



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314432-22

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<b>Development</b>	Construction of 12 dwellings and all associated site works
<b>Location</b>	An Chreig Bhuí , Baile Chláir, Contae na Gaillimhe.
<b>Planning Authority</b>	Galway County Council.
<b>Planning Authority Reg. Ref.</b>	2260312.
<b>Applicant(s)</b>	Donald Walsh.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party versus Decision.
<b>Appellant(s)</b>	Donald Walsh.
<b>Observer(s)</b>	Conradh na Gaeilge.
<b>Date of Site Inspection</b>	22 June 2023.
<b>Inspector</b>	Stephen Rhys Thomas.

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## 1.0 Site Location and Description

- 1.1. The appeal site is located on the western side of the R381 road that enters Claregalway from the south. The Gleann Mhuiris housing estate is located to the north of the site. The Claregalway Corporate Park is located across the road and to the south east of the site. Two national schools, a secondary school and playing pitches are all located across the road and to the east of the site in an area known as Lakeview.
- 1.2. The site is generally flat and at the same level as the road. A low stone wall aligns part of the roadside boundary and a stone wall forms a field boundary to the west. There are no features of note on the site, it may have been used as a compound for the construction of houses to the north. The appeal site is located at the start of the built up area of Claregalway. Travelling north, there are a number of access points on either side of the road that provide entrances to numerous housing estates and another primary school towards the centre of the town at the junction with the N83.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the following:

12 dwelling units, all two storeys in height:

- 2 detached four bed houses.
- 2 four bed semi-detached houses.
- 4 three bed terraced houses.
- Apartment block of 4 two bed units.

A vehicular access taken from the existing road at Gleann Mhuiris estate.

Single storey Utility Storage Building to the rear of the apartment block

Communal open space and landscaping.

- 2.2. The applicant was required to submit Further information with reference to junction design, regional road separation distances, drainage details, street lighting, Linguistic Impact Assessment, floor to ceiling heights and boundary walls.

The number of units proposed remains the same and the layout does not alter to any great degree.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

3.1.1. The planning authority issued a notification to refuse permission for the following reason:

1. The subject site is located on Residential zoned lands (Phase 2) in the settlement of Baile Chláir as set out in the Metropolitan Area Strategic Plan which forms part of Volume II of the Galway County Development Plan 2022-2028 and where Residential (Phase 2) lands are generally not developable within the lifetime of this Plan. Having regard to this zoning and to the specific criteria set out under land use zoning Objective GCMA 1 of Metropolitan Strategic Area Pan, it is considered that the proposed development would materially contravene Land Use Zoning Objective GCMA 1, as the planning authority is not satisfied that it is apparent that Residential (Phase 1) lands cannot or will not be developed within the plan period, in order to consider residential development in a phased manner on some Residential (Phase 2) lands. Therefore, if permitted as proposed the development would be materially contravene Land Use Zoning Objective GCMA 1 Metropolitan Area Strategic Plan which forms part of Volume II of the Galway County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

#### **3.2. Planning Authority Reports**

3.2.1. Planning Reports

The basis of the planning authority decision includes:

First Report

- Site location, site history and the relevant planning policies of the Galway County Development Plan 2015-2021 are set out.

- An EIAR and Flood Risk Assessment are not required. More surface water information is required to carry out AA screening.
- The site is located on lands 550 metres from the town centre and zoned 'Residential' (Phase 1), subject to zoning objective CSB 2 – Residential.

No permissions have been granted on Phase 1 lands to date, however, 111 units have been permitted on Phase 2 lands and this raised questions about exceeding the Core Strategy allowance of 76 units for Claregalway.

On balance, it is considered that the development is acceptable and would not materially contravene the development plan.

- The proposed density of 25 units per hectare is acceptable at this location.
- The layout is acceptable, however, a separation distance of at least 25 metres is required from any building and the regional road.
- House design is acceptable, however, the floor to ceiling height at ground floor level of the apartments should be at least 2.7 metres.
- Some minor design changes are required with respect to residential amenity, boundary walls and bin access.
- Water services are acceptable, however, some further information is required with regard to surface water disposal.
- Junction design – further information required.
- An Irish Language, Linguistic Impact Assessment is required.

