidelines, 2009. This shall include a positive presumption in favour of the sequential development of suitable serviced residential (phase 1) lands in Kinvara to promote the development of suitable and serviced lands and to provide for high quality, well laid out and well landscaped sustainable residential communities to serve the residential population of Kinvara.

- 2 Having regard to the proposed connection to the public foul sewer network located outside of the appeal site and third party lands by way of, and reliant on a foul sewer infrastructure consented under a separate third party application, which has not yet been constructed the Planning Authority is not satisfied that the surface water generated by the development can be managed and disposed of. Therefore, if permitted, the development would pose a potential risk to the functionality of the third party lands effluent treatment systems located within the planning unit. The development would materially contravene objectives WW4 and WW6 and DM Standard 38 of the Galway County Development Plan 2022-2028 (as varied), would be prejudicial to public health, would pose an unacceptable risk to water quality, which would be likely to have a likely significant effect on the conservation objectives of the nearby protected European sites for flora and fauna and, therefore, would be contrary to the proper planning and sustainable development of the area.
- 3 The development would be accessed from the L85531 local access road. The junction of the L85531 and the L4509 is deemed unsatisfactory owing to the capacity, width and alignment, surface wand structural condition of the pavement and in the absence of complete and sufficient details pertaining to same, in conjunction with the absence of satisfactory sightlines in accordance with DM standard 28 of the current Galway Development Pan 2022-28. It is considered that the development would endanger public safety by reason of a traffic hazard, obstruction of road users, or otherwise, would establish an undesirable precedent and be contrary to the proper planning and sustainable development of the area.
- 4 Having regard to the proposed connection to the public surface water sewer network located outside of the appeal site and third party lands by way of, and reliant on, surface water sewer consented under a separate third party application, which has not yet been constructed in the absence of sufficient technical details and specification on surface water disposal and SuDS, The Planning Authority is not satisfied that the surface water generated by the development can be managed and disposed of without

potential uncontrolled discharge to adjacent roads and third party lands. Therefore, if permitted, the development would materially contravene policy objective WW7 and DM Standard 67 of the current Galway County Development Plan 2022 and, therefore, would be contrary to the proper planning and sustainable development of the area.

- 5 The Planning Authority consider that based on their site inspection and having regard to the information submitted as part of the planning documentation consider:
- a) The section of public footpath, located outside of the planning unit and along the L85531,
 - b) The omission of a lighting plan which addresses the proposed residential development and the upgraded L85531 local road.

If permitted as proposed, the development would endanger public safety by reason of a traffic hazard given the absence of information regarding the adequate provision of infrastructure along the public road network to facilitate pedestrian traffic generated by the development. Therefore, the development would be contrary to policy objectives LP1, KSGV 10 and PM 4 as set out within the current Galway County Development Plan 2022.

3.2 Planning Authority Reports

Planning Report

The Planning Officer recommended that planning permission be refused for the reasons set out within Section 3.1 above.

3.3 Other Technical Reports

Roads Department: Raised Issues in relation to street design and the requirement to submit a Road Safety Audit (RSA) and the absence of surface water disposal measures for the roads.

Environment Section: No objections, subject to conditions.

3.4 Prescribed Bodies

None received.

3.5 Third Party Observations

One third party observation was received by the Planning Authority. The observation was from a neighbouring resident, who resides north-east of the appeal site and adjacent to the rear garden boundaries of proposed residential units, numbers five to eight. The issues raised relate to the following matters:

- Potential for proposals to adversely impact upon their residential amenity.
- Precise details of the party boundary treatment with his property have not been submitted.
- Existing boundary treatment along the north eastern boundary should be protected during construction works.
- Due to ground levels differences between the appeal site and the observers' lands, the rear garden depths of unit numbers 7 and 8 should be increased.

4.0 Planning History

Subject Site:

The following is the relevant planning history associated with the appeal site:

Planning Authority reference number 07/766, in 2007, the Planning Authority granted planning permission for the construction of twenty residential units, comprising apartments, townhouses and detached dwelling units with onsite proprietary wastewater effluent treatment plant and percolation area and new access roads. In 2012, this permission was extended by a further five years under Planning Authority reference number 12/100.

Planning Authority reference number 05/1410, in 2005, the Planning Authority granted planning permission for the construction of twelve dwellings with onsite proprietary wastewater effluent treatment plant and percolation area and new access

point onto the N63. This permission was extended by a further five years under Planning Authority reference number 13/521.

Lands to east of appeal site:

Planning Authority reference number 21/556, in 2022, the Planning Authority granted planning permission for phase 2 of a residential development Bothar na Mias comprising the construction of thirty six dwelling units with access through the Bothar na Mias residential development connection into public services, landscaping and pedestrian linkages and an NIS accompanied this application.

Planning Authority reference number 10/1911, in 2011, the Planning Authority granted planning permission for the construction of forty six detached and semi-detached dwelling units with wastewater treatment plant and percolation area to serve both developments. In 2016, this permission was extended by a further five years under Planning Authority reference number 16/1636. In 2022, this permission was further extended by a further five years under Planning Authority reference number 212224. This development is at an advanced stage of construction.

Planning Authority reference number LA/1220, in 2012, the Planning Authority granted planning permission for the construction of ten dwelling units including internal access road, realigning the existing local access road, landscaping and site works.

5.0 Policy Context

5.1 Kinvara Small Growth Village Plan 2022-2028

This plan is contained within Volume two of the County Development Plan. The appeal site has the benefit of two land use zonings, existing residential within the northern and western portion of the site where the objective is: To protect and improve residential amenities of existing residential areas, and Residential (Phase 2) within the eastern and southern sections of the site where the objective is: To

protect, provide and improve residential amenity areas, as per the current Kinvara Small Growth Village Plan 2022-2028.

The following policy objective are considered to be of relevance:

KSGV 1 Sustainable Village Centre: Promote the development of Kinvara village, as an intensive, high quality, well landscaped, human-scaled and accessible environment, with an appropriate mix of uses, including residential, commercial, service, tourism, enterprise, public and community uses as appropriate, that provide a range of retail services, facilities and amenities to the local community and visitors to the villages. The village centre and associated main street shall remain the primary focus for retail and service activity within these plan areas.

KSGV 2 Sustainable Residential Communities: Promote the development of appropriate and serviced lands to provide for high quality, well laid out and well landscaped sustainable residential communities with an appropriate mix of housing types and densities, together with complementary land uses such as community facilities, local services and public transport facilities, to serve the residential population of Kinvara settlement plan. Protect existing residential amenities and facilitate compatible and appropriately designed new infill development, in accordance with the proper planning and sustainable development of the plan area. Specifically encourage living over the shop which can contribute to the vitality of the core and extend activity beyond business hours.

Policy objective KSGV 10: Connectivity to the Village New developments should be well integrated with the existing village and allow for easy and safe access and connectivity to the village centre and to the main facilities by foot and bicycle.

Policy objective KSGV 11 Stone Walls Encourage the retention and additional of the natural stone walls along roadside boundaries, housing estate boundaries and boundaries to any new development within the development boundary.

Section 16.3.1 of the Small Growth Village Plan pertains to Housing where the following is set out: A number of small-scale residential developments close to the

main core have been constructed over the last decade. Kinvara provides services to a wider rural catchment than the village itself including South Galway and North Clare and it is therefore important that it remains a viable village settlement.

The flood mapping included as part of the Kinvara Small Growth Village Plan sets out that the appeal site and the lands in its immediate vicinity are located within an indicative Flood Zone C area.

5.2 Galway County Development Plan 2022-2028

The Development Plan was adopted by the elected members on the 9th May and came into effect on the 20th day of June 2022.

Chapter 2 of the Plan places Kinvara within the Tier 6 settlements-Small Growth Villages and Volume 2 of the Development Plan includes Small Growth Village Plans for these settlements, including Kinvara.

Table 2.9 sets out the Core Strategy Table where it is envisaged that the population of Kinvara would grow by 200 persons over the plan period with 115 residential units to be developed on greenfield sites to sustain this population growth.

Section 2.4.10 sets out the following vision for Small Growth Villages: The residential development will be proportioned to the growth of the villages. The growth strategy will focus on the localised sustainable growth that meets the needs of the local population and wider rural hinterland.

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The following policy objectives are considered to be of relevance:

SS6-Small Growth Villages (Level 6):

To Protect the consolidation of the Small Growth Villages in order to improve local employment, services, rural housing and sustainable transport options.

