



Development	Construction of infill residential development of comprising three dwelling units (revised to two dwelling units) and four apartments., connection to public services and all associated site works and services. A Natura Impact Statement accompanies the proposals.		
Location	Gort Road, Kinvara, County Galway.		
Planning Authority Ref.	21/1524		
Applicant(s)	Cathal Murphy.		
Type of Application	Permission.	PA Decision	Grant Permission.
Type of Appeal	First Party v condition	Appellant	Cathal Murphy
Observer(s)	None		
Date of Site Inspection	11/04/23	Inspector	Fergal Ó Bric

1.0 Site Location and Description.

The site is located along the western side of the Gort Road within the settlement boundary of the village of Kinvara in south-west County Galway. The appeal site is brownfield and fronts onto the street within the village centre and comprises a number of stone structures which are in a state of disrepair. The appeal site comprises an area of 0.282 hectares. The appeal site is overgrown. There is a

stone wall boundary along its eastern, western and southern boundaries. Access to the site is from either a pedestrian door or vehicular gate which access directly onto the Gort Road within the 50 kilometre speed control zone. Site levels within the appeal site rise gradually from the public road (east to west) and from north to south. To the north of the appeal site is an old mill building which has been converted to residential use, to the north-east are low level one and a half storey dwellings which front onto the Gort Road, and to the south-east is a dwelling which is elevated above the levels of the appeal site. The site directly abuts the public road, although there is a public footpath and streetlighting along the street frontage.

2.0 Proposed development.

Permission is sought for:

- A development of seven residential units, three detached dwellings to the rear and four apartments in one block facing onto the street.
- Removal of stone wall along eastern boundary of site (facing Gort Road) and re-use of stone wall in front façade of apartment building.
- Redesign of vehicular access onto Gort Road.
- Removal of two derelict buildings on site.
- Connections to public mains water infrastructure, surface water and foul drainage networks
- Provision of home zone and pocket communal open space, hard and soft landscaping, private open space, surface car parking, bicycle parking, bin store, footpaths, public lighting, together with site works and services.
- A Natura Impact Statement has been submitted as part of the proposals.

Further information was submitted by the applicant in relation to the following: The submission of a revised Natura Impact Assessment considering potential impacts upon the Galway Bay Complex SAC and the Inner Galway Bay SPA; A Revised layout for the apartment building addressing the issues of overlooking, overbearing and building line of the apartment block. omitting one of the detached residential units. A contiguous street elevation plan has been submitted; Details of

southern boundary wall treatment including a structural survey of this boundary has been submitted; A methodology statement for the removal and re-instatement of the eastern boundary stone wall. An architectural conservation report outlining any visual impacts that may arise upon the protected structure, RPS number 375. Details of a feasibility report from Irish Water regarding connections to the public services; Details of a schedule of accommodation including room sizes, storage provision, private and public open space provision for each apartment unit. Details of sightlines at the entrance point, swept path analysis drawings and a Stage 1 of 2 Road Safety Audit. Details of surface water management proposals for the appeal site. Revised landscaping showing hedging and trees on site being retained where possible and details of the location of wall mounted lighting.

3.0 PA's Decision:

The Planning Authority granted planning permission for the development subject to 21 conditions. Most of the conditions are of a standard nature. However, condition 5 sets out the following: The design of the scheme shall be amended in the following respects-

- (i) Houses 1 and 2 shall be omitted from the scheme.
- (ii) The area of the site which previously accommodated houses 1 and 2 and associated areas such as car parking and circulation area, in conjunction with the area identified as identified as subject to a future planning application on the site layout plan drawing no. FI-6 as received by the Planning Authority on the 16th day of June 2022, shall be redesigned as a communal open space area to serve the proposed apartments.
- (iii) The proposed lateral/side boundaries of the sites of house 1 and 2 and those of the site identified as subject to a future planning application shall be omitted and the southern boundary of the site shall be in accordance with the report entitled: Structural Survey of the Southern boundary wall, received by the Planning Authority on the 16th day of June 2022, and, before development commences, revised drawings making provision for the above requirements shall be submitted to and agreed in writing with the Planning Authority.

Reason: In the interest of residential amenity and in the interest of proper planning and sustainable development of the area.

