



An
Bord
Pleanála

Inspector's Report ABP-314565-22

Development	Demolition of house and construction of 10 no. houses and 2 no. apartments and associated works
Location	An Cheathrú Rua Thuaidh, County Galway
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	2260610
Applicant	Eoin Ó Flatharta
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal
Appellant	Eoin Ó Flatharta
Observer(s)	None
Date of Site Inspection	5 th April 2023
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1.** The appeal site is located to the south-west of An Cheathrú Rua (Carraroe), Co. Galway. The appeal site is located c. 750 metres from the centre of Carraroe (i.e. the junction of Main Street and the R343).
- 1.2.** The appeal site, which has a stated area of 0.372 ha., is broadly rectangular in shape and is situated on the western side of the access/estate road of Droim an Bhaire. This access road also serves an adjacent housing development, Ard Na Greinne, and connects to the L-1203 further south.
- 1.3.** The appeal site accommodates a detached single storey dwelling. The appeal site falls from west to east with topographical levels indicated as c. 32 metres (OD Malin) in the north-west corner of the appeal site and c. 26 metres (OD Malin) along the front/east of the appeal site.
- 1.4.** The northern, eastern and southern boundaries of the appeal site comprise a wall. The rear and side gardens of the houses within Droim an Bhaire adjoin the appeal site to the immediate north. The adjoining lands to the west and south are undeveloped and overgrown. The site to the immediate south (PA. Ref. 2360114 refers) is indicated as being within the applicant's ownership/control as indicated by the blue line boundary.

2.0 Proposed Development

- 2.1.** The proposed development comprises;
 - Demolition of dwelling;
 - Construction of 10 no. houses (i.e. 6 no. 2 bedroom, single storey terraced houses and 4 no. 3 bedroom, two storey semi-detached houses) and 1 no. 2 storey apartment block accommodating 2 no. 2 bedroom apartments;
 - Access road connecting into the estate road of Droim an Bhaire;
 - Communal and private open space;
 - Car and bicycle parking;

- Connection to public sewer and surface water network within Droim an Bhaire;
- Landscaping and associated site works.

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

- Foul Water & Storm Water Drainage Design Report (prepared by O' Clubhain Innealtoireacht).
- Appropriate Assessment Screening Report (prepared by Colette Casey).
- Planning Statement (prepared by James O' Donnell).
- Design Statement (prepared by Murphy Heffernan Ltd).

2.3. The appeal was accompanied by the following reports;

- Supplementary Technical Report (prepared by Michael Clifford Engineer).
- Linguistic Impact Assessment (prepared by James O' Donnell).

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 10th August 2022 for 4 no. reasons which can be summarised as follows;

1. The proposed development, primarily on Phase 2 residential zoned lands, would materially contravene Section 10.6 of Volume 2 'Small Growth Villages' and Policy Objective SGV 1 of Volume 2 'Small Growth Villages' of the Galway County Development Plan 2022-2028.
2. The proposed development, in view of its layout, footprint configuration and design, is contrary to the Policy Objective SGV 12 of Section 10.6 of the Galway County Development Plan 2022-2028 and contrary to Policy Objectives PM1, PM6, PM8 and PM10 of the Galway County Development Plan 2022-2028, is lacking sufficient and appropriately configured communal open space, would constitute overdevelopment of the subject site and would detract from the general amenity of the area and would also be contrary to the provisions of Section 6.3 and 6.8 of Sustainable

Residential Development in Urban Areas (Cities, Towns and Villages) DEHLG (2009) and Sections 2, 6 and 7 of Urban Design Manual - A Best Practice Guide DEHLG (2009).

3. The proposed development would have a negative impact on the surrounding area given the deficiencies in the drainage of surface water from the site, including the inappropriate siting of the attenuation tank in the access road, hence, would result in excessive degradation of the public road surface and endanger public safety by reason of traffic hazard. In the absence of satisfactory details regarding surface water disposal on site, the planning authority considered that the development would contravene Policy Objective WW7 and Policy Objective WW8 of the Galway County Development Plan 2022-2028.
4. The development site is located within 0.5km of Kilkieran Bay and Islands. Having regard to concerns in relation to the poor surface water drainage system proposed, and to the suitability of the sewer to accommodate the proposed development, the planning authority consider that likely significant effects on European sites within the zone of influence of the subject site cannot be screened out. The Planning Authority cannot be satisfied that the proposal will not adversely affect the integrity of European sites in light of their conservation objectives. The development would materially contravene Policy Objective NHB1- Natural Heritage and Biodiversity of Designated Sites, Habitats and Species and NHB 2 - European Sites and Appropriate Assessment and DM standard 50 DM Standard: Environmental Assessments of the Galway County Development Plan 2022-2028.

Note – Refusal reasons 1 and 4 refer to material contravention of the Galway County Development Plan 2022-2028.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer includes the following comments;

- The proposed development is primarily located on Phase 2 Residential zoned lands. Development on Phase 2 residential zoned lands will normally only be

considered where 50% of the lands in Phase 1 Residential lands are committed to development.