Section 2.3.12-Key principles-Compact Growth

CS 2-Compact Growth

To achieve compact growth through the delivery of new homes in urban areas within the existing built up footprint of settlements, by developing infill, brownfield and regeneration sites and prioritising underutilised land in preference to greenfield sites.

Section 3.5.8 Design Quality

PM 1- Placemaking

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

Section 3.7.1-Infill sites

Section 7 of the Development Plan relates to provision of water and wastewater services infrastructure:

WW 4 Requirement to Liaise with Irish Water – Wastewater

Ensure that new developments will only be permitted which are adequately serviced with sufficient capacity for appropriate collection, treatment and disposal (in compliance with the Water Framework Directive and River Basin Management Plan) to the public sewer unless provided for otherwise by the plan. Developers shall liaise with Irish Water with regard to the wastewater (and water) infrastructure to ensure sufficient capacity is available prior to the submission of a planning application.

WW 7 Sustainable Drainage Systems

To require the use of Sustainable Drainage Systems to minimise and limit the extent of hard surfacing and paving and require the use of SuDS measures be incorporated in all new development (including extensions to existing developments). All development proposals shall be accompanied by a comprehensive SuDS assessment including run-off quantity, run off quality and impacts on habitat and water quality.

WW 8 Storm Water Infrastructure

To support the improvement of storm water infrastructure and to increase the use of sustainable drainage and reduce the risk of flooding in urban environments.

Policy objective LP1: lighting schemes

Policy objective PM 4: Sustainable Movement within towns

PM 10-Design Quality

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

Section 15.2.3 Guidelines for residential development in Towns and Villages.

DM Standard 2: Multiple Housing Schemes (Urban Areas).

In relation to public open space, the following is set out:

The provision of high quality accessible public open space should be set out as an integral part of the design process for proposed development.

Section 15.3 - Guidelines for Residential Development (Urban and Rural Areas)

In relation to private open space the following is set out:

Private Open Space shall be designed for maximum privacy and oriented for maximum sunshine and shelter. In general, a minimum back-to-back distance between dwellings of 22 meters shall apply in order to protect privacy, sunlight and avoid undue overlooking.

DM Standard 28: Sight distances

DM standard 32 sets out parking standards which require 1.5 spaces for 1-3 bed dwellings and 2 spaces for 4+ bed dwellings.

DM Standard 38: Effluent Treatment Plants

5.3 National Guidance

5.3.1 National Planning Framework 2040

The National Planning Framework includes a number of National Policy Objectives which are relevant and pertinent to the current proposals.

National Policy Objective 11

In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns, and villages subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 13

In urban areas, planning, and related standards, including in particular 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”.

5.3.2 **Sustainable Residential Development in Urban Areas, Guidelines (DoEHLG, 2009):**

These statutory guidelines update and revise the 1999 Guidelines for Planning Authorities on Residential. The objective is to produce high quality – and crucially – sustainable developments:

- quality homes and neighbourhoods,
- places where people actually want to live, to work and to raise families, and
- places that work – and will continue to work - and not just for us, but for our children and for our children’s children.

5.3.3 **Section 28 Ministerial Guidelines**

The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’) (DoH&LG 2009)
- ‘Design Manual for Urban Roads and Streets’ (DMURS 2013)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) (DoEH&LG 2009)
- ‘Quality Housing for Sustainable Communities’ Best Practice Guidelines (DoEHLG 2007)
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (DoEH&LG 2009).

5.4 **Natural Heritage Designations**

The closest designated European Sites are the Galway Bay Complex SAC (site code 000268) and the Inner Galway Bay SPA (site code 004031) both of which are located approximately 220 metres north-west of the appeal site.

The closest Natural Heritage Area (NHA) is the Galway Bay NHA, (site code 000268), which at its closest point is located approximately 220 metres north-west of the appeal site boundary.

5.5 Environmental Impact Assessment (EIA) Screening

It is proposed to construct 10 residential units. The number of dwellings proposed is well below the threshold of 500 dwelling units as set out within Schedule 5, Part 2, Class 10 of the Planning and Development Regulations, 2001, as amended. The site has an overall area of 0.53 hectares and is located within the designated settlement boundary of Kinvara. The site is not located in a business district and currently constitutes residentially zoned and serviceable lands, within the development boundary.

An Environmental Impact Assessment Screening Report was not submitted with the appeal.

Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

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

The site area is therefore, well below the applicable threshold of 10 hectares (ha.) for a built-up area and 20 ha in the case of a site contiguous to the built-up area.

As per the criteria set out within Schedule 7 of the Planning and Development Regulations 2001 (as amended)), as to whether a development would/would not have a significant effect on the environment, the introduction of a residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that Kinvara is located within an area designated as being of high landscape sensitivity and the proposed development would not potentially have a significant effect on a European Site (as discussed below in Section 7.7 of my report) and there are no surface water hydrological connection(s) present such as would give rise to likely significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not likely give rise to a deterioration in water quality, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Galway County Council, upon which its effects would be marginal.

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are governed by a residential zoning objective under the provisions of the Kinvara Small Village Plan, and the results of the Strategic Environmental Assessment of the Galway County Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,

- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).

I have concluded that, having regard to the nature, scale and location of the subject site within of the confines of the settlement boundary on serviceable lands, the proposed development would not be likely to have significant effects on the environment. On preliminary examination, there is no real likelihood of significant effects on the environment, arising from the proposed development. The need for Environmental Impact Assessment Report (EIAR) can, therefore, be excluded at preliminary examination.

6.0 The Appeal

6.1 Grounds of Appeal

6.1.1 First Party appeal submission

A first party appeal submission was received from Mr Joe McSweeney Architects on behalf of the applicants, Vervine Enterprises Ltd. The issues raised within the appeal submission can be summarised as follows:

Development Plan Provisions/Land use zoning

- The planning application was submitted to Galway County Council during the lifetime of the Galway County Development Plan 2015-21 and the planning decision should have been based on the provisions of that particular plan.
- It is not possible to prepare proposals in relation to a Draft Development Plan which had not yet come into effect.

- The proposal would comply with the provisions of Section 3.7.1 of the GCDP 2022 in relation to infill sites.
- The proposals would support the CS2 policy objective within the Development Plan in relation to compact growth.
- Under the provisions of the Kinvara Small Village Plan (KSVP) 2022-2028, part of the lands are zoned existing residential and part residential (phase 2).
- Specific land use zoning policy objective SGV 1 within Volume 2 of the current Development Plan provides for the development of residential phase 2 lands, where it is apparent that the residential phase 1 lands cannot or will not be developed for residential purposes within the plan period.
- The current proposals would comply with the Core Strategy and with the principles of proper planning and sustainable development in terms of having strong connectivity to the village centre.
- The proposals would add to the overall increase in housing numbers to meet the population growth anticipated for the County within the Core Strategy.
- Proposals would comply with the SH4 adaptable housing policy objective where the two bedroom units are designed as lifetime adaptable homes suitable for those wishing to downsize. The ground floor front room is designed as either a sitting room or bedroom with direct access to the ground floor shower room. The flexible format would suit a disabled person, a family member or a carer or indeed would be suitable for first time buyers as a starter home.

Development in vicinity of appeal site

- A number of residential developments have been constructed/permitted further east of the appeal site and further removed from the village centre. Therefore, the appeal site would constitute an infill site.

- Galway County Council have permitted and developed a ten unit social housing development south-east of the appeal site under the Part 8 procedures of the Planning and Development Act 2000, as amended.
- The proposals would constitute sequential development, given a number of residential sites have been developed/permitted further east of the appeal site and, therefore, would not be contrary to the SGV 1 residential phasing as set out within the Development Plan.
- A number of residential developments in the area have been permitted by the Planning Authority and have had their permissions extended but remain un-developed to date.
- Other residential lands are in multiple ownership and, therefore, will prove difficult to develop in the short term at least.
- These undeveloped/undevelopable lands comprise more than 50% of the total residential phase 1 lands within Kinvara village.
- The Bothar na Mias residential development comprising forty six residential units has been developed further east of the appeal site and an additional 36 houses (phase 2-Bothar na Mias) has been permitted further north-east of the appeal site.
- There are dwellings and a secondary school between the appeal site and the village centre, west of the appeal site.
- There are residential (phase 1) lands located to the north-west of the appeal site which are not as accessible as the appeal site and are located further away from the village centre than the appeal site (in terms of walking or cycling).
- A number of the Phase 1 residentially zoned lands within the village have received planning permissions and were never developed within the lifetime of their permissions.

