



An
Bord
Pleanála

Inspector's Report

ABP-315598-23

Development	3 storey apartment block comprising 17 no. apartments, vehicular and pedestrian entrances onto Ballymoneen Road, 18 no. car parking spaces, bicycle parking, refuse store, landscaping, boundary treatments, and associated site works.
Location	Ballymoneen Road, Galway City
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	2291
Applicant	The Crescent Company Ownership
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party v Condition
Appellant	The Crescent Company Ownership
Observer(s)	Alan McHale (on behalf of the Residents of Portacarron) Conradh na Gaeilge

Date of Site Inspection

8th March 2023

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.21 Ha¹. and is located on the Ballymoneen Road, Knocknacarra, c. 100 metres south of the junction with the Western Distributor Road (Blake Roundabout). The appeal site is c. 4.5 km from the centre of Galway City (Eyre Square).
- 1.2. The appeal site is broadly rectangular in shape and previously accommodated a dwelling, which has since been demolished. The estate road serving Portacarron housing estate bounds the appeal site to the north. The appeal site is bound by Ballymoneen Road to the west.
- 1.3. Site boundaries comprise a low stone wall to west, and a concrete block wall to the north and east, and fence to the south. There are a number of trees on the appeal site, including along the northern boundary of the appeal site and in the south-eastern corner. Overhead wires traverse the appeal site from north to south. The topography of the site falls from north-west (c. 22.5 metres OD Malin) to southeast (c. 20 metres OD Malin).
- 1.4. A two storey apartment block (Bothar Bhaile Mholinin Apartments) adjoins the appeal site to the south. No.'s 108 – 112 Portacarron, two storey semi-detached houses are situated to the east of the appeal site. On the opposite/western side of Ballymoneen Road is a recently constructed mixed use development comprising semi-detached houses, townhouses, duplex apartments, commercial units, a childcare facility and 5 storey apartment buildings (Gleann Na Mona Apartments). A bus stop is located on the opposite side of the Ballymoneen Road close to the entrance to the appeal site.

2.0 Proposed Development

- 2.1. The development as initially proposed comprised;
 - Construction of a three storey apartment block comprising 17 no. apartments (7 no. 1 bedroom units and 10 no. 2 bedroom units). The apartment building had a hipped roof with a maximum ridge height of c. 13 metres. Material finishes

¹ This area extended to the centre of Ballymoneen Road. When this area is excluded the developable area of the site is 0.191 Ha.

to the apartment building comprised render, stone cladding and blue/black roof slate.

- Vehicular and pedestrian access from Ballymoneen Road.
- 18 no. car parking spaces, 30 no. bicycle parking spaces (integrated within the building), refuse storage structure (catering for 5 no. 1100 L bins).
- Connection to existing foul sewer and surface water system on Ballymoneen Road.
- Landscaping, boundary treatments (inc. existing 1.8 metre high wall to east and proposed 1.5 - 1.8 metre high wall to south) and associated site works.
- Communal open space.

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

- Planning Statement.
- Engineering Planning Report.
- Architectural Design Statement.
- Appendices RevB (Development Statistics, Apartment Quality Assessment, Computer Generated Images)
- Shadow Analysis Drawings.
- Stage 1 Road Safety Audit.
- Landscape Design Statement.

2.3. Following a request for Further Information the proposed development was amended as follows;

- The number of apartments was reduced from 17 no. to 16 no.
- A 3 bedroom unit typology was introduced.
- The design of the apartment building was amended from a hipped roof to include a flat floor for much of the building, with a hipped roof to the rear, and subsequent reduction in height. Part of the building (facing Portacarron) was reduced to two storey. A revised set of shadow analysis drawings were submitted to reflect the amended proposal.

- The footprint was reduced/pulled back from the eastern boundary of the site.
- Dark grey metal cladding was introduced to the palette of materials.
- Bicycle store now accommodated 23 no. spaces (reduced from 30 no.)
- Reduction in car parking from 18 no. spaces to 17 no. spaces.

2.4. Following a request for Clarification of Further Information the proposed development was amended as follows;

- The number of apartment units was reduced from 16 no. to 14 no.
- Revised shadow analysis drawings submitted to reflect the amendments to the building.

3.0 Planning Authority Decision

3.1. Request for Further Information & Clarification of Further Information

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

3.1.1. Further Information was requested on the 7th June 2022 as follows:

- Item 1 – include 3 bedroom unit typology within proposed scheme.
- Item 2 – reduce density of proposed scheme.
- Item 3 – (i) redesign building at interface with Portacarron estate road providing for reduction in height; (ii) provide 1.5 metre wide privacy strip to north of building; (iii) increase floor to ceiling height to 3 metres for ground floor units.
- Item 4 – reposition building further west to reduce overshadowing of communal open space and rear gardens of houses within Portacarron.
- Item 5 – provide ground floor apartments with private amenity areas as set out in the Apartment Guidelines, specifically gardens or patios/terraces and ensure that they are sufficiently located relative to car parking.
- Item 6 – provide bicycle storage which takes account of non-standard bicycles.
- Item 7 – provide for electric vehicles within the area of parking.
- Item 8 – submit details of sightlines.

- Item 9 – revise proposal to meet Fire Regulations.

3.1.2. Significant Further information submitted on 9th August 2022.

- Item 1 – 1 no. 3 bedroom unit included within proposed scheme (proposal now comprises 6 no. 1 bedroom units, 9 no. 2 bedroom units and 1 no. 3 bedroom unit).
- Item 2 – number of apartments reduced from 17 no. to 16 no. (and subsequent reduction in no. of car parking spaces from 18 no. to 17 no.).
- Item 3 – (i) height of building has been reduced and roof redesigned to a flat parapet roof to Ballymoneen and Portacarron estate road, dark grey metal cladding introduced at these locations; (ii) the footpath to the north of the site has been removed with sections given over to the northern ground level apartments to become gardens; (iii) existing floor to ceiling height for ground floor units remain unchanged on basis that proposed height is adequate, that the ground floor units are not intended to facilitate future change of use to a commercial use and noting the discretion that the Planning Authority has on infill sites on site up to 0.25 Ha.
- Item 4 – northern part of the building has been repositioned 1.7 metres west (revised shadow analysis submitted).
- Item 5 – ground floor apartments located along northern part of building provided with private gardens. Sectional drawing submitted showing car parking positioned below finished floor level (FFL) of unit 1.
- Item 6 – revised bicycle layout proposed making provision for non-standard bicycles.
- Item 7 – ducting for EV's provided for all parking spaces.
- Item 8 – details of sightlines provided.
- Item 9 – Fire Engineer's report submitted, and drawings updated in response to comments of Chief Fire Officer.

3.1.3. Clarification of Further Information was requested on the 27th September 2022 as follows:

- Item 1 – Regarding Item's 2 and 3 of the FI request, the reduction in density is not considered sufficient. The raising of the FFL of the