- The proposed development is consistent with the National Planning Framework (NPF) and Regional Spatial and Economic Strategy (RSES) for the Northern and Western Region, which promote an efficient use of zoned serviced land within the settlement boundaries of built-up areas, and the Sustainable Residential Development in Urban Areas (2009) in respect of density and compact growth.
- The proposal complies with the Core Strategy and development policy objectives of the Galway County Development Plan 2022-2028. Carraroe is designated as a 'Small Growth Village', the site is located within the development boundary of Carraroe and the lands are zoned residential, however the lands are designated as Phase 2 Residential.
- Based on Table 2.11 of the Core Strategy, the housing allocation for Carraroe is 86 units for the plan period, 26 no. of which are to be delivered on infill/brownfield sites, with the remainder on greenfield sites. Reference is also made to Table 10.1¹ of the Carraroe Settlement Plan where 60 no. units are allocated to Carrarow.
- The proposed infill development would contribute towards the consolidation of urban development within Carraroe. The level of growth for a small infill site in close proximity to the village centre is appropriate given the scale of the settlement.
- The density of the proposal, at 32 dwellings per hectare (dpha) is appropriate and complies with the Sustainable Residential Development in Urban Areas (2009), which suggests a density of 20-35 dpha for sites located at edge of centre locations within towns and villages.
- The housing mix is appropriate.

¹ See Volume 2 of Galway County Development Plan 2022-2028.

- The design of the proposed houses and apartments are considered acceptable, acknowledge the existing built context of the area, and the residential amenity of the dwellings to the north.
- The proposal engages with the street edge.
- The design of the dwellings includes dual and triple aspect orientation.
- The proposal complies with the Urban Design Manual for Urban Roads and Streets (DMURS) in relation to the creation of connected, compact neighbourhoods, and the promotion of sustainable modes of transport.
- The layout of the proposal reinforces the existing urban form of Carraroe.
- The proposal lacks sufficient and appropriately configured communal open space and would constitute overdevelopment of the site. The proposal is contrary to Section 6.3 and 6.8 of Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) DEHLG (2009) and sections 2, 6 and 7 of Urban Design Manual - A Best Practice Guide DEHLG (2009). The proposed development would, therefore detract from the general amenity of the area.
- A more comprehensive arrangement of dwellings, appropriately configured and more usable communal open space is required.
- A variety of open spaces are provided and these spaces are overlooked by the housing, providing passive supervision.
- Apartments comply with the Apartment Guidelines in respect of storage.
- Adequate turning areas are provided for bin trucks.
- The Planning Authority appear to indicate that a Linguistic Impact Assessment is required².
- The provision of an attenuation tank within the road is not permissible due to maintenance and access issues. The attenuation tank should be located within the open space.

² Reference is also made to the previous County Development Plan on page 14 of the Planning Officer's report. This would appear to be a typographical error.

- It is proposed to discharge surface water to an existing surface water sewer located within the Droim an Bhaire access road. This estate is not taken in charge and the condition of this sewer is unknown and requires CCTV survey to demonstrate that it has sufficient capacity.
- Regarding effluent discharge³, the condition of the sewer within Droim an Bhaire is unknown and requires CCTV survey to demonstrate that it has sufficient capacity.
- The Planning Authority are not satisfied that the proposed development would not adversely affect Kilkieran Bay and Islands SAC on the basis of the method of the treatment of surface water from the site.

3.2.2. Other Technical Reports

Roads & Transport Department – notes that the provision of an attenuation tank within the road is not permissible due to maintenance and access issues; that the attenuation tank should be located within the open space; and, that a CCTV survey is required to confirm the condition and capacity of the existing surface water sewer within Droim an Bhaire, into which it is proposed to discharge.

3.3. Prescribed Bodies

Údarás na Gealtachta – notes that the Irish language should be taken into account in this development and that all signs and the business name is in Irish, or is on par with other languages, and that language conditions are attached.

3.4. Third Party Observations

The Planning Officer's report refers to 1 no. observation from Oifigeach Pleanála Teanga na Cheathrún Rua in relation to the planning application. The report of the Planning Officer provides a summary of the main issues raised in the third-party

³ The report of the Planning Officer, under the heading 'effluent disposal' refers to the discharge of surface water to an existing surface water sewer in the Droim an Bhaire access road. This would appear to be a typographical error, the Planning Officer appears to be referring to the discharge into the foul sewer within Droim an Bhaire. It is noted however that the proposal also entails the discharge of surface water into an existing surface water sewer located within the estate road of Droim an Bhaire.

observation, which are, that a language enurement clause is implemented for 80% of the units; that an independent language impact assessment is prepared; that B2 competency or higher should be considered acceptable; that the development should contribute to the language plan for the area; and, that there is adherence to the Government's 'Strategy for the Irish Language 2010-2030'.

4.0 Planning History

Appeal Site:

There are no recent or relevant planning applications on the appeal site.

Lands to south:

PA. Ref. 23/60114 – Permission GRANTED for a single storey house.