Further Information was requested with reference to junction design, regional road separation distances, drainage details, street lighting, Linguistic Impact Assessment, floor to ceiling heights and boundary walls.

#### Report 2

- Junction design acceptable.
- Omit two housing units in order to maintain a 25 metre separation distance from the regional road.
- Surface Water proposals acceptable.

- Street Lighting proposals acceptable.
- Language Enurement Clause of 20% to be attached as per Galway County Development Plan 2022-2028.
- Apartment floor to ceiling heights, acceptable.

The Galway County Development Plan 2022-2028 came into force since the initial planning report was prepared and the proposed development should be assessed in line with the new plan. The Core Strategy housing allocation for Claregalway is now set at 520 units and so the provision of 12 units falls well below this target. However, the land use zoning has changed and the site is now subject to Residential (Phase 2), Policy Objective GCMA 1 – Residential of the Metropolitan Area Strategic Plan of Volume 2 of the CDP applies. Phase 1 lands should be developed before Phase 2 lands and hence permission should be refused because the development would materially contravene the Development Plan with respect to land use zoning.

#### 3.2.2. Other Technical Reports

Roads and Transportation - Further information required.

#### 3.3. **Prescribed Bodies**

Transport Infrastructure Ireland (TII) – no observations.

Udaras na Gaeltachta – an English translation appears in the Planner’s Report dated 3 August 2022, the submission sets out a number of recommendations with respect to the Irish Language.

#### 3.4. **Third Party Observations**

Conradh na Gaeilge - an English translation appears in the Planner’s Report dated 3 August 2022, the submission sets out a number of recommendations with respect to the Irish Language.

### 4.0 **Planning History**

#### 4.1. **Appeal Site:**

Relevant planning applications include:

Ref Number: **043662** – Permission for 26 dwellinghouses, 8 apartments and temporary wastewater treatment works with associated site works and services.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Galway County Development Plan 2022 -2028 is the operative statutory plan for the area, and the site is located within the Metropolitan Area Strategic Plan and the Metropolitan Settlement of Baile Chláir, volume 2 of the plan refers.

5.1.2. The appeal site is located on lands zoned R-Residential (Phase 2), to protect, provide and improve residential areas, relevant policies and objectives include:

#### GCMA 1 Residential Development

Support the development of lands designated as Residential (Phase 1) within the lifetime of the County Development Plan, subject to normal planning, access and servicing requirements, and reserve the lands designated as Residential (Phase 2) for the longer-term growth needs of the area. Residential (Phase 2) lands are generally not developable within the lifetime of this Plan, with the exception of the following developments, which may be considered by the Planning Authority within the lifetime of this County Development Plan subject to a suitable case being made for the proposal:

1. Single house developments for family members on family owned lands.
2. Non-residential developments that are appropriate to the site context, any existing residential amenity and the existing pattern of development in the area.
3. Where it is apparent that Residential (Phase 1) lands cannot or will not be developed within the plan period, residential development may be considered in a phased manner on some Residential (Phase 2) lands.

The above exceptions will be subject to compliance with the Core Strategy in the County Development Plan, the Policy Objectives in this Metropolitan Plan, the principles of proper planning and sustainable development and to meeting normal planning, access and servicing requirements. Developments will only be permitted where a substantiated case has been made to the satisfaction of the Planning

Authority and the development will not prejudice the future use of the lands for the longer-term growth needs of this metropolitan area.

#### 15.2.2 Applicable to All Development

DM Standard 1: Qualitative Assessment-Design Quality, Guidelines and Statements

#### 15.2.3 Guidelines for Residential in Towns and Villages

DM Standard 2: Multiple Housing Schemes (Urban Areas)

Table 15.1: Residential Density

### **Variation No.2(b) Galway County Development Plan 2015-2021**

The LAP for the Gaeltacht/Baile Chláir was replaced with Variation No.2(b) to the Galway County Development Plan 2015 – 2021 – Gaeltacht Plan, adopted on the 28<sup>th</sup> May 2018.