Design and layout:

- The design statement which accompanies the planning application deals with compliance with the GCDP 2015-21, the Plan in place at the time the application was submitted to the Planning Authority.

- The two bedroom houses (eight units in total) are designed as lifetime adaptable homes suitable for older people or people wishing to downsize. The ground floor front room has been designed as either a sitting room or a bedroom with direct access to the ground floor shower room. This arrangement would also facilitate disabled residents. The format could suit a family member or carer with a first floor sitting room. The houses would also be suitable for first time buyers.
- The ridge heights on unit numbers nine and ten can be lowered by 1 metres than that originally submitted. Appendix D of the appeal submission illustrates the lower ridge heights.

Flooding and Services:

- **Connection to all of the utility services is possible from the appeal site.**
- **The owner of the third party lands immediately east of the appeal site in which it is intended to tap into their permitted services has submitted a supporting letter for the current proposals,**
- **In the event that the second phase of the Bothar na Mias residential development does not proceed as permitted under planning reference 21/566, Vervine enterprises have consent to develop the services themselves on the third party lands which would outfall to the existing Irish water services.**
- **Irish Water have submitted correspondence approving the connection route to the services.**
- **The wastewater proposals have been designed in accordance with best practice standards and meet all the requirements set out by Irish Water. This will ensure that no adverse impact will arise in relation to conservation objectives of nearby European sites.**
- **Two existing septic tanks serving existing houses would be decommissioned and the existing residential properties would be connected into the public services resulting in an environmental gain.**

- It is proposed to develop a separate surface water line through the adjacent Bothar na Mias residential development and connect into an existing surface water manhole.
- There is adequate capacity within the proposals to manage the surface water generated by the current proposals.
- The surface water management proposals would comprise a number of measures including the surface water piped network, an attenuation storage tank, soakpits in rear garden areas, rainwater collection butts providing for a coordinated Suds approach.
- Rainwater runoff rates will be equivalent to greenfield runoff rates.
- A class 1 by-pass oil interceptor will be provided before water enters the attenuation system.
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- The applicants Consultant Engineers have revised the foul water discharge details which will tap into the foul services of the Bothar na Mias development, which were also designed by the same firm of Consultant Engineers.
- Correspondence from the adjoining landowner, Mr, Michael Burke has been submitted consenting to tapping into the site services.
- The applicants can proceed with the upgrading of the foul sewer network (as submitted to Irish Water) in the event that the neighbouring developer does not proceed with the extension of the Bothar na Mias residential development.
- Correspondence has been submitted from Irish Water agreeing in principle to the route of the foul sewer connection to the public sewer network.

- **Two septic tanks will be decommissioned as part of these works and the dwellings concerned would be connected to the public foul sewer under these proposals.**
- **The foul sewer system is designed in compliance with IW standards and ensure that the that no adverse impact will arise to any European sites.**
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- **The applicants Consultant Engineers have revised the surface water discharge details which will tap into the surface water services of the adjoining land owner, which were also designed by the same firm of Consultant Engineers.**
- **The surface water proposals will fully comply with the surface water policies as set out within the current Galway Development Plan.**
- **SuDS principles will be incorporated with the surface water management proposals and include the use of an oversized attenuation tank, soakpits in rear garden areas, water butts within each dwelling unit, A class 1 hydrocarbon interceptor will also be fitted within the surface water proposals prior to final discharge from the appeal site. An allowance for climate change has also been included in the surface water proposals as per best practice for surface water management.**

Access and Traffic:

- There is strong connectivity with the village with a continuous public footpath and public lighting linking the appeal site to the village centre and its facilities in compliance with policy objective KSGV10 (Vol 2, GCDP 2022).
- The applicants' Consultant Engineers have submitted additional drawings and details as part of their appeal submission in relation to sight distances and auto-track, road markings and upgrade works to the L85531 carriageway.

- The L85531 carriageway width would be widened to six metres and surface water gullies and drains installed along its length. The road surface would also be upgraded as part of the proposals.
- Sightlines of 45 metres would be available in both directions along the L85531 from the site entrance. The roads and paths infrastructure has been designed in accordance with the Design Manual for Urban Roads and Streets Guidance 2013 (2023 as updated).
- A lighting plan has been designed and submitted as part of the appeal submission for the illumination of the residential development and along the upgraded L85531 and would be implemented as part of the proposals.
- The proposals would be fully compliant with specific policy objective LP1 which pertains to public lighting provision.
- The applicant states that they are willing to conduct a Road Safety Audit would be conducted by the applicants and any recommendations within the RSA would be implemented within the development proposals.
- The proposals for the new public footpath and realignment on both L85531 and the L4509 have been designed by Consultant Engineers in accordance with best practice road safety standards.
- The footpaths surfaces are to be suitably surfaced and will be provided with suitable surface finishes and drainage.
- The lands for the upgraded roadways and footpaths are either within the applicants' ownership or public ownership and no third party land owners will be adversely affected by these works.
- The proposed roads and footpath improvements would bring the existing substandard conditions of these roads and footpaths to a higher standard and provide for higher quality infrastructure, in terms of safety, accessibility and connectivity for locals in accordance with policy objective CS6 of the current Development Plan.
- Road safety along the L4509 would be improved with the widening of the existing narrow footpath, consistent with footpath widths further east and west, thus eliminating pinch point on a footpath that provides access to a local school.

Other Matters:

- The boundary discrepancies have been clarified within revised drawings submitted as Appendix D accompanying the appeal statement.
- A Construction environmental Management Plan (CEMP) and a Construction and demolition plan (C & D) plan have been submitted and can be further developed in the event that planning permission is forth coming.
- The developer sets out that the proposed roads, footpaths, streetlighting and open space will be taken in charge by Galway County Council upon completion of the development.

6.2 **Planning Authority Response**

None received.

6.3 **Observation(s)**

None received.

7.0 **Assessment**

7.1 The main issues are those raised within the grounds of appeal and the Planning Report, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Design and Layout
- Services and Flood Risk.
- Access and traffic.
- Other Issues.
- Appropriate Assessment

7.2 **Principle of Development**

7.2.1 The first reason for refusal set out that the appeal site is located on lands that are partly zoned (existing) residential and partly residential (phase 2) and, therefore,

would be contrary to the sequential development of the village and to the provisions set out within the Core Strategy of the Development Plan. The Core Strategy sets out that residential (phase 1) zoned lands are to be prioritised and therefore the current proposals would be contrary to the sequential approach to residential development as recommended within the Sustainable Residential Development in Urban Areas Guidelines 2009.

7.2.2 The appeal site is located on lands zoned residential (existing) and residential (phase 2) as per the Kinvara Small Growth Village Plan as set out within Volume two of the current Galway County Development Plan (GCDP) 2022-28. The applicants set out within their appeal submission that 3,113 square metres (sq. m.) or 58% of the site area is zoned residential (phase 2) and the remainder of the site area 2.234 sq. m. (42% of the total site area) is zoned existing residential. The applicants set out that the front part of the appeal site would constitute an infill site as provided for under Section 3.7.1 of the current Galway County Development Plan (GCDP) 2022-28 and that the rear part of the site would constitute backland development and the development in its totality would contribute the achievement of compact growth as provided for under policy objective CS 2 of the Development Plan.

7.2.3 I acknowledge the context of the appeal site lands, which are located approximately 400 metres south east of the Main Street of Kinvara village. There are individual houses developed in a linear fashion and a school located west of the appeal site, in the direction of Kinvara village fronting onto the Gort Road. Further east of the appeal site is a residential development, Bothar na Mias, a development comprising 54 residential two storey semi-detached and detached units which has been recently developed. I also note that an additional thirty six residential units have been permitted, which is phase two of the Bothar na Mias development and is currently at an early stage of construction. Galway County Council have also developed a ten unit social housing scheme further south east of the appeal site. These developments are all located further removed from the village than the appeal site. Therefore, I consider from a sequential perspective, the appeal site would be suitable for development. The Development Plan provides for development of the front portion of the site given its zoning as existing residential and, therefore, is not constrained by Core Strategy provisions.