5.0 Policy Context

5.1 Ministerial Guidelines

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

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2022).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021).
- Design Manual for Urban Roads and Streets (2019).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, (2010).
- Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- Urban Design Manual - A Best Practice Guide (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

5.2. Development Plan

5.2.1 The Galway County Development Plan 2022-2028 is the relevant development plan. The appeal site is not subject to any specific land use zoning in the Galway County Development Plan 2022-2028⁴ and is located outside the settlement boundary for An Cheathru Rua (see Land Use Zoning Map for An Cheathrú Rua, Volume 2, Section 11, Galway County Development Plan 2022-2028).

5.2.2. The appeal site is located within the Gaeltacht and is within the GCTPS (Galway County Transport Planning Study).

5.2.3. The appeal site is located within an 'Urban Environs Landscape' (see Map 1, Appendix 4) for the purpose of landscape type. Urban Areas are described as having a low sensitivity to change. The L-1203 to the south of the appeal site is designated in the Galway County Development Plan 2022-2028 as a Maritime Scenic Route.

5.2.4. The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

Chapter 2 (Core Strategy, Settlement Strategy and Housing Strategy)

- **Objective CS1:** Implementation
- **Objective CS2:** Compact Growth
- **Paragraph 2.4.11:** Rural (Core Strategy)

Chapter 3 – Placemaking, Regeneration and Urban Living

- **Objective PM8** (Character & Identity)
- **Objective PM10** (Design Quality)

Chapter 13 – The Gaeltacht & Islands

- **Objective GA4 (b)**⁵ (Language Enurement Claus)

⁴ On adoption of the Galway County Development Plan 2022-2028 the appeal site was indicated within the settlement boundary of An Cheathrú Rua and was zoned 'Existing Residential' and 'Residential – Phase 2', however on foot of a Ministerial Direction specific areas of zoned lands within An Cheathrú Rua, including the appeal site, reverted to un-zoned land and the extent of the settlement boundary was also altered.

- **Objective GA 5** – (Linguistic Impact Statement)

Appendix 9 – Infrastructure Assessment

5.3. Natural Heritage Designations

Kilkieran Bay and Island SAC (Site Code 002111) – c. 350 metres west.

5.4. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, as well as the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against the decision to refuse permission. The grounds for appeal can be summarised as follows;

General:

- The appeal site is located within the urban/village envelope of An Cheathru Rua and has excellent connectivity to the village. The appeal site is served by a surface water sewer, public mains and a public sewer.
- The proposed development is of a high quality design and responds to the requirements for higher density on residentially zoned lands within the settlement of An Cheathru Rua.
- A Linguistic Impact Assessment accompanies the appeal and the applicant is willing to accept an Irish language enurement condition.

⁵ An Cheathrú Rua is located within District C in terms of Gealtacht areas.

Re. Refusal Reason 1:

- Section 37 (2) of the Planning and Development Act, 2000, as amended, is relevant. Regarding subsection (i), that 'the proposed development is of strategic or national importance' - due to the national housing crisis the proposal should be considered of strategic and national importance. The proposal is consistent with the NPF, the Sustainable Residential Development Guidelines and Rebuilding Ireland, and 20% of the units will be allocated for the purpose of Part V.
- Regarding subsection (ii), that 'there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned' - the Planning Authority refers exclusively to Policy Objective SGV1 of the Galway County Development Plan 2022-2028 however the proposed development is supported by Policy Objectives CS1 (Implementation), CS2 (Compact Growth), CS3 (Population Growth), CS5 (Compact Growth), CGR1 (Compact Growth), CGR6 (Density), UL1 (Infill Sites), GIED2 (Development on Brownfield Sites Within Gaeltacht Settlements), SGV2 (Residential Infill Development), CSGV2 (Sustainable Residential Communities), CC8 (Climate Action and Development Location) and GCTPS2 (Integrated approach to Land Use and Transportation). The aforementioned policy objectives conflict with Policy Objective GCMA1 (Residential Development) and the proposal should therefore be considered under Section 37 (2) (b) (ii) of the Planning and Development Act, 2000, as amended.
- Regarding subsection (iii), that 'permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government': - the proposed development complies with the following elements of the NPF – Section 1.2 (developing existing built-up areas); Section 2.2. (Compact Growth); Section 2.6 (Securing Compact Growth and Sustainable Growth); NPO 3a (deliver 40% of homes nationally within built-up areas of existing

settlements); NPO4 (ensure the creation of attractive, liveable, well-designed urban places); NPO6 (regenerate cities, towns and villages); NPO11 (favour development that encourages people and jobs within existing cities, towns and villages); NPO13 (performance based criteria that achieves well designed high quality outcomes); NPO33 (prioritise new homes at locations that can support sustainable development); NPO35 (Increase residential density in settlements), and, NPO36.⁶ The proposed development complies with the Sustainable Residential Development Guidelines, 2009, in particular - Section 6.3 (General Advice a-f); Section 6.4 (i) form and density); Section 6.7 (sequencing of development and avoidance of leapfrogging); and Section 6.11 (development at edge of centre sites). The proposed development accords with the RSES for the Northern and Western Region, specifically – Section 3.4 (targeting at least 40% of new housing to existing built-up areas); Section 7.6 (supplying homes for growing communities); Objective RPO7.17 (ensuring that housing delivery meets the needs of the community); RPO 7.19 (lifetime adaptable homes); and RPO 7.20 (increase population living within settlements).