In this plan the site was located on lands subject to zoning objective Residential (Phase 1), Objective DO 1 – Phased Residential Development refers. Support the development of lands designated as Residential (Phase 1) within the lifetime of the plan, subject to normal planning, access and servicing requirements, and reserve the lands designated as Residential (Phase 2) for the longer term growth needs of the village.

## **5.2. Natural Heritage Designations**

- 5.2.1. The site is not located within or directly adjacent to any Natura 2000 sites. There is a designed site located 1 km to the east, Lough Corrib SAC (site code 000297). The applicant submitted an AA Screening Report with the application.

## **5.3. EIA Screening**

- 5.3.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part



2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. A First-Party Appeal was submitted to An Bord Pleanála on the 19<sup>th</sup> of August 2022 by the Applicant opposing the Local Authority's decision, the grounds of appeal can be summarised as follows:

- Section 37(2)(b) of the Planning and Development Act 2000 (as amended) – in terms of the criteria listed:
  - a) The proposed development is of strategic and national importance in view of the ongoing housing crisis and need for new homes.
  - b) There are conflicting objectives in the development plan, Objective GCMA1 limits development on Phase 2 lands, but objectives CS2, CS5, CGR1, UL1, GIED2, SS1, BCMSP1, CC8 and GCTPS2, all support development, table 1 of the grounds of appeal refer.
  - c) With regard to the National Planning Framework (NPF), section 28 guidelines and the Regional Spatial and Economic Strategy (RSES), the development complies with all of the concepts of compact and sustainable growth amongst other things, table 2, 3 and 4 of the grounds of appeal refer.
  - d) A recent decision of the Board to grant permission with reference to a strategic housing development (SHD) at Lakeview (reference number 312191) is noted and the appeal site has the same locational and connectivity advantages that contribute to the compact growth of the town. The same assessment criteria that permitted the SHD application should apply to the current appeal.

- e) The current development plan has been in effect since 21 June 2020 and not new permissions of relevance have been granted.
- Exceptions to GCMA1 – when the application was lodged with the planning authority, the lands were zoned R -Residential (Phase 1) under the provisions of the 2015-2021 CDP. An earlier application had not been applied for due to the wastewater constraints of the site, now solved. The subject site meets the tests set out by GSMA1 as follows:
    - a) The proposed site meets all the normal planning, access and servicing requirements. The development of the site would not prejudice the long growth needs of the Metropolitan Area.
    - b) The quantity of Phase 1 lands not available for development has not been demonstrated in the plan, before a certain amount of Phase 2 lands can be released. Figure 5 of the grounds of appeal shows sites in the town that R2 sites and the planning status is described in table 5. Most of the sites have constraints such as previous refusals, narrow form and flood risk, site H has been granted permission for 111 units (SHD). A significant amount of phase 1 lands cannot be developed and at 30 units per hectare the target growth for the settlement would not be reached. As the SHD permission for 111 units was granted under the previous plan period, there should be no reason to prevent the appeal site from being permitted.
  - Contradictions – further information on minor technical grounds was required and this signalled that permission would be forthcoming. According to the planning report, the site is close to the town core and other services, and consistent with a sequential approach. This conflicts with the final conclusion to refuse permission.
  - Other issues – due to a setback from the road required by the planning authority, rear gardens were reduced for two units and if permission was granted it was recommended that they should be omitted. The initial layout was appropriate for the site, however, if the Board are minded to grant permission, a revised site layout has been prepared, retains all houses and provides adequate back gardens. The consideration of the revised layout can be undertaken by the Board, as done so before, ABP-306867-20 refers.

A revised layout drawing accompanies the appeal which clarify issues raised in the Planner's report with reference to building line, set back and private amenity space, drawing DW22-PL-003 refers.

## 6.2. **Planning Authority Response**

None located on file.

## 6.3. **Observations**

6.3.1. A submission has been received by the Board from Conradh na Gaeilge, the English version, can be summarised as follows

- A language impact clause, should apply to 35% of new housing.
- Language Impact Assessment should be prepared
- All signage within the estate to be in Irish only.