7.2.4 The rear portion of the site is zoned residential (phase 2), which are not generally envisaged to be developed during the lifetime of the GCDP 2022-28. I note that there are lands, located north-west of the appeal site and further along the L85531 zoned residential (phase 1), even though they would be further removed (by walking or cycling) from the village centre than the current appeal site. I note from a planning history search within the wider settlement of Kinvara, that a number of permissions have been granted on residential (phase 1) lands and have also benefitted from extension of duration permissions but remain undeveloped and a number of these permissions have now elapsed/withered. The applicants state that these other lands comprise in excess of 50% of the residential phase 1 zoned lands as per the current Kinvara Village Plan 2022. I note that the entirety of the lands surrounding this rear portion of the appeal site are either zoned phase 1 residential or existing residential. The remainder of the residential phase 2 lands are located on the perimeter of the settlement boundary. That is not the case with this appeal site. I note that the appeal site lands are serviceable, and this will be addressed in detail below within Section 7.3 of my report. Therefore, on balance, I consider it appropriate to consider the merits of the current proposal for the development of ten residential units as they could be considered to constitute an infill site between the recently constructed Bothar na Mias residential development and the village centre. I also consider the site to be sequentially appropriate to develop given its location on the village side of a number of existing and permitted residential developments, all permitted by the same Planning Authority.

7.2.5 Therefore, I am satisfied the principle of residential development could be acceptable in this instance, given the lands have the benefit of a residential land use zoning objective as per the provisions of the current Development Plan.

7.2.6 The Settlement Strategy for the County is set out within Section 3.4 of the Plan and designates Kinvara as a small growth village. The Core Strategy envisages that 115 residential units will be needed to cater for the population growth of 200 persons envisaged to meet the growth needs of the town over the plan period from 2022 to 2028. There are 7.4 hectares of residential zoned lands (phase 1) identified in the current plan to cater for the growth in population anticipated over the plan period, as provided for under Section 4.4.3 of the Development Plans - Guidelines for Planning

Authorities, Department of Housing, Local Government and Heritage, June 2022. From the planning history in the Kinvara area It is apparent that a significant portion (in excess of 50%) of these lands have had planning permissions expire on them in recent years and therefore are not likely to be developed in the short term, at least. Given the subject lands constitute an infill site and a significant proportion (42%) of the lands are zoned existing residential, and the location of the site is in a sequentially appropriate location, therefore, I consider that the appeal site is appropriate for development in principle, subject to issues in relation to design and layout, servicing and flooding, access and traffic being satisfactorily addressed.

7.2.7 The current proposals, located on residentially zoned and serviceable lands, would provide for additional housing units, as provided for within the Core Strategy. Therefore, I consider, the current proposals would be appropriate in principle and would be consistent with the provisions of the Core and Settlement Strategies within the current Galway Development Plan.

7.2.8 In conclusion, Section 3.7.1 of the Galway Development Plan (GCDP) 2022 sets out locations suitable for residential development in urban areas including: Infill sites. The appeal site, located within the designated settlement boundary of Kinvara village, on residential zoned lands that are serviceable would fall within this category of location (infill) and, therefore, would be acceptable in principle and would be consistent with the Core and Settlement Strategies as set out in the current Development Plan.

7.3 **Services and Flood Risk**

7.3.1 The second reason for refusal as set out by the Planning Authority related to the unsatisfactory foul effluent disposal proposals and that the lack of satisfactory foul proposals could result in an adverse impact upon the conservation objectives of the Galway Bay Natura 2000 sites.

7.3.2 I note from the planning appeal documentation submitted, that the applicants' Consultant Engineers have submitted revised foul effluent proposals having regard to the issues outlined by the Local Authority within its planning decision. The revised foul proposals pertain to an outfall into a foul sewer pipe network that is permitted to serve the permitted Phase two element of the Bothar na Mias residential

development, immediately east of the appeal site. The appellants have submitted a letter of consent from the owner and developer of the neighbouring Bothar na Mias development, Mr Michael Burke, who has consented to the appellants tapping into the permitted foul sewer line, located north-east of the appeal site. The appellants have set out that in the event that Mr Burke/the neighbouring developer does not construct this sewer line, that Vervine Enterprises (the appellants) have consent to enter onto the lands to develop a 225 mm foul sewer line which would ultimately connect into the Irish Water foul piped network. These infrastructural proposals have been agreed in principle with Irish Water who acknowledging that there is adequate capacity within the local foul sewer network to cater for the proposals, correspondence to this effect is included as part of the appeal submission (Appendix C).

- 7.3.3 I consider that the foul sewer proposals which would ultimately outfall to the public foul sewer network to be acceptable. I am also satisfied that there is adequate capacity within the public sewer to cater for the foul effluent that would be generated by the ten residential units. The Kinvara Small Village Plan as set out with Volume two of the GCDP 2022-28 also sets out that there is adequate capacity available within the foul sewer network. I acknowledge the correspondence from Irish water and the letter of consent from the adjoining land owner Mr Burke which allows for the development of the sewer line on third party lands.
- 7.3.4 Section 5.13 of the Development Management Guidelines for Planning Authorities advises that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. I refer to Section 34(13) of the Planning and Development Act 2000 (as amended) which sets out the following: “A person shall not be entitled solely by reason of a permission under this section to carry out any development”. I am satisfied that the provisions outlined above give the Board sufficient comfort to permit the residential development.
- 7.3.5 The fourth reason for refusal related to the absence of a site-specific flood risk assessment and the design of the surface water would not be satisfactory and the PA was not satisfied that the appeal site is not at risk of flooding or would not increase the risk of flooding in the vicinity of the appeal site.

- 7.3.6 I note from the planning appeal documentation submitted, that the applicants' Consultant Engineers have submitted revised surface water outfall proposals having regard to the issues outlined by the Local Authority within its planning decision. The revised surface water outfall proposals would involve the development of a separate surface water sewer pipe line into the adjoining development and connecting into an existing surface water manhole that serves the adjoining Bothar na Mias residential development, east of the appeal site. The applicants have submitted a letter of consent from the owner and developer of the neighbouring Bothar na Mias development, Mr Michael Burke, who has consented to the applicants tapping into the surface water sewer line, located north-east of the appeal site.
- 7.3.7 I consider that the surface water sewer proposals which would ultimately outfall to the public surface water sewer network to be acceptable. The Kinvara Small Village Plan as set out with Volume two of the GCDP 2022-28 also sets out that there is adequate capacity available within the surface water sewer network. The applicants are proposing the use of surface water management tools within their design, including SuDS proposals which will restrict the surface water run-off from the appeal site to green field run-off rates. I also acknowledge the letter of consent from the adjoining land owner, Mr Burke, which provides for the development of the surface water sewer line on his lands.
- 7.3.8 The flood mapping recently conducted as part of the review of the Galway Development Plan 2022 sets out that the appeal site lands are not at risk of flooding, given their location within Flood Zone C. Notwithstanding the fact that a highly vulnerable use (residential) is proposed, the preparation of a justification test is not specifically required as per the FRMG's. The applicants have submitted details of SuDS proposals in the form of an attenuation tank, soakpits, water butts and rainwater harvesting which will all provide for surface water discharge rates equivalent to greenfield runoff rates and that surface water storage volumes would accommodate a 1:100 year return period rainfall event within the designated storage area, plus 25% capacity for climate change. I am satisfied that the proposals would not increase the risk of flooding on site nor in the vicinity of the appeal site. and, therefore, the third reason for refusal as set out by the Planning Authority should be upheld.

7.3.9 I refer to the Office of Public Works (OPW) website floodinfo.ie where the appeal site is not identified as being within an area of flood risk and neither is there a history of flood events on site or within this area.

7.3.10 In conclusion, based on the flood information available within the Development Plan, on the OPW website and as per the site-specific information provided by the applicants within their Flood Risk Assessment, I am satisfied that subject to the inclusion of the surface water management proposals, including on site attenuation that the development proposals will not increase the risk of flooding on site or within the neighbouring lands.