- Regarding subsection (iv), that 'permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan - there are no significant permissions granted since the making of the Development Plan, however, the report of the Planning Officer contradicts the decision to refuse permission in a number of respects, including with reference to the proposal being consistent with the NPF, RSES, Sustainable Residential Development in Urban Areas, 2009, core strategy and development policy objectives of the Development Plan.

Re. Refusal Reason 2:

- The proposal includes 2 no. areas of communal open space which are well proportioned and supervised, in addition to a 'homezone'/shared surface area. The contention of the Planning Authority that communal open space provision is inadequate, is contradicted in the report of the Planning Officer where the

⁶ NPO36 is incorrectly quoted in the appeal submission as referring to density.

provision is deemed acceptable. The Galway County Development Plan 2022-2028 does not provide a quantitative requirement for communal open space. Objective DM2 provides qualitative requirements for open space which the proposal complies with, and also allows for a degree of flexibility on infill sites.

- Regarding compliance with Policy Objective SGV12 – the proposed development is located on an infill site and is designed to integrate with the character of the surrounding built environment, whilst facilitating a sustainable residential density. The subject site is zoned residential and will provide for high quality private, semi-private and communal amenity/open space areas. There are no heritage, environment, or landscape designations on site. The proposal is an architecturally designed scheme and will result in a positive contribution to the urban grain at this location. The architecture of the buildings are contemporary, and the palette of materials will be limited to painted rendered walls, grey membrane roof finish, triple glazed windows and solid external front doors.
- Regarding Policy Objective PM1 – the proposal provides for a high quality residential environment, a hierarchy of well supervised open spaces, and an inviting environment for future residents.
- Regarding Policy Objective PM6 – the proposal will foster a modal shift and sustainable walking patterns to and from the village.
- Regarding Policy Objective PM8 – the proposal is architecturally designed and is respectful of the character of the area.
- Regarding Policy Objective PM10 – the proposed buildings are of a high quality, the layout provides for supervised and well-proportioned open space and a strong building line.
- Regarding Section 6.8 of the Sustainable Residential Development in Urban Areas, 2009, the proposal makes effective use of an infill site; makes a positive contribution to the urban grain at this location; creates a strong streetscape; the site is well connected to the village, and the proposal is an architecturally designed scheme offering a high quality public realm/living environment for future residents.

- Regarding communal open space, the proposal provides 2 no. areas of communal open space (i.e. 306 sqm and 525 sqm), or 22 % of the area of the site (excluding the homezone area). The Sustainable Residential Development in Urban Areas, 2009, states that on infill or brownfield sites open space should generally be provided at a rate of 10% of the site area. Communal open space provision is therefore more than sufficient.

Re. Refusal Reason 3:

- A Supplementary Technical Report (prepared by Michael Clifford Engineer) has been submitted which includes a CCTV survey. This report confirms that the existing storm sewer is fit for purpose and has capacity to cater for the proposal. The proposal therefore complies with Policy Objectives WW7 and WW8 of the Galway County Development Plan 2022-2028.

Re. Refusal Reason 4:

- The Supplementary Technical Report demonstrates that the proposed surface water network is fit for purpose and has the capacity to cater for the proposed development and therefore the conclusions in the Appropriate Assessment Screening report remain valid. Surface water run-off will flow into an Klargester Bypass Separator (petrol interceptor) and then into an attenuation tank, before discharging into the public surface water sewer network. Wastewater will be discharged into the public sewer system. Provided these systems are maintained and there is sufficient capacity no likely impacts resulting from emissions are expected. As such likely significant effects on European site can be ruled out.

6.2. Planning Authority Response

None received.

6.3. Observations

None received.

7.0 Assessment

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

- Principle of Development/Zoning/Core Strategy
- Placemaking and Design
- Impact on visual and residential amenity
- Drainage and Access
- Other Matters
- Appropriate Assessment

7.2. Principle of Development/Zoning/Core Strategy

7.2.1. When the proposed development was assessed by the Planning Authority the appeal site was zoned 'Existing Residential' and 'Residential Phase 2'. However, on foot of a Ministerial Direction⁷ the zoning of specific lands which heretofore had been zoned 'Existing Residential' and 'Residential Phase 2' within An Cheathrú Rua, including the appeal site, reverted to un-zoned land. The extent of the settlement boundary indicated on the land use zoning map for An Cheathrú Rua reflects this and the appeal site is now located outside the settlement boundary for the village.

7.2.2. Having regard to the Core Strategy of the Galway County Development Plan 2022 - 2028, and specifically to Objective CS1, which requires the implementation of the Core Strategy and the Settlement Hierarchy through directing sustainable growth towards the designated settlement, I do not consider the principle of the proposal, comprising a multi-unit development, to be acceptable on un-zoned lands, located outside the boundary of a settlement, and in this regard I consider that the proposed development would conflict with Objective CS1 of the Galway County Development Plan 2022 – 2028. This is a new issue and the Board may wish to seek the views of the parties.