## 7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal, 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:

- Contravention of the Development Plan
- R381 Set Back
- Other Matters
- Appropriate Assessment

### 7.2. Contravention of the Development Plan

7.2.1. The Galway County Development Plan 2022 -2028 is the statutory plan to consider the appeal now before the Board. The site is located on lands that are zoned R-Residential (Phase 2), to protect, provide and improve residential areas. Being Phase 2 lands means that such sites are held in reserve to enable the longer-term growth of the area. The plan states that such lands are generally not developable within the plan's lifetime, but there are exceptions to the rule. The exception in this instance, is where it is apparent that Residential (Phase 1) lands cannot or will not be developed within the plan period, residential development may be considered in a phased manner on some Residential (Phase 2) lands in compliance with the Core Strategy, policy and objectives of the Metropolitan Plan and meet with normal planning, access and servicing requirements. The planning authority are not satisfied that these exceptions have been met and refused permission on the basis that the development would materially contravene land use zoning objective GCMA 1.

7.2.2. The planning application was lodged during the plan period of Variation No.2(b) Galway County Development Plan 2015-2021, at that time the site was situated on lands zoned Residential (Phase 1), to protect, provide and improve residential amenity areas within the lifetime of the plan. During the planning application process, the planning authority were supportive of the development proposal but required further information with regard to design details, drainage, separation distances from the R381 and a linguistic assessment. The applicant duly submitted this material and in the meantime the Galway County Development Plan 2022-2028 came into effect

(20 June 2022) and permission was refused on the basis that the zoning objective of the site had changed from Phase 1 to Phase 2 residential. The planning authority understood that their obligation was to refuse permission because the zoning objective had changed even though the Core Strategy figure for housing unit allocation had increased to 520 in the new plan and the 12 units proposed would fall well below this figure.

- 7.2.3. The grounds of appeal set out how permission can be granted even though the planning authority consider that there has been a material contravention of the development plan and refused on that basis. The applicant wishes the Board to invoke section 37(2)(b) of the Planning and Development Act 2000 (as amended) and has set out a rationale why the development is of strategic/national importance, that there are conflicting aims within the plan and national/regional policy and guidance supports the need for housing. I do not think that the Board should consider invoking section 37(2)(b) in this instance, simply because this is not a development that could meet the criteria as the 2000 Act intended. The development is not strategic or of national importance, as I see it the objectives of the plan are well aligned and do not conflict, the scheme aligns with national and regional guidelines but no new permissions have been granted in the area since the adoption of the plan.
- 7.2.4. The applicant also sets out how the site can be developed despite Phase 1 lands in Claregalway failing to deliver any housing. In this regard, the appeal site meets all normal planning requirements such as access, servicing and would not prejudice the growth needs of the Metropolitan Area. It is also pointed out that many Phase 1 lands cannot be developed at 30 units per hectare and that being so, the target growth for Claregalway would not be reached. Finally, it is highlighted that permission was previously granted for a strategic housing development of 111 residential units at Lakeview on Phase 2 lands in the previous plan, ABP reference 312191-21 refers.
- 7.2.5. Firstly, the underlying land use zoning of the site is for residential uses, so in principle I am satisfied that 12 residential units on these lands is entirely acceptable from a land use perspective. However, during the planning application process a new development plan came into effect and a new objective was attached to the subject site and other lands in Claregalway that limited development during the

lifetime of the plan unless certain criteria could be met, Objective GCMA 1 of Metropolitan Strategic Area Pan refers. The Core Strategy of the Development Plan has also changed and table 2.11 Core Strategy Table, sets out the housing allocation for Claregalway, of which 459 units are to be found on greenfield sites at a density of 30 units per hectare. In the previous plan Claregalway was allocated a growth figure of 245 persons and this now stands at a growth ambition of 975 persons. I can see that the potential of Claregalway to grow has increased between plans and I note that the planning authority acknowledged this in their final planning report.