7.4 Access and Traffic

- 7.4.1 The third reason for refusal as set out by the Planning Authority relates to the unsatisfactory capacity, width, alignment, surface and structural condition of the pavement and the absence of demonstrated sightlines in accordance with DM Standard 28 as set out within the Development Plan at the junction of the L85531 with the L4509. The Planning Authority set out that the proposals would result in endangerment of public safety by reason of a traffic hazard or obstruction of road users and would establish an undesirable precedent.
- 7.4.2 The access to the eight semi-detached dwellings would be located on the L85531 (cul-de-sac) and within the 50 kilometres per hour speed control zone of the village. The L85531 has a narrow carriageway width of approximately four metres at its junction with the L4509 and narrows to three metres further north-east of the junction. There are no footpaths nor street lighting along this roadway at present. The L4509 is the main road linking Kinvara with Gort. It has a carriageway width of approximately 6 metres, however, there is a narrow footpath along the site frontage, measuring approximately 800 millimetres.
- 7.4.3 A natural stone wall with hedging behind exists along the appeal site frontage onto the L4509. It is proposed to set this boundary wall back so that a two metre wide footpath and streetlighting, consistent with the pavements further west and east along the L4509 can be developed. It is also proposed to upgrade the L85531 to provide for a carriageway width of 6 metres, I consider that the upgrade of the L85531 would provide for improved capacity, structure and surface along this road, provide for improved safety for pedestrians with the development of footpaths and streetlighting

along this cul-de-sac for the benefit of future residents and the existing residents who reside on this cul-de-sac. The setting back of the roadside boundary along the L4509 would also improve sightlines at the junction of the cul-de-sac with the L4509. As per Table 4.2 of the Design Manual for Urban Roads and Bridges Guidance , 2013 (as updated in 2023) sightlines of 45 metres are required for access points where the 50 km/h speed control zone applies. from a 2.4 metre set back from the edge of the carriageway. Presently those sightline standards are not achievable from the existing entrance point, as the roadside boundary wall would impede sightlines. I am satisfied that adequate sightlines would be achievable in accordance with the DMURS standards provided that the boundary wall setback works as proposed along the L4509, are completed. This is a matter that could be addressed by means of an appropriate planning condition.

- 7.4.4 The applicants are proposing to access the two individual detached dwellings directly from the L4509 within the 50 kilometres per hour speed control zone of the village. The setting back of the roadside boundary would improve sightlines for the entrance points to these two dwellings. I am satisfied that adequate sightlines would be achievable in accordance with Table 4.2 of the best practice standards set out within the Design Manual for Roads and Bridges (DMURS) 2013 (as updated in 2023), provided the setback works are completed. This is a matter that could be addressed by means of an appropriate planning condition.
- 7.4.5 The fifth reason for refusal relates to a section of footpath proposed along the L85531 and the absence of a public lighting plan for the residential development and along the L85531 would endanger public safety and be contrary to specific policy objectives LP 1, PM4 and KSGV10.
- 7.4.6 The applicants have set out within their appeal submission that the lands on which the footpath/streetlighting along the L85531 would be developed on lands within their ownership or on lands that have been taken in charge by the Local Authority. Correspondence to this effect has been submitted by the applicants, (and included within Appendix C of the appeal submission). Therefore, I am satisfied that the applicants have demonstrated sufficient legal interest to carry out the footpath and streetlighting works on land outside of their ownership, subject to agreement with the Local Authority.

- 7.4.7 An outdoor lighting Report prepared by the applicants outdoor lighting Consultants provides details of a lighting plan for the residential development and for sections of the L85531 and the L4509 (Appendix D within appeal submission). I am satisfied that this addresses the Planning Authorities concerns regarding the absence of a lighting plan. Final details of the lighting plan could be agreed in writing with the Local Authority prior to the commencement of development.
- 7.4.8 There is an existing footpath along the L4509 which connects the L85531 in a westerly direction towards the village centre and in an easterly direction towards the Bothar na Mias residential development. KSGV 10 pertains to connectivity and the current proposal would improve connectivity in the area in terms of providing a new footpath and streetlighting along the L85531 to serve existing and future residents and the setting back of the roadside boundary along the L4509 would provide for an improved and widened footpath at this location.
- 7.4.9 I am satisfied that the scale of the development would not result in excessive traffic levels being generated and that the proposals are designed in accordance with the Design Manual for Urban Roads and Bridges standards (DMURS) best practice standards and therefore, safety of pedestrians and drivers is optimised.

7.5 Other Issues

- 7.5.1 I note that the submission received by the Planning Authority from the neighbouring property owner to the north of the appeal site raised a number of issues in relation to boundary treatments and adverse impact upon his residential amenity. The applicants propose to retain the existing boundary wall and tree planting along the northern site boundary, that nearest the property of the person who made the submission. The northern part of the appeal site will be used as public open space to serve the residential development and the nearest residential dwelling to the nearest part of his dwelling would be approximately 30 metres. Therefore, having regard to the generous separation distances and the retention of existing boundary walling and tree planting and the inclusion of additional landscaping proposals, I am satisfied that the residential amenity of neighbouring residents will not be adversely impacted upon.
- 7.5.2 The Planning Authority referenced inconsistencies in the planning drawings submitted in terms of the red line application site boundary. As part of their appeal

submission, the applicants have submitted revised drawings whereby the red line application site boundary is consistent in terms of the boundary lines that are followed.

7.5.3 I note that the ground levels on the appeal site are higher than those of the neighbouring residential property to the south. However, having regard to the generous separation distance between the appeal site and the neighbouring residential properties, and the retention of the boundary wall and tree planting along the boundary along with the inclusion of the proposed landscaping plan and the reduction in ridge heights of dwelling numbers nine and ten by one metre, I am satisfied that the residential amenities of neighbouring dwellings will not be adversely impacted upon.

7.6 Appropriate Assessment Screening

Background to Application

7.6.1 An Appropriate Assessment Screening Report and Natura Impact Statement were submitted as part of the planning documentation. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was not used. The information contained within the submitted reports is considered sufficient to allow me to undertake an Appropriate Assessment of the proposed development.

7.6.2 The AA Screening Report states that this assessment was reached without considering or taking into account mitigation measures or protective measures included in the construction management plan prepared for the proposed development.

7.6.3 The applicants AA Screening Report concludes that: there is potential for negative effects to take place. Effects on some of the qualifying interests and conservation objectives of the Galway Bay Complex SAC and the Inner Galway Bay SPA site, as a result of the proposed development in question, alone or in combination with other plans and projects in the area have to be considered. The habitats and species that could be affected are stated to include:

- Mudflats and sandflats not covered by seawater at low tide.

- Coastal lagoons.
- Large shallow inlets and bays.
- Reefs.
- Salicornia and other annuals colonising mud and sand.
- Atlantic salt meadows,
- Mediterranean salt meadows,
- Harbour Seal
- Otter
- Wetlands
- Winterbirds

7.6.4 The appeal site is located approximately 220 metres south-east of the European sites, however, there is no watercourse within the appeal site boundary and site levels fall from north-west to south-east, away from the European sites. As the project is close to the Natura 2000 sites, the proposed development may have potential to have effect on the protected site during construction, via groundwater. As a result, an Appropriate Assessment (AA) may be required in order to further assess the significance of the potential effects on the Galway Bay Complex SAC and the Inner Galway Bay SPA. A Natura Impact Statement has been submitted to inform such an assessment, if deemed required by the Board..

7.6.5 Having reviewed the documents and the submission from the Department of Housing, Local Government and Heritage to the Planning Authority and noted the comments from the Environment Section within Galway County Council, 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.

AA Screening

7.6.6 **The project is not directly connected to,** or necessary to the management of a European Site. The development is examined in relation to any possible interaction with European sites designated as Special Areas of Conservation (SAC) or Special

Protected Areas (SPA), to assess whether it may give rise to significant effects on any European site.

Description of Development Site

7.6.7 The development is described in Section 2 of my report. The proposed residential development is located on residentially zoned lands within the designated settlement boundary, south-east of the village of Kinvara and accessed directly and indirectly off the Gort Road. The site is not located in close proximity to the Galway Bay Complex SAC nor the Inner Galway Bay SPA which are protected by a number of nature conservation designations. The residential development would comprise two storey detached, and dormer style semi-detached dwellings. The development would be connected to the public foul and surface water sewer networks. Ultimately surface and foul effluent from the development would outfall to Galway Bay via the piped networks, subsequent to treatment. The development will also connect to the public water mains.

7.6.8 The appeal site comprises grassland habitat as well as garden areas of adjacent residential properties. The appeal site is dry underfoot with areas of disturbed ground, spoil and bare ground within it. There are no watercourses or land drains located within the appeal site boundaries. The site is bordered by stone wall boundaries, overgrown with scrub vegetation, with some treeline planting and hedging also along the site boundaries.