⁷ The Ministerial Direction was issued to Galway County Council on the 28th September 2022.

However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

7.2.3. The appeal site is identified in the Galway County Development Plan 2022 – 2028 (see Map 4.2) as being within Zone 2 - Galway County Transport & Planning Study (GCTPS), which corresponds an 'Area Under Strong Urban Influence' and as such is within an area with a rural typology. Paragraph 2.4.11 of the Core Strategy provides that overspill development from urban areas should be avoided within the countryside. Having regard to the provisions of the Core Strategy, I consider that a multi-unit housing development outside the boundary of a settlement would conflict with this requirement.

7.2.4. The first reason for refusal cited by the Planning Authority referred to the proposed development materially contravening the Development Plan on the basis that the proposed development was zoned 'Existing Residential' and 'Residential Phase 2', however as addressed above at paragraph 7.2.1, following a Ministerial Direction the appeal site is now un-zoned and located outside the settlement boundary of An Cheathru Ruá. The appellant's appeal submission contends that the proposed development should be permitted on the basis of Section 37 (2) (b)⁸ of the Planning and Development Act, 2000, as amended. However in light of the change in the zoning of the appeal site and its exclusion from the settlement boundary of An Cheathru Ruá I consider that this issue is now moot and submit to the Board that should they be minded to permit the proposed development they are not bound by the provision of Section 37 (2) (b).

⁸ (b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph (a) where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to F362[regional spatial and economic strategy] for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

7.3. Placemaking and Design

- 7.3.1. The second refusal reason refers to the layout, footprint and design of the proposal, and that the proposal lacks sufficiently or appropriately configured communal open space.
- 7.3.2. In response, the appellant contends that the proposal provides for a high quality residential environment, a hierarchy of well supervised open spaces, with good connectivity to the village and will result in an inviting environment for future residents. Regarding communal open space, the first party notes that 22% of the area of the site comprises communal open space, and that in the context of the Sustainable Residential Development in Urban Areas, 2009, which states that on infill or brownfield sites open space should generally be provided at a rate of 10% of the site area, the proposal should be deemed acceptable.
- 7.3.3. From reviewing the Planning Officer's report it appears that the primary issue in the second refusal reason concerns communal open space, specifically its configuration and relationship with the wider development. From reviewing the proposal as depicted on the site layout (*Drawing no. 1530-PL-302*) I note that the proposal includes two main areas of open space (i.e. 138 sqm to the side/west of Unit no. 3 and 168 sqm to the side/west of unit no. 10), totalling 306 sqm. Based on the site area (i.e. 0.372 ha) and the 2 no. areas of open space (totalling 306 sqm) open space provision on the site accounts for c. 8% of the site area. I note that the two areas of open space have minimal usability for formalised play, for example for ball games etc. noting their configuration, the encroachment of car parking into these areas and to the landscaping indicated within same. I also note there are no boundary treatments indicated to these areas, and despite the 'homezone' road design, these open spaces would in my opinion give rise to the potential for conflicts between children using these areas and vehicles. Furthermore, in terms of amenity considerations, I note that both areas of communal open space adjoin the sides of houses, which in my opinion would result in a dis-amenity to these dwellings. In summation, I am not satisfied that the proposal provides an adequate area of amenity space to serve the proposed development, that the areas provided are adequately configured to provide usable amenity space, or that

the areas provided would not negatively affect the amenity of dwellings which adjoin them. I recommend that permission is refused on this basis.

7.4. Impact on Visual and Residential Amenity

- 7.4.1. In relation to visual amenity, the appeal site is located within an 'Urban Environs Landscape' for the purpose of landscape type, and has a low sensitivity to change. Having regard to scale, massing and design of the proposed development, I do not consider that the proposed development would result in any significant negative impacts on the receiving landscape or on the visual amenities of the area.
- 7.4.2. Regarding impacts on residential amenity of the dwellings to the north, noting the separation distance between the proposed units and adjoining site boundaries, and the design of the units at these locations, I do not consider that the proposed development would result in any significant negative impacts on the residential amenity of adjoining property to the north arising from overlooking or overbearance.
- 7.4.3. In respect of the amenity of proposed units within the scheme, a number of the units have minimal rear garden depths, in particular Unit no.'s 1, 2, 3, and 11. Additionally, Unit's no. 1, 2, and 11 have areas of private open space of c. 48 sqm which in my opinion is minimal. I note that Unit no. 7, a first floor apartment, is served by an area of private amenity space which is remote from it and I consider that the lack of a functional relationship between this private amenity area and the apartment unit, together with this area being accessed via a passage to the side of Unit no. 6 would not provide an satisfactory standard of amenity to the unit.

7.5. Drainage & Access

- 7.5.1. Drainage: The appellant proposes to connect into the existing surface water and foul sewer, both located within the estate road in Droim an Bhaire. The report of the Planning Officer notes that this roadway is not taken in charge⁹. The applicant has not submitted any evidence of consent to connect into either the surface water sewer or the foul sewer. This is a new issue and the Board may wish to seek the views of the

⁹ The road within Droim an Bhaire is not indicated on Galway County Council's online GIS system as being taken in charge.

parties. However, having regard to the other substantive reasons for refusal, it may not be considered necessary to pursue the matter.