7.2.6. The zoning map of the current plan indicates what areas of Claregalway should be developed, for what purpose and in what order. The site now falls towards the last of the lands that should be development for residential uses unless a compelling case can be put forward to activate the site in the lifetime of the plan, objective GCMA 1 refers. Taking the three criteria of objective GCMA 1 in turn:

7.2.7. Single house development – this clearly does not apply to the appeal site.

7.2.8. Non-residential development – again this is irrelevant in this instance.

7.2.9. Phase 1 land development – The applicant sets out a variety of reasons why other sites with a phase 1 zoning objective have not or cannot be developed in Claregalway, figure 5 and table 5 of the grounds of appeal refer. Broadly, the reasons why sites cannot be development is because of flood risk, narrow site configuration, access complications, likelihood of local opposition and the unfair inclusion of the SHD site for the purposes of calculating core strategy compliance. Some of these reasons have no basis, such as the fear of local opposition, because of access issues or loss of residential amenity. Other sites listed do have real access issues and this would require ownership clarity and possible rights of way, but these issues could be settled. A narrow site configuration is arguably difficult to develop but can be overcome by innovative design. However, flood risk and previous reasons for refusal associated with flooding are a real concern. On balance, the applicant's assessment of the phase 1 lands and their potential to be developed is informative and a good starting point to assess the coherence of phase and 1 and phase 2 lands. I note that the planning authority have not submitted a response to the grounds of appeal, and this is a pity. In the absence of the planning authority's input,

I find the applicant's rationale with regard to phase 1 lands and their likelihood of being developed in the lifetime of the plan to be reasonably compelling. A case in point is the inclusion of Site F in figure 5 as Phase 1 lands. Site F is located off the access road to the rear of Gleann Mhuiris and sequentially further away from amenities and services than the appeal site. The zoning map for Claregalway also shows a 'Residential Infill' site further south along the R381 and outside the built-up area of Claregalway. I am satisfied that a suitable case has been made for residential development and the proposed scheme of twelve residential units may be considered on these Residential (Phase 2) lands.

- 7.2.10. That being so, the development must comply with the Core Strategy, and I find that there is considerable headroom in the number of units that are envisaged for Claregalway, 459 units on greenfield sites are highlighted in table 2.11 of the Development Plan. The planning authority have already pointed this out in their planning report of the 3<sup>rd</sup> August 2022. In this regard, I am satisfied that permission for twelve residential units at this serviced and zoned site will not prejudice the future use of the lands for the longer-term growth needs of this metropolitan area.
- 7.2.11. The policy objectives of the Metropolitan Plan such as BCMSP 1 Sustainable Residential Communities that seeks 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, will be met by the development proposed. The planning authority have noted that the development as proposed required some adjustment and sought changes by way of further information. I am satisfied that the layout, design of residential units and open spaces are all acceptable.
- 7.2.12. The lands are well positioned at an infill site between a large detached house at the edge of the town and an existing housing estate to the north. The scheme takes access from the Gleann Mhuiris estate road and will not create a new entrance onto the R381. The site is located across the road from new primary and secondary schools accessed by road, footpath and cycle path. Sporting facilities are also available close to the schools and the town centre is just over a kilometre or a fifteen minute walk to the north. Claregalway Corporate Park is located across the road 500 metres to the south east or a six minute walk. Cycle path and footpaths are all available in the vicinity. I note that a large of block of Phase 1 lands are located

beyond and less well positioned than the appeal site, plot F figure 5 of the grounds of appeal refer. The appeal site can be serviced, Uisce Éireann have confirmed that a water services connection can be facilitated without upgrades. Vehicular access proposals have met with the approval of the planning authority. All in all, I am satisfied that the principles of proper planning and sustainable development and normal planning, access and servicing requirements have all been met, objective GCMA 1 has been complied with.

7.2.13. The planning authority refused permission because the site found itself situated on lands that are now subject to objective GCMA 1, being Residential Lands Phase 2. The planning authority had little choice but to refuse permission because they did not have any of the information that objective GCMA 1 looks for to enable the planning authority to grant permission. I am satisfied that the grounds of appeal have set out clearly all of the information to respond to the rigorous requirements of objective GCMA 1 and permission can be granted. I find that there is no material contravention of the Development Plan with respect to land use zoning, because the underlying zoning is residential. Furthermore, there is no contravention of the plan because objective GCMA 1 permits residential development to proceed if all of the criteria set out by objective GCMA 1 are met, which I believe that they are. In my view the Board can consider the appeal before it without turning to section 37(2)(b) of the 2000 Act and instead consider the appeal in the context of objective GCMA 1 of the statutory plan.