Submissions/Observations

7.6.9 I have reviewed the submissions made and I note that the appeal submission received from the applicant's addresses the issue raised by the Planning Authority in relation to potential impact upon water quality in terms of the applicants foul sewer proposals.

Characteristics of Project:

7.6.10 The relevant characteristics of the project that might give rise to potential impact upon a European site(s), both during the construction and operational phases are as follows.

Construction impacts:

- Deterioration in water quality arising from surface water run-off from the appeal site to Galway Bay in Kinvara.
- Potential for construction noise disturbance.
- Loss of foraging habitat

Operational Impacts:

- Deterioration in water quality arising from surface water run-off from the appeal site to the Galway Bay Complex SAC and the Inner Galway Bay SPA..
- Noise and light impacts arising from the occupation of the residential development due to increased footfall and activity on site.

7.6.11 No watercourse flows directly through the appeal site; Neither are there drainage ditches running through the appeal site or along the site boundaries. The appeal site is located within the Kilchreest hydrological sub-catchment area and in the Kinvara - Gort groundwater catchment, The groundwater catchment status was recorded as being good (Source EPA Water Framework Directive monitoring programme 2013-2018). The Kilchreest groundwater body passes underneath the eastern portion of the site and was recorded as having a good ecological status under the EPA Water Framework Directive monitoring programme 2013-2018.

Operational Phase:

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

Designated Sites and Zone of Influence

7.6.13 A potential zone of influence has been established having regard to the location of European sites, the Qualifying Interests (QIs) of the sites, the source-pathway-receptor model and potential environment effects of the proposed project.

7.6.14 A number of European sites in the wider area were examined by the applicant and found not to be within a likely Zone of Influence as no hydrological pathway between them and the appeal site or due to the significant hydrological separation distances between them and the appeal site. I consider that only sites within the immediate

area of the proposed development require consideration as part of the screening process.

7.6.15 The following Natura 2000 sites are considered to be located within a possible zone of influence of the proposed development site.

Table 1:

European Site	Qualifying Interests	Distance from Appeal Site	Potential Connections (source-pathway-receptor)	Further Consideration in Screening
Galway Bay Complex SAC 000268	Mudflats and sandflats not covered by seawater at low tide. Coastal lagoons. Large shallow inlets and bays. Reefs. Salicornia and other annuals colonising mud and sand. Atlantic salt meadows. Mediterranean salt meadows. . Otter Harbour Seal	Approximately 218 metres north of the appeal site.	Potential hydrological connectivity between the appeal site and the SAC via the ground water network. Potential for release of sediment and/or hydrocarbons to ground and/or surface water runoff during construction activities. Potential for diffuse pollution to arise in surface waters arising from household sewage and wastewaters discharge and adversely impact on habitats/species.	Yes.
Inner Galway Bay SPA 004031	Black-throated Diver Great Northern Diver	Approximately 240 metres north of the appeal site.	Potential hydrological connectivity between the appeal site and the SPA via the ground water network. Potential for	Yes.

	<p>Cormorant.</p> <p>Grey Heron.</p> <p>Light-bellied Brent Goose.</p> <p>Wigeon.</p> <p>Teal.</p> <p>Red-breasted Merganser.</p> <p>Ringed Plover.</p> <p>Golden Plover.</p> <p>Lapwing.</p> <p>Dunlin.</p> <p>Bar-tailed Godwit.</p> <p>Curlew.</p> <p>Redshank.</p> <p>Turnstone.</p> <p>Black-headed Gull.</p> <p>Common Gull.</p> <p>Sandwich Tern.</p> <p>Common Tern.</p> <p>Wetland and Waterbirds.</p>		<p>release of sediment and/or hydrocarbons to ground and/or surface water runoff during construction activities.</p> <p>Potential for diffuse pollution to arise in surface waters arising from household sewage and wastewaters discharge and adversely impact on species.</p>	
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Identification of Likely Significant Effects

7.6.16 The Inner Galway Bay SPA and the Galway Bay Complex SAC are the two European sites being considered as part of this assessment due to the possibility of habitat degradation arising from potential construction impacts in the form of release

of hydrocarbons and/or sediment during groundwork excavations and the potential for adverse impacts to arise within the groundwater system linked with Galway Bay resulting in potential adverse impacts upon water quality, alone or in combination, with other pressures on transitional water quality.

7.6.17 In terms of noise, the main impacts would arise at construction stage where excavation works would be conducted in order to develop the foundations for the dwellings. I note that best practice construction methods would be implemented as set out within Section 5.2.1.1 of the NIS, and environmental considerations such as noise, dust and vibration are addressed as part of a preliminary Construction Environmental Management Plan (CEMP) I note that a preliminary (CEMP) and a Construction Waste Management Plan (CWMP). were submitted as part of the appeal documentation. I consider the inclusion of best practice construction measures to be acceptable. This is a matter that could be addressed by means of an appropriate planning condition.

7.6.18 **Given the greenfield status of the appeal site, which is grass surfaced and surrounded by hedgerow and trees, it may provide for suitable foraging grounds for winter birds associated with the Inner Galway Bay SPA, which is located 0.22 kilometres north-east of the appeal site.** The walkover survey conducted as part of the Ecological assessment that there was no evidence of Annex 11 species associated with the Galway Bay Complex SAC or Special Conservation Interest Species bird species associated with the Inner Galway Bay SPA recorded within the appeal site boundaries and no suitable habitat on the site to support these protected species. No water quality objectives have been set out for the Inner Galway Bay SPA. Catchments.ie have classified the water quality in Galway Bay as good, which would indicate that the bay has not been impacted upon by either wastewater or surface water outfalls from development within the area to date. I am also satisfied that there is adequate capacity within the foul sewer network to cater for the foul effluent arising from the development. I note that there are a number of other similar greenfield sites in the vicinity of the appeal site which could act as suitable foraging grounds for winterbirds. For these reasons, I am satisfied that it is unlikely that habitat loss or disturbance of habitat or species listed as Qualifying interests would arise in this instance and, therefore, that likely significant

effects upon the integrity of these specific SPA sites and the Galway Bay Complex SAC can be ruled out.

- 7.6.19 I consider that there is potential for the outfall of sediment, cement and/or hydrocarbons to the surface water network during the construction period to adversely impact upon water quality and a number of the qualifying interests within the Galway Bay SAC, particularly those QI's identified within Section 7.6.3 of the screening. I acknowledge that these factors are temporary in nature, however, in line with the precautionary principle, the threshold for AA screening is low and, therefore, further consideration of these matters will be undertaken.
- 7.6.20 From an examination of the NPWS datasets, in particular map number 3 (Mudflats and tidal flats), number 6 (Reefs) and number 11 (Otter) and number 12 (harbour seal) are qualifying interests specifically associated with the Conservation objectives of the Galway Bay SAC in the vicinity of the coastal village of Kinvara. I consider that the pollutants arising from on-site construction activities could result in significant effects to these protected habitats and species within estuarine habitats, the mudflats and tidal flats and Reefs within this European site and, therefore, potentially adversely impacting upon these specific qualifying interests within the Galway Bay SAC. The European sites most at risk from the development proposals, by virtue of catchment, size and scale, land take, proximity of development to European sites, underlying aquifer type and vulnerability, excavations, transportation requirements, duration of construction are considered to be the Galway Bay Complex SAC and the Inner Galway Bay SPA.
- 7.6.21 No evidence of the otter nor harbour seal species within the appeal site or in its vicinity was recorded as per the Ecological Impact Assessment submitted by the applicants. I am satisfied that given the absence of surface water watercourses within the appeal site or within the vicinity of the appeal site that these protected species would not be directly impacted upon by the proposals. I also note that the appeal site does not provide suitable foraging or breeding habitat for the Otter/Harbour Seal species. However, in line with the precautionary principle, there is the possibility that these species which are known to exist with Kinvara Bay, approximately 220 metres north of the appeal site, the potential for adverse impacts upon water quality by means of groundwater or surface water runoff exists and

therefore, these matters should be examined in greater details as part of a Natura Impact Assessment.