4.0 Planning History.

No relevant planning history pertaining to the appeal site.

5.0. Local Planning Policy

5.1 Kinvara Small Growth Village Plan 2022-2028

This plan is set out within Volume two of the County Development Plan. The appeal site has the benefit of a village centre land use zoning where the objective is: To provide for the development and improvement of appropriate village centre uses including retail, commercial, office and civic/community uses and to provide for a "Living over the shop 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.

Section 16.3.5 of the Small Growth Village Plan pertains to development in the village centre where the following is set out: Within the village core a strategic aim is to bring remaining vacant and unused buildings within this area into productive use. There is also capacity for small residential schemes, self-built opportunities within the core. However, there are opportunities within the settlement for the redevelopment of existing underutilised properties and derelict dwellings.

Development proposals locating within the village core will be supported and facilitated where appropriate especially Living Over the Shop Opportunities in the

village core. There are opportunity sites located along the main street in Kinvara incorporating underutilised land to the rear of these properties.

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.

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 the indicative Flood Zone C.

5.2 Galway County Development Plan 2022 -2028

Chapter 2 of the Plan places Kinvara with 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. This figure is in addition to those units that would be provided on brownfield sites.

Section 2.4.10 sets out the following vision for Small Growth 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.

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.

PM 9 Vitality in Towns and Villages

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

PM 10 Design Quality

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

Section 3.7.1-Infill and backland sites.

UL 1 Infill Sites

To encourage and promote the development of infill, corner and backland sites in existing towns and villages in accordance with proper planning and sustainable development.

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)

DM Standard 2: Multiple Housing Schemes (Urban Areas)

Town and Village Centre Infill Sites

Development of infill and brownfield sites for residential or mixed use will be supported in suitable town and village centre locations. Such development must respect the character and appearance of the settlement and contribute to the delivery of good placemaking.

A degree of flexibility may apply to infill sites who cannot facilitate certain standards, particularly if it contributes to sustainable compact development.

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

It is acknowledged that meeting the open space standard for quantity and location will be difficult or impossible in some circumstances. The planning authority will

take a flexible approach in the interests of delivering good quality development and the wider Policy Objectives for placemaking.

DM Standard 3: Apartment Developments (Urban Areas)

The design of apartment type development should be guided by the Design Standards for New Apartments - Guidelines for Planning Authorities (2018) (or as updated/superseded) in relation to all issues in relation to apartment development. In general apartments are only considered appropriate in town centres.

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

The flood mapping set out within Appendix 10 and conducted as part of the review of the Galway County Development Plan 2022-28, which was carried by CASS Planning and Environmental Consultants identified the appeal site as being within indicative flood zone C.

5.2 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 205 metres north of the appeal site.

6.0 The Appeal

6.1 First Party Appeal.

A first party appeal has been received which relates specifically to condition number 5 of the decision to grant planning permission for the infill residential development. The specific issues raised within the appeal submission relate to the following:

- The applicant requests that the scope of the appeal is restricted to the determination of condition number 5, and that this condition be removed.

- The Planning Authority acknowledge within their planning report that the site is an urban infill one that is presently underutilised and that is fully serviced and zoned.
- The proposals would contribute towards the consolidation of an inner-edge village centre site at an appropriate densification of residential development.
- Condition number 5 would be contrary to the provisions of the national and regional planning policy.
- Condition number 5 would undermine the aspiration of the mixed residential scheme and would unnecessarily sterilise a large portion of centrally located serviced land in the village.
- The proposals would be consistent with policy objective CSP2 which encourages compact growth.
- The proposals would result in an unsustainably low density of development and would undermine the village centre zoning objective pertaining to the site.
- The homezone area would serve two dwellings and therefore, would experience low traffic levels and would be clearly delineated in terms of its surface material.
- Section 4.3.4 and policy objective PM13 in the Development Plan encourages the shared use of spaces and use of homezones.
- 22% public open space is provided within the site in three separate areas in the form of a homezone area, a pocket open space and an outdoor communal open space serving the 4 apartment units.
- The Planning Authority accept that the proposals meet all infrastructural and road safety requirements.
- The Planning Authority were satisfied that the proposals would not adversely impact upon built heritage in the area.