### **7.3. R381 Set Back**

7.3.1. The appellant has revisited an issue outlined in the further information request sought by the planning authority with respect to the alignment of the R381 and the need to comply with DM Standard 21 of the previous development plan and reserve a separation distance. A separation distance to the R381 was shown on a layout but this presented issues for the planning authority to do with residential amenity (rear gardens) and in the mind of the planning authority two units at the southern end of the site should be omitted. The appellant has submitted a revised layout to deal with this issue, Option 2 drawing number DW22-PL-003 refers. The appellant explains that a sufficient separation distance has been left to the R381 and a rear garden length of 11 metres is provided, no need to omit two units.



- 7.3.2. The site is located in an urban context and accessed from a housing estate road, in that respect the Design Manual for Urban Roads and Streets (DMURS) provides standards in relation to streets and the urban environment in general. There are no fixed separation distances between buildings and streets set out in the design manual. In addition, the new development plan was written in the context of DMURS and so there is no standard separation distance with reference to city/town and village roads in the plan. The current plan does contain advice in relation to the strategic importance of roads in the county, section 6.5.3.2 Non-National Roads refers. The advice states that in order to maintain the efficiency and functionality of the regional road network it is important that the number of new accesses and the intensification of existing accesses are restricted. In this instance, the rate of probable intensification of the road within the 50/60 kph zone is marginal and I note that phase 1 lands to the west would logically utilise the existing Gleann Mhuiris access adding traffic movements. In any case, the planning authority have raised no issues with the proposed access arrangements and nor do I.
- 7.3.3. With reference to the option 2 layout submitted by the appellant, I can see that over 24 metres, a combination of multiple footpaths, cycleway, street and landscaped strips all separate the front building line of the proposed development from the R381, an urban road, and this is more than adequate. The rear gardens of all of the units shown in option 2 are 11 metres or more in depth and this is sufficient to provide and protect residential amenity. I see no reason to omit any of the units because they all comply with the residential development advice contained in Chapter 3: *Placemaking, Regeneration and Urban Living* and Chapter 15: *Development Management Standards*, of the current development plan.
- 7.3.4. In summary, the provision of 12 residential units at this location ignites no issues with regard to separation distances between proposed development and existing roads. Residential amenity will not be compromised and this is clearly illustrated by the layout submitted by the appellant. I am satisfied that it is unnecessary to omit any units from the scheme and that if permitted the development should accord with the layout submitted with the grounds of appeal, Option 2 drawing number DW22-PL-003 and lodged with the Board on the 19 August 2022.

#### 7.4. **Other Matters**

- 7.4.1. Planning Authority Report - The appellant has raised issues about the planning reports prepared by the planning authority and inconsistencies. In the main, it is the initial positive disposition towards the proposal compared with the outcome that is criticised by the appellant. I suggest that this is not a planning matter per se and I have already outlined the course of events peculiar to this planning application and the enactment of the new development plan. I am satisfied that planning matters as they pertain to the application and this site in particular are addressed in the proceeding sections of my report.
- 7.4.2. Irish Language - An observation was received from Conradh na Gaeilge, an English version was provided and certain Irish language requirements have been requested such as: a language impact clause should apply to 35% of new housing, a language Impact Assessment should be prepared, and that all signage within the estate to be in Irish only. The planning authority requested an item to do with the Irish Language as part of their further information request, to which the applicant responded.
- 7.4.3. As Claregalway (Baile Chláir) is recognised as being a Gaeltacht area (District F: Imeall Na Cathrach), impact on language and the Gaeltacht is considered important. A Linguistic Impact Statement (LIS) has been submitted. Chapter 13 *The Galway Gaeltacht and Islands*, of the current development plan sets out the County's policies and objectives concerning the Irish Language. Policy objective GA 4 Language Enurement Clause, part b) refers as follows: A Language Enurement Clause will be applied on a portion of residential units in developments of two or more units in the remaining Gaeltacht Districts excluding District D Cois Fharráige. The proportion of homes to which a language enurement clause will be a minimum of 20% or to the proportion of persons using Irish Language on a daily basis, in accordance with the latest published Census whichever is greater. A Language Enurement of 15 years duration is recommended, an appropriate condition should be attached.