- 7.6.22 The surface water management proposals, including SuDs, proposed for the operational phase are considered adequate to serve the development and would not result in adverse impacts upon the European sites. Therefore, I am satisfied that these particular potential impacts do not require further assessment in the context of Appropriate Assessment.
- 7.6.23 In terms of potential to adversely impact the Galway Bay SPA, the potential adverse impact to water quality arising from sediment and hydrocarbons runoff during construction activities are factors that could adversely impact upon the wetlands and the feeding, breeding and foraging areas within the SPA. However, in line with the precautionary principle, given the existence of winterbirds and wetlands within Kinvara Bay, approximately 220 metres north of the appeal site, the potential for adverse impacts upon water quality by means of groundwater or surface water runoff exists and therefore, these matters should be examined in greater detail as part of a Natura Impact Assessment.
- 7.6.24 In combination effects have also been considered as part of this assessment. I have considered the effects of the development on neighbouring sites within Kinvara, both permitted and under construction, however through the use of best practice construction methods and the fact that all of these sites would have been subjected to Strategic Environmental Assessment and also have been subjected to an Appropriate Assessment determination under the preparation of the Galway County Development Plans of 2016 and 2022. I am satisfied that the cumulative environmental impact of all of the zoned lands being developed would have been considered and deemed acceptable.
- 7.6.25 Therefore, taking the precautionary approach, I consider that there is an ecological rationale for proceeding to a Stage 2 AA in relation to further assessing any potential adverse construction impacts that may arise in relation to the nearest European sites, the Galway Bay Complex SAC and the Inner Galway Bay SPA. This conclusion is consistent with that of the applicant.

7.6.26 From an examination of the NPWS datasets, I am satisfied that none of the habitats or species within the appeal site are qualifying interests for any European sites within the vicinity. I am conscious of the possibility of indirect effects on aquatic and winter bird habitats and species of these European sites.

Screening Determination

7.6.27 The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) could have a significant adverse effect on two European Site, namely the Galway Bay Complex SAC and the Inner Galway Bay SPA and Appropriate Assessment is, therefore, required.

7.6.28 The potential for significant effects on other European sites can be excluded.

Stage 2- Appropriate Assessment

7.7 Natura Impact Statement

7.7.1 The application included a Natura Impact Statement (NIS) for the proposed residential development located south-east of and within the designated settlement boundary of Kinvara. The NIS examines and assesses any potential for adverse effects arising from the proposed development on the Galway Bay Complex SAC and the Inner Galway Bay SPA. Section 4 of the NIS outlines the characteristics of the Galway Bay Complex SAC and the Inner Galway Bay SPA. Section 5 sets out the potential impacts arising from the construction and operational phases of the development on the SAC and Section 5.2.1 includes details of mitigation/control measures that would be incorporated as part of a Construction Management Plan. In combination effects are examined within Section 7 and it is concluded that significant in combination effects of the proposed project with other projects and plans are not likely.

7.7.2 The NIS concludes that; in view of best scientific knowledge, on the basis of objective information and in the light of the conservation objectives of the relevant European sites, that the proposed development, individually, or in combination with other plans or projects will not adversely affect the integrity of any European sites.

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

- 7.7.3 The following is an assessment of the implications of the project on the qualifying interest features of the Galway Bay Complex SAC and the Inner Galway Bay SPA using the best scientific knowledge in the field as provided in the NIS. 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.
- 7.7.4 A number of Qualifying Interests (QI's) within the Galway Bay Complex SAC have been removed from further assessment as the potential for significant effects on these particular QI's has been ruled out due largely to the absence of hydrological pathways between the appeal site and these particular QI's and also the separation distance between the appeal site and a number of the particular qualifying interests.
- 7.7.5 A description of the SAC and Conservation Objectives and Qualifying Interests (www.npws.ie), are set out in the screening assessment above, and repeated in Table 2 of the AA.
- 7.7.6 The following is an assessment of the implications of the project on the qualifying interest features of the Galway Bay Complex SAC and Inner Galway Bay SPA, using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.
- 7.7.7 I have relied on the following guidance as part of this assessment:
- Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities, DoEHLG (2009).
 - Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC, EC (2002).
 - Guidelines on the implementation of the Birds and Habitats Directives in Estuaries and coastal zones, EC (2011);

- Managing Natura 2000 sites, The provisions of Article 6 of the Habitats Directive 92/43/EEC, EC (2018).

7.7.8 A description of the designated sites, their Conservation Objectives and Qualifying Interests, including any relevant attributes and targets, are set out in the screening assessment above and repeated in Table 2 of the Appropriate Assessment, and outlined above as part of my assessment. 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).

Potential Impacts on identified European Sites

Table 2

Site 1:

Name of European Site, Designation, site code: Galway Bay Complex SAC, 000268					
Summary of Key issues that could give rise to adverse effects:					
<ul style="list-style-type: none"> • Water Quality and water dependant habitats • Habitat degradation/loss • Disturbance of QI species 					
Conservation Objective: To maintain and/or restore the favourable conservation status of habitats and species within the Galway Bay Complex SAC.					
Summary of Appropriate Assessment					
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Mudflats and sandflats not covered by sea water at low tide.	To maintain the favourable conservation condition of mudflats and sandflats not covered by seawater at low tide in the Galway Bay SAC.	Deterioration in water quality arising from sedimentation and release of hydrocarbons and cement to surface water channels and/or groundwater	Silt fencing/bags will be used to contain sediment emanating from surface water. Storage and handling of harmful materials including	No significant in-combination adverse effects	Yes

		arising from construction activities on site and potentially adversely impacting upon protected habitat	hydrocarbons, and construction materials, all construction will be carried out in accordance with best practice environmental control measures. Cement pouring to occur during dry weather periods..		
Reefs	To maintain the favourable conservation status of reefs t in the Galway Bay SAC.	Deterioration in water quality arising from sedimentation and release of hydrocarbons and cement to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected habitat	Silt fencing/bags will be used to contain sediment emanating from surface water. Storage and handling of harmful materials including hydrocarbons, and construction materials, all construction will be carried out in accordance with best practice environmental control measures. Cement pouring to occur during dry weather periods.	No significant in-combination adverse effects	Yes

Coastal lagoons	To restore the favourable conservation conditions of coastal lagoons in the Galway Bay SAC.	Deterioration in water quality arising from sedimentation and release of hydrocarbons and cement to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected habitat	Silt fencing/bags will be used to contain sediment emanating from surface water. Storage and handling of harmful materials including hydrocarbons, and construction materials, all construction will be carried out in accordance with best practice environmental control measures. Cement pouring to occur during dry weather periods.	No significant in-combination adverse effects	Yes
Salicornia and other animals colonising mud and sand.	To maintain the favourable conservation status of Salicornia and other animals colonising mud and sand lagoons in the Galway Bay SAC.	Deterioration in water quality arising from sedimentation and release of hydrocarbons and cement to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected habitat	Silt fencing/bags will be used to contain sediment emanating from surface water. Storage and handling of harmful materials including hydrocarbons, and construction materials, all construction will be carried out in accordance with best practice	No significant in-combination adverse effects	Yes

			environmental control measures. Cement pouring to occur during dry weather periods.		
Atlantic salt meadows	To restore the favourable conservation condition of Atlantic salt meadows in the Galway Bay SAC.	Deterioration in water quality arising from sedimentation and release of hydrocarbons and cement to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected habitat.	Silt fencing/bags will be used to contain sediment emanating from surface water. Storage and handling of harmful materials including hydrocarbons, and construction materials, all construction will be carried out in accordance with best practice environmental control measures. Cement pouring to occur during dry weather periods.	No significant in-combination adverse effects	Yes
Mediterranean salt meadows	To restore the favourable conservation condition of Mediterranean salt meadows in the Galway Bay SAC.	Deterioration in water quality arising from sedimentation and release of hydrocarbons and cement to surface water channels and/or groundwater arising from	Silt fencing/bags will be used to contain sediment emanating from surface water. Storage and handling of harmful materials including hydrocarbons,	No significant in-combination adverse effects	Yes

		construction activities on site and potentially resulting in habitat degradation or loss.	and construction materials, all construction will be carried out in accordance with best practice environmental control measures. Cement pouring to occur during dry weather periods.		
Large shallow inlets and Bays	To maintain the favourable conservation condition Large shallow inlets and Bays in the Galway Bay SAC.	Deterioration in water quality arising from sedimentation and release of hydrocarbons and cement to surface water channels and/or groundwater arising from construction activities on site and potentially resulting in habitat degradation or loss.	Silt fencing/bags will be used to contain sediment emanating from surface water. Storage and handling of harmful materials including hydrocarbons, and construction materials, all construction will be carried out in accordance with best practice environmental control measures. Cement pouring to occur during dry weather periods.	No significant in-combination adverse effects	Yes
Harbour Seal	To maintain the favourable conservation	Deterioration in water quality arising from	Silt fencing/bags will be used to contain	No significant in-combination	Yes

	condition of the Harbour Seals in the Galway Bay SAC.	sedimentation and release of hydrocarbons and cement to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected species.	sediment emanating from surface water. Storage and handling of harmful materials including hydrocarbons, and construction materials, all construction will be carried out in accordance with best practice environmental control measures. Cement pouring to occur during dry weather periods.	adverse effects	
Otter	To restore the favourable conservation condition of the Otter in the Galway Bay SAC.	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected species	Silt fencing/bags will be used to contain sediment emanating from surface water. Storage and handling of harmful materials including hydrocarbons, and construction materials, all construction will be carried out in accordance with best practice environmental control measures.	No significant in-combination adverse effects	Yes