- 7.5.2. Regarding foul sewer, the concerns of the Planning Authority centre on the condition and capacity of the foul sewer within Droim an Bhaire, into which the proposal is to discharge. The appellant's appeal submission includes details of a CCTV survey of the existing foul sewer and confirms that the condition and capacity of the sewer is adequate to cater for the proposal.
- 7.5.3. Notwithstanding the condition/capacity of foul sewer system at a local/site level, I note that the wider issue of waste water treatment within An Cheathr Rua was not addressed during the initial planning application. Section 11.4.2 (An Cheathrú Rua) of the Galway County Development Plan 2022-2028 states that *'the village is served by a municipal waste water treatment system and upgrade works have been carried out and there is capacity within the network to accommodate development that is envisaged to take place'*. However, Appendix 9 (Infrastructure Assessment) of the Galway County Development Plan 2022-2028 states that An Cheathrú Rua is served by a sea outfall with no treatment¹⁰, and that a WWTP is at design stage. In addition, on foot of a Pre-Connection Enquiry Irish Water (now Uisce Éireann) issued a Confirmation of Feasibility to the applicant which accompanies the application/appeal stating that there is no wastewater treatment currently in place in Carraroe, that a new WWTP for Carraroe is currently at detailed design stage, with planning and land acquisition pending and that the delivery timeframe is post 2024. The correspondence from Irish Water states that connection is feasible subject to the provision of pre-treatment (primary) to ensure any impact on the receiving water is mitigated. The report of the Planning Officer refers this Pre-Connection Enquiry but does not comment on the absence of wastewater treatment within Carraroe in the assessment. I have consulted Uisce Éireann's website and note that in respect of the Carraroe Sewerage Scheme, it is stated that *'Uisce Éireann was unable to acquire all of the required wayleaves and lands on a voluntary basis, and that Uisce Éireann will now endeavour to acquire the wayleaves and lands by way of Compulsory Purchase Order and will be submitting the Compulsory Purchase Order to An Bord Pleanála. In*

¹⁰ My emphasis.

addition to the land acquisition process, Uisce Éireann will be seeking planning permission for the Carraroe Sewage Scheme from Galway County Council. The timeline for the commencement of works is subject to the Planning and CPO statutory approvals'. The appellant states in the appeal submission that he is amenable to complying with Irish Water's observation regarding carrying out primary treatment prior to discharging into the sewer so as to minimise the impact on receiving waters. Details of proposed primary treatment, which would require detailed assessment, are not provided in the appeal submission and therefore do not form part of the proposal.

7.5.4. The sewerage system in An Cheathrú Rua comprises a collection system which discharges directly to the sea at Cashla Bay. Based on the information contained in the Galway County Development Plan, in particular Appendix 9 and the correspondence from Uisce Éireann, and notwithstanding Section 11.4.2, which would appear to be anomalous, as An Cheathrú Rua is not currently served by a wastewater plant which would cater for the treatment of effluent emanating from the proposal I consider that the proposal would be premature. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal, it may not be considered necessary to pursue the matter.

7.5.5. Access: The access arrangement to serve the proposal entails using the existing access road within Droim an Bhaire. As addressed above this roadway is not taken in charge and as such I note that this road is not a public road. The appellant has not indicated that he has a right of way over this road and has not submitted any evidence of consent to use this road as a means of accessing the L-1203 further south. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal, it may not be considered necessary to pursue the matter.

7.6. Other Matters

7.6.1. Compliance with Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022 – Unit no. 6 and Unit no. 7 comprise 2 bedroom/4 person apartments. SPPR5 requires ground floor apartments to have a minimum floor to ceiling height of 2.7 metres. Unit no. 6, a ground floor apartment, has a floor to ceiling height of 2.4 metres and therefore does not comply with this

requirement. I note that the derogation provided within SPPR5 does not apply to the proposal as it is not a development which consists of a building refurbishment scheme, and the site area at 0.372 ha is greater than 0.25 ha. With the exception of floor to ceiling heights (affecting Unit no. 6) the proposed apartments within the scheme comply with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022.

7.6.2. Compliance with Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007) - the proposed houses within the scheme generally comply with the standards for internal accommodation set out in the aforementioned guidelines.

7.6.3. Regulation of Commercial Institutional Investment - The Section 28 Guidelines, Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021), issued by the Department of Housing, Local Government and Housing, applies to developments comprising 5 or more houses or duplex units. The requirements of the Guidelines apply to the proposed development noting that the proposal comprises 5 or more own-door units and falls within the definition of structure to be used as a dwelling. In the event that the Board are minded to grant permission for the proposed development I recommend that 'Condition RCIIH1' as per the wording provided in the Guidelines is used as it enables the developer to carry out any enabling or preparatory site works, unlike condition RCIIH2, and as the effect in respect of the residential component is the same.