## 7.5. **Appropriate Assessment**

- 7.5.1. The applicant prepared an AA Screening report that concluded that no significant effects are expected on the qualifying interests or conservation objectives of the surrounding Natura 2000 sites, as a result of the proposed development in question, alone or in combination with the other plans and projects in the area, paragraph 8 of the AA screening report refers. The subject site is located approximately 1 km to the

west of the Lough Corrib SAC (site code 000297). Having regard to the nature and scale of the proposed development within a serviced urban area and the distance from the nearest European site, 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.

## **8.0 Recommendation**

8.1. Having regard to the above assessment, and based on the following reasons and considerations, it is recommended that permission be granted subject to conditions.

## **9.0 Reasons and Considerations**

Having regard to the R-Residential (Phase 2) zoning and Objective GCMA 1 Residential Development requirements for the area, the provisions of the Galway County Development Plan 2022 -2028, the Metropolitan Area Strategic Plan and the Metropolitan Settlement of Baile Chláir contained in Volume 2 of the plan, and the scale and nature of the proposed development, it is considered that the proposed development would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic and pedestrian safety and visual amenity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **10.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 8<sup>th</sup> day of July 2022 and by the further plans and particulars received by An Bord Pleanála on the 19<sup>th</sup> 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 minimum of 20% of the houses hereby permitted shall be restricted to use as a house by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, unless otherwise agreed in writing with the planning authority, for a period of 15 years. The developer shall submit a completed Linguistic Impact Statement to the planning authority providing details of compliance with this requirement prior to the commencement of development. Prior to commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to restrict or regulate a portion of the residential elements of the development hereby permitted for the use of occupants who have an appropriate competence/fluency in Irish. Details of the standard of Irish to be achieved and method of evaluating this shall be agreed in writing with the planning authority prior to the finalization of the agreement hereby conditioned. (Qualification for the Scéim Deontais Tithe will automatically qualify). Within three months of commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act, 2000, as amended), the purposes of which shall be to give effect to the above restrictions. No house shall be occupied until an agreement has been entered into with the planning authority pursuant to section 47 of the Planning and Development Act, 2000, as amended.

Reason: To ensure that development in the area in which the site is located is appropriately restricted.

3. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interests of clarity and public health.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings and boundaries shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

6. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the development and where required, revised plans and particulars demonstrating compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

(a) The details and the extent of all road markings and signage requirements on surrounding roads, shall be submitted to the Planning Authority for approval prior to the commencement of development.

(b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.

(c) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings and car parking bays shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the planning authority for such road works.

(d) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.

(e) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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

7. The site shall be landscaped (and earthworks carried out) in accordance with a detailed scheme of landscaping, which shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development. The scheme shall include provisions for hard and soft landscaping within the site, boundary treatments and includes measures for the protection of trees within and adjoining the site.

Reason: In order to ensure the satisfactory completion of the development.

8. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be

submitted to, and agreed in writing with the planning authority prior to installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained in the site. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

11. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Thereafter, the waste shall be managed in accordance with the agreed plan.

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

12. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the apartment blocks. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

The Management Company shall include and manage the Community Building for the benefit of the residents of the apartments or the wider community as determined by the Planning Authority.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

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

Reason: In the interest of sustainable waste management.

14. The construction of the development shall be managed in accordance with a Construction and Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;

(b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;



(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to guidance on the protection of fisheries during construction works prepared by Inland Fisheries Ireland.

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

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

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

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. 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

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

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

19. 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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Stephen Rhys Thomas  
Senior Planning Inspector

13 July 2023