			Cement pouring to occur during dry weather periods.		
<p>Overall conclusion: Integrity test</p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					

Table 3

Site 2:

<p>Name of European Site, Designation, site code: Inner Galway Bay SPA 004031</p> <p>Summary of Key issues that could give rise to adverse effects</p> <ul style="list-style-type: none"> • Water Quality and water dependant habitats • Disturbance of QI species <p>Conservation Objectives: To maintain the favourable conservation condition of the wetland Habitat of the Galway Bay SPA as a resource for the regularly occurring migratory waterbirds that visit the lake.</p>					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Wetlands and Waterbirds	To maintain the favourable conservation condition of the wetland Habitat of Lough Corrib as a resource for the regularly occurring migratory waterbirds that visit the lake.	Deterioration in water quality arising from sedimentation and release of hydrocarbons and cement to surface water channels and/or groundwater arising from construction activities on	Silt fencing/bags will be used to contain sediment emanating from surface water. Storage and handling of harmful materials including hydrocarbons, and construction	No significant in-combination adverse effects	yes

		<p>site and potentially adversely impacting upon protected wintering waterfowl. Loss of foraging ground and a potential resultant disturbance of the wintering waterbirds due to loss of foraging areas. However, the appeal site is already subject to disturbance given that there is existing residential development to the north and west. The winter birds in the southern part of the Lough Corrib SPA, that nearest the appeal site, would currently experience disturbance by virtue of proximity to the urban settlement of Oughterard with its associated traffic and human activity.</p>	<p>materials, all construction will be carried out in accordance with best practice environmental control measures. Cement pouring to occur during dry weather periods.</p>		
<p>Overall conclusion: Integrity test</p>					

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

7.7.9 Following the Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the integrity of the Galway Bay Complex SAC and the Inner Galway Bay SPA, in view of the Conservation Objectives of this site. This conclusion has been based on a complete assessment of the implications of the project alone, and in combination with plans and projects.

7.7.10 I have also considered the potential impacts upon the winter birds within the Inner Galway Bay SPA, Given the hydrological separation distance of 220 metres between the appeal site and the SPA and the lack of suitable foraging ground available within the appeal site, the availability of other lands in this vicinity for the purposes of foraging by winter birds, I consider that any siltation, sediment or hydrocarbons that would enter the adjacent Bay, that these adverse impacts would be mitigated through the use of the best practice environmental control measures, including the use of silt fencing/bags and that any surface water that may leave the site would be diluted sufficiently before they would reach the nearest boundary of the SPA and, therefore, that the impacts would be lessened and would not be so adverse as to cause undue risk to the protected winter birds. Therefore, I do not consider it appropriate to assess the potential impacts upon the SPA any further as part of this exercise.

Appropriate Assessment Conclusion

7.7.11 Having carried out screening for Appropriate Assessment of the project, it was concluded that in the absence of mitigation measures to prevent construction related pollutants reaching Galway Bay, it may have a significant effect on the Galway Bay Complex SAC and/or the Inner Galway Bay SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the European site, in light of its conservation objectives.

7.7.12 Following the Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project could adversely affect the integrity of

both of the Galway Bay European sites, in view of the site's Conservation Objectives for the sites. This conclusion has been based on a complete assessment of all implications of the project alone, and in combination with other plans and projects. .

This conclusion is based on:

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

8.0 Recommendation

I recommend that planning permission be granted subject to the following conditions:

- 8.1 Having regard to the location of the infill site within the settlement boundary of Kinvara on residentially zoned and serviceable lands, the provisions of the Galway County Development Plan 2022-2028 and the Kinvara Small Growth Village Plan 2022-2028, the pattern of development in the area, and the nature and modest scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the Core and Settlement Strategies of the Development Plan, that the development is sequentially appropriate, that the layout and design is appropriate, that the development would not result in the creation of a traffic hazard, would not exacerbate flood risk on site nor in the vicinity of the site, not adversely impact upon the natural or archaeological heritage in the area or seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 18th day of January

2022 and the XXXX day of June 2022 and by the further plans and particulars received by An Bord Pleanála on the 2nd day of August 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 (a) Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, proposals for increased on-site attenuation in accordance with the Greater Galway Area Strategic Drainage Study, shall be submitted to, and agreed in writing with, the planning authority.
(b) The two existing septic tank systems and soakhole/percolation areas within the appeal site boundaries shall be removed and the two existing dwellings shall be connected to the public foul and surface water sewers at the expense of the developer. The public service connections shall be completed in advance of the decommissioning of the septic tank systems. The ground in the vicinity of the septic tank areas shall be chemically sterilised.

Reason: In the interest of public health.

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

Reason: In the interest of public health.

- 4 Details of the materials, colours, and textures of all the external finishes to the proposed development, including external lighting throughout the

development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenities.

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

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

Revised drawings and particulars showing compliance with these requirements shall be submitted to, and 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.

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

6. Final details of the upgrade of the L85531, including details of its surfacing, widening and construction of footpaths and set back of the roadside boundary along the L4509, access and traffic arrangements as submitted to the Board on the 2nd day of August 2022 shall be agreed in writing with the Planning Authority. It shall be the responsibility of the developers to implement the recommendations of A Road Safety Audit, Stage 2, which shall be submitted to, and agreed in writing with the Planning Authority, prior to the commencement of development.

Reason: In the interest of public safety and sustainable transportation.

- 7 Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity

8. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

Reason: In the interests of amenity and of the proper planning and sustainable development of the area.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

10. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) Existing trees, hedgerows and stone walls, specifying which are proposed for retention as features of the site landscaping
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species.
 - (iv) Details of screen planting which shall not include cupressocyparis x leylandii

(v) Details of roadside/street planting which shall not include prunus species

(vi) Hard landscaping works, specifying surfacing materials, furniture play equipment and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) The landscaping works shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

11. A minimum of 25% of the proposed car parking spaces in on-surface car parking shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

12. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

13. The construction of the development shall be managed in accordance with a Construction Waste Management Plan and a Construction and Environmental Management Plan, which shall be submitted to, final details of which shall be agreed in writing with the planning authority prior to commencement of development. This plans shall provide details of intended construction practice for the development, including noise, dust and vibration management measures, measures for managing construction sediment run-off and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

14. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority full details of the proposed public lighting, including the lighting levels within open areas of the development.

Reason: In the interests of public safety and residential amenity.

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

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

16. 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 and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public 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 or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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

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

18 All mitigation measures included within the Natura Impact Statement submitted to the Planning Authority on the 18th day of January 2022 and those included within the Construction and Environmental Management Plan submitted as Appendix D with the response to the further information request submitted to the Planning Authority on the 8th day of October shall be implemented in full. The additional mitigation measures identified within the Construction Environmental Management Plan (refer to condition number 13 above) to be submitted and agreed in writing with the Planning Authority shall be implemented in full.

Reason: In the interest of protecting natural heritage.

Reason: In the interest of the protection of residential amenities of the area.

19 The ridge heights of dwelling numbers nine and ten shall be revised as per the contiguous elevation plans, drawing number 1914-PL-011A as submitted to the Bord on the 2nd day of August 2022.

Reason: In the interest of residential and visual amenity.

Fergal Ó Bric

Planning Inspectorate

29th day of November 2023