7.6.4. Irish Language - The site is located within a designated Gaeltacht area within the Galway County Development Plan 2022-2028. Policy Objective GA5 of the Galway County Development Plan 2022-2028 requires the submission of a Linguistic Impact Statement for housing proposal consisting of two or more houses in the Gaeltacht area. A Linguistic Impact Statement (LIS), prepared by James O' Donnell, has been submitted to the Board. The report notes the following;

- Based on trends between 2011-2016, the slight decrease in the levels of Irish speakers corresponded with the slight decrease in population within the village. Therefore, it is considered that the proposed development would not result in

an adverse impact on the linguistic integrity of the area. Moreover, the modest increase in population as a result of the scheme is likely to cause an indirect positive impact.

- The availability of a wide range of Irish educational support structures within easy reach of the proposed development is likely to encourage the use of the Irish language by future residents of the proposed development, which will be of long term benefit to the integrity of the Irish language in the area.
- The imposition of a minimum language enurement clause for 20% of the units i.e. 2 units, would result in a positive linguistic impact at this location.

I note that the Galway County Development Plan does not specify the qualifications required by persons undertaking Linguistic Impact Statements for Gealtacht areas. I note that this issue arose in the Rathcairn judgment [2020-522JR], where at paragraph 108 Mr. Justice O' Hanlon appears to conclude that the author of a linguistic impact statement drew conclusions which he was not qualified to do so. I submit to the Board that caution should be exercised when using linguistic impact statements to assess proposals within Gealtacht areas, in particular where the author of the report has no referenced competence in sociolinguistics or language planning. Having reviewed the LIS I note that it contains a number of inconsistencies. At Section 4.3 the report states 'owing to the strength of Irish as a community language within An Cheathrú Rua....' while later in the same paragraph it is stated 'given the existing low level of daily Irish speakers within the settlement'. In my opinion the LIS submitted, and the conclusions reached therein, are not sufficiently robust for the Board to rely on in determining the impact of the proposed development on the Irish language within An Cheathrú Rua.

- 7.6.5. Attenuation Tank – the Planning Authority contend that the provision of a surface water attenuation tank located within the access road would result in the degradation of the road, thereby endangering traffic safety. The Planning Authority also raise concerns in relation to the location of the attenuation tank on the grounds of maintenance and access, and note that it would be more appropriately located within an area of open space. The appellant's appeal submission states that the attenuation tank proposed can withstand heavy traffic, and that should the Board deem necessary that a self-contained reinforced attenuation concrete tank could be provided. I note that

attenuation tanks are commonly placed under surfaced areas such as roads and car parks and I would see no basis for concluding that an attenuation tank which is adequately designed and maintained could not be located beneath the access road without detriment to the condition of the roadway. In terms of the taking in charge of the roadway in the future, I note that the Planning Authority can opt not to take developments into their charge where the condition of roads are not to a specific standard or condition.

- 7.6.6. SuDS - the third refusal reason includes that the proposal would be contrary to Objectives WW7 and WW8 of the Galway County Development Plan 2022-2028. These objectives relate to Sustainable Urban Drainage Systems (SuDS) and storm water infrastructure respectively. The drainage proposal for the site does not include SuDS provision, instead relying on engineering based drainage solutions. Should the Board be minded to permit the proposed development I recommend that a revised drainage proposal incorporating SuDS should be submitted for agreement.

7.7. Appropriate Assessment

7.7.1. Stage 1 Screening

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

- 7.7.3. Background. A screening report for Appropriate Assessment was submitted with the planning application. The report was prepared by Colette Casey, a qualified ecologist. The Appropriate Assessment screening report identifies 5. no European sites within a 15km radius of the appeal site. All European sites are 'screened out' due to an absence of connectivity and distance from the appeal site. The report sets out the qualifying interests (QI) and objectives for Kilkieran Bay and Islands SAC. The Screening report notes an absence of pathways between the appeal site and Kilkieran Bay and Island SAC and notes that the adjoining area is developed/disturbed and is therefore unlikely to be used as habitat for foraging or breeding. The report also notes

that surface water run-off will flow into an Klargester Bypass Separator (petrol interceptor) and then into an attenuation tank, before discharging into the public surface water sewer network, and that wastewater will be discharged into the public sewer system. The report notes that provided these systems are maintained and there is sufficient capacity no likely impacts resulting from emissions are expected. The Appropriate Assessment report concludes that no significant effects are expected on qualifying interests or conservation objectives of surrounding Natura 2000 sites as a result of the proposed development, alone or in combination with other plans or projects.

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

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

- The demolition of an existing house.
- The construction of 10 no. house and 2 no. apartments.
- Landscaping, car parking and associated site works.
- Connection into existing foul and surface water sewer system.

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

- The uncontrolled release of pollutants to surface and ground water (e.g. sedimentation, run-off, fuel, oils) during demolition, and construction phase of the proposed development.
- Potential for the release of contaminated surface water generated by the proposal at operational stage of the proposal.
- Release of effluent at operational stage to coastal waters.