- The Planning Authority acknowledge that the proposals would not adversely impact upon any Natura 2000 sites in this vicinity.
- The Planning Authority accepted that the proposals comply with the provisions of the current Galway County Development Plan, 2022-28.
- DM Standard 2 of the Development Plan sets out that a flexible approach to the delivery of good quality development and the wider objective of placemaking will be adopted.
- Section 4.20 of the Sustainable Residential Development-Guidelines for Planning Authorities sets out that on brownfield sites, public open space should be provided at a minimum rate of 10%.
- If condition number 5 is upheld, 81% of the site would comprise public open space.
- DM standard 2 sets out that a mix of house typologies should be provided within multiple housing schemes, as set out in the current proposals, where 4 apartments and three detached houses are proposed.
- The proposal for the detached houses provides for a sustainable alternative to one off housing in the Countryside.
- Section 3.7.1 within the Development Plan sets out that infill/backland sites in existing built up areas can also provide for new residential development and can act as an alternative to rural housing.
- Placemaking objective PM 9(B) encourages greater usage of backland/infill sites and to promote the redevelopment of sites in town and village centres.
- The Planning Authority;s concerns regarding the design of house number 3 does not form a reasonable basis for the omission of three dwelling units.
- The scheme was revised as part of the further information response to address the issues raised within the third party submission in relation to the apartment building. The third party raised no issues with regard to the houses on site. No third party appeal has been submitted in this instance.

- The scope of this appeal is narrow and rests on whether houses 1 and 2 should be omitted from the proposals.

6.2 P.A. Response

- None.

7.0 EIA Screening - Having regard to the nature of the proposed urban infill residential development on a brownfield site, on village centre zoned lands that are fully serviced, removed from any sensitive locations or features, there is no real likelihood of significant adverse effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 AA Screening - The subject site is located approximately 205 metres south of the Galway Bay Complex SAC (site code 000296) and the Galway Bay SPA (site code 004031). Appropriate Assessment is examined in greater detail withn Section 2.5 of my assessment below.

2.0 Assessment

2.1. Introduction

2.2. This is a first-party appeal against condition number five only, included within the Planning Authority's decision to grant planning permission. This condition requires that dwelling numbers 1 and 2 be omitted and that these sites be used as public open space for the remainder of the development, comprising four apartment units. The key issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issues can be dealt with under the following heading:

- Planning Policy Provisions
- Design and layout
- Appropriate Assessment

- Other Matters

2.3. Planning Policy Provisions

- 2.3.1. The relevant Development Plan in this instance is the Galway County Development Plan 2022-28 which includes the Kinvara Small Village Plan, set out within Volume 2 of the Development Plan. The appeal site is a brownfield, village centre, zoned and serviced site. The Development Plan is supportive of the principle of the redevelopment of underutilised, backland and/or brownfield sites. This is set out within policy objective CSP2 where compact growth is encouraged. I consider that the proposal would assist in the achievement of this objective, given its location on village centre zoned lands and its location within thirty metres of the Main Street of the Village. Therefore, I consider that the proposals would assist in providing for a more compact urban settlement within Kinvara.
- 2.3.2. Section 4.3.4 and Policy objective PM13 within the Development Plan pertain to the development of shared spaces and homezones. The proposals would result in the creation of a shared homezone area, and would comprise an area of approximately 353 sq. m. to serve the two detached dwelling units (numbers one and two) to the west of the site, It is stated that the homezone area would comprise a hard surfaced area, that would be delineated from the internal service road by means of a raised ramp, would have a low design speed and comprise a printed concrete material different coloured surface. Given that the homezone area would serve only two dwellings, with the possibility of a third in the future (subject to a future planning application), only modest traffic levels would enter/exit this particular part of the site and, therefore, would in my opinion be conducive to the creation of a homezone area, which could be used as a hard surfaced amenity area for future residents. The residents of the two detached dwellings would also have access to another public open space area, a pocket open space area comprising approximately 106 square metres, in the northern part of the appeal site immediately adjoining the homezone area. The concept of homezones is something that is supported in national planning guidance, specifically within Section 4.3.4 of the Urban Design Manual for Urban Roads and Bridges guidance Document, 2013 (as revised in 2019).
- 2.3.3. Section 3.7.1 within the Development Plan sets out that backland/infill sites in existing built up areas can also provide opportunities for the development of new