7.7.7. Submissions and Observations – none relating to Appropriate Assessment.

7.7.8. European Sites and Connectivity. A summary of European sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1. I am satisfied that other European sites proximate to the appeal site can be ‘screened out’ on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.				
European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening
Kilkieran Bay & Islands SAC (Site Code:002111)	<ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Coastal lagoons [1150] • Large shallow inlets and bays [1160] • Reefs [1170] • Atlantic salt meadows (<i>Glauco-Puccinellietalia maritima</i>) [1330] • Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] • Machairs (* in Ireland) [21A0] • Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130] • Lowland hay meadows (<i>Alopecurus pratensis</i>, <i>Sanguisorba officinalis</i>) [6510] • <i>Lutra lutra</i> (Otter) [1355] • <i>Phoca vitulina</i> (Harbour Seal) [1365] • <i>Najas flexilis</i> (Slender Naiad) [1833] 	c. 350 metres west of appeal site	The proposal entails the discharge of effluent into the existing foul sewer system. The sewerage system in An Cheathrú Rua comprises a collection system which discharges untreated effluent directly to the sea at Cashla Bay ¹¹ . Kilkieran Bay and Islands SAC is located across the peninsula and on the far side of the settlement of An Cheathrú Rua.	Y

¹¹ See [Raw Sewage Discharge Points - Datasets - data.gov.ie](https://data.gov.ie/datasets/raw-sewage-discharge-points) for the location of the outfall to Cashla Bay.

- 7.7.9. Regarding impacts during construction and operational phases arising from the release of polluted run-off from the appeal site to ground and surface water, there is no connectivity between the appeal site and Kilkieran Bay and Islands SAC, or to any European sites, and therefore the proposal will not likely have a significant effect (including in combination effects) on Kilkieran Bay and Islands SAC, or on any European sites.
- 7.7.10. In terms of operational phase impacts arising from foul effluent generated by the proposed development, the proposal entails the discharge of effluent into the existing foul sewer system. The sewerage system in An Cheathrú Rua comprises a collection system which discharges untreated effluent directly to the sea at Cashla Bay. Kilkieran Bay and Islands SAC is located across the peninsula, on the far side of the settlement of An Cheathrú Rua. Applying the precautionary principle, it is reasonable to conclude that the proposed development could pose a pollution risk to the coastal waters in this location, and therefore could result in significant effects on Kilkieran Bay and Islands SAC in view of the conservation objectives of this site.
- 7.7.11. In terms of the potential for ex-situ effects, the appeal site would not represent a favourable habitat for birds species connected with nearby SPA's.
- 7.7.12. Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.
- 7.7.13 Screening Determination In accordance with Section 177U of the Planning and Development Act, 2000, as amended, and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on Kilkieran Bay and Islands SAC in view of the conservation objectives of this site. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development is required.

8.0 Recommendation

- 8.1.** I recommend that planning permission for the proposed development should be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The proposed development is situated on a site which is located outside the settlement boundary of An Cheathrú Rua and is un-zoned in the Galway County Development Plan 2022-2028. Additionally, the proposed development is located on a site which is designated within a rural typology in the Galway County Development Plan 2022 – 2028. Having regard to the peripheral location of the site, outside the settlement boundary of An Cheathrú Rua, it is considered that the proposed development would conflict with the Core Strategy of the Galway County Development Plan 2022 – 2028, specifically Objective CS1, which provides that growth be directed towards designated settlements, and that the proposed development would be contrary to the provisions of paragraph 2.4.11 of the Core Strategy of the Galway County Development Plan 2022 – 2028, which provides that overspill development from urban areas should be avoided within the countryside. Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.
2. An Cheathrú Rua is not currently served by a wastewater plant which would cater for the treatment of effluent emanating from the proposal. The proposed development would be premature pending the availability of a wastewater treatment plant to serve the proposed development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. It is considered that the areas of communal open space within the proposed development are poorly configured, would not provide usable areas for recreation, would result in potential conflicts between the users of these areas and vehicles, and having regard to their relationship to Unit no. 3 and no. 10

would seriously injure the future residential amenity of these properties. The development as proposed would result in a poor quality of residential design that is substandard in its layout and fails to provide high quality usable open spaces. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

4. SPPR5 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022 requires ground floor apartments to have a minimum floor to ceiling height of 2.7 metres. Unit no. 6 has a floor to ceiling height of 2.4 and therefore does not comply with this requirement. The proposed development therefore does not comply with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022.
5. On the basis of the information submitted with the planning application and the appeal, and having regard to the absence of a wastewater treatment system within An Cheathrú Rua, with the result that effluent generated from the proposed development would be discharged untreated to the sea at Cashla Bay, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Kilkieran Bay and Island SAC (Site Code: 002111), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.
6. The proposed development entails connection into the existing surface water and foul sewer, both located within the estate road in Droim an Bhaire. Additionally, the proposal entails using the estate road in Droim an Bhaire as a means of access. This roadway is not taken in charge and the applicant has not submitted any evidence of consent to connect into either the surface water sewer or the foul sewer, or to use the road as an access. In the absence of evidence of consent to connect into services which are located on adjoining third party lands, or to use the road for access, it is considered that the proposed

development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Ian Campbell
Planning Inspector

12th September 2023