residential development and can act as an alternative to single rural housing. There are a number of examples within Kinvara village where backland residential development has already been permitted and developed on zoned serviced lands. Specific policy objective PM 9(B) encourages greater usage of backland sites to promote the redevelopment of sites in town and village centres. The current proposals comprise a brownfield site and it represents an opportunity for the reutilisation of an under-utilised village centre, zoned and serviced site in an appropriate manner that would accord with the proper planning and sustainable development of the area.

2.3.4. A number of the Development Management Standards as set out within Section 15 of the Development Plan would support the current proposals, specifically DM Standard 2 which sets out that a flexible approach to the delivery of good quality development and the wider objective of placemaking will be adopted. It is apparent that the proposals will provide for a quality residential development and that the future residents would be afforded a high quality of amenity, with hard and soft surfaced public open spaces, provided and that all Development Plan standards are met in terms of quality of design, layout, open space, adequate separation distances from neighbouring properties are achieved in all instances. The applicants have set out that public open space in this instance is provided at a rate of 22%, in three separate areas, an area of 193 sq. m to the rear of the apartment block, specifically to serve future residents of the apartments. The homezone area (353 sq m) and the adjoining pocket space comprising 106 sq. m to the north of the appeal site would serve the residents of the two detached dwellings, I am satisfied that the quality and quantity of open space exceeds Development Plan standards.

2.3.5. DM Standard 2 also sets out that a mix of house typologies should be provided within multiple housing schemes, as set out in the current proposals, whereby four apartments and two detached houses are proposed. This provides an opportunity for people to reside within an urban settlement and with a choice of residential units on offer, ranging from an apartment unit to a detached residential unit in proximity to the village facilities and services. This is considered to constitute balanced sustainable development.

2.4. **Design and Layout**

- 2.4.1. The Planning Authority sought further information as part of its assessment of the proposals. As part of the further information response, the applicants omitted one detached residential unit (unit number 3) and stated that particular part of the site would be subject to a future planning application. Therefore, two detached residential units are now proposed to the rear (west) of the site as part of these proposals in addition to the 4 apartment units, with street frontage onto the Gort Road. The applicant also modified the apartment block, providing for a staggered street frontage and the removal of all fenestration from the southern gable and the provision of an opaque screen around the balcony area nearest the southern site boundary in order to address the issues raised by the neighbouring property owners as part of their submission to the Planning Authority. Notwithstanding the modifications made by the applicant, the Planning Authority (PA) in its assessment dated the 13 day of October 2022, were not satisfied that the design and layout of the detached residential units represented the optimal layout for the site and that the area should instead be dedicated as public open space.
- 2.4.2. I note that within the second planning report prepared by the PA, that they acknowledge that the site is an urban infill one that is presently underutilised and that it is fully serviced and zoned within the village centre. Therefore, the principle of the development of the appeal site is acceptable, subject to achieving the various development management standards. I consider that the proposals would contribute towards the consolidation of a village centre site and given that the various development management criteria have been satisfied in all instances, in relation to open space provision, separation distances, car parking provision, adequate internal circulation within the site, adequate room sizes within the dwellings, I am satisfied that the density of development proposed, at a density of 21 units per hectare, is appropriate and sustainable for an irregular shaped village centre, brownfield and serviced site.
- 2.4.3. I am of the opinion that the inclusion of condition number five by the Planning Authority within its decision would undermine the achievement of a mixed apartment and residential scheme and would unnecessarily sterilise a large portion of centrally located serviced land in the village. The imposition of condition number five would result in a large portion of the site area being dedicated to public open space for the four apartment units, which I consider to be excessive in this urban context. The

inclusion of condition number five would result in an unsustainable and low density of development and would undermine the village centre zoning objective pertaining to the site.

2.4.4. The proposal for the detached houses would provide for a sustainable alternative to developing one off housing in the Countryside. Kinvara is located within an area of development pressure as defined within Section two of the Development Plan where the rural housing policy is restrictive. The Planning Authority's concerns regarding the design and layout of one house (house number 3) would not in itself provide a reasonable planning rationale for the omission of three dwelling units. The scheme was revised as part of the further information response to address the third party issues in relation to the apartment building. The third party raised no issues with regard to the detached houses on site, but rather in relation to the apartment units, which were revised as part of the further information response to address those issues. No third party appeal/observation has been submitted in relation to the proposals.

2.4.5. In conclusion, I am satisfied that the design and layout of the two detached dwelling units to the rear of the appeal site is acceptable, given they achieve or exceed the various development management standards set out within the current Development Plan and, therefore, I consider the proposals accord with the proper planning and sustainable development of the area.

2.5. **Appropriate Assessment**

2.5.1. I note that an updated Appropriate Assessment screening report and updated Natura Impact Statement (NIS), were submitted as part of the further information response submitted to the Planning Authority on the 16th day of June, 2022.

2.5.2. The screening identifies all of the European sites located within a 15 kilometre distance of the proposed development. A total of 24 sites were identified. The closest sites identified were the Inner Galway Bay Complex SAC (approximately 112 metres) and the Inner Galway Bay SPA (approximately 122 metres) both of which are located to the north-east of the subject site. The Lough Fingall Complex SAC is located approximately 3.7 kilometres north east of the appeal site. The screening report concludes that these three sites should be screened in. The Galway Bay Complex SAC and Inner Galway Bay SPA given the potential for surface water run

off to enter Galway Bay waters during the construction phase of development and potentially adversely impact upon water quality in the absence of mitigation measures. The Lough Fingall Complex is being screened in given the location of the appeal site within 2.1 kilometres of the foraging area for the Lesser Horse Shoe Bat, a qualifying interest of that particular Natura 2000 site.

- 2.5.3. The NIS examines and assesses potential for adverse effects of the proposed development on The Galway Bay Complex SAC, the Inner Galway Bay SPA and the Lough Fingall Complex SAC. Section 2.4 of the NIS outlines the characteristics of the European sites. Section 3 sets out the potential impacts arising from the construction and operational phases of the development on the three European sites and includes details of mitigation measures that would be incorporated as part of a Construction Management Plan and are included within Section 2.3 of the NIS
- 2.5.4. The NIS concludes that with the implementation of the best practice measures and the pollution control mitigation measures included in the design of the development, it is not expected that the development would give rise to any direct, indirect or secondary impacts on the Galway Bay Complex SAC, the Inner Galway Bay SPA nor the Lough Fingall Complex SAC.
- 2.5.5. I am satisfied that the subject site is located sufficiently far away from the Natura 2000 sites in question to ensure that no adverse impact arises during the construction phase to the qualifying interests associated with the Natura 2000 sites identified. There is no hydrological connectivity between the subject site and the Natura 2000 sites referred to in Section 2.5.4 above. I am, therefore, satisfied that the proposal will not pose a risk to any of the qualifying interests associated with the Natura 2000 sites during the construction phase. During the operational phase, the only discharge arising from the proposed project will be wastewater and any such wastewater will be connected to a municipal sewer and treated at the Kinvara wastewater treatment plant prior to any discharge into the Bay. On this basis, I am satisfied that the proposed development will not give rise to any adverse impacts on the qualifying interests associated with the three European sites. Therefore, having regard to the relatively modest nature and scale of the proposed development and the nature of the receiving environment together with the separation distance to the nearest European sites, no appropriate assessment issues arise, and it is not

considered that the proposed development would be likely to have a significant effect individually, or in combination with other plans or projects on a European site.

3.0 Recommendation

- 3.1. It is recommended that the Planning Authority be directed to remove condition number 5, for the reasons and considerations hereunder.

4.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the brownfield, zoned and serviced nature of the site, the existing pattern of development in the settlement of Kinvara, the provisions of the current Galway County Development Plan 2022, it is considered that the modification to the proposed development, as required by the planning authority in its imposition of condition number 5, is not warranted nor sustainable, and that the proposed development, with the omission of condition number 5, would not detract from the architectural and visual amenities of the area, would be acceptable within the townscape and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Fergal Ó Bric

Planning Inspectorate

17th day of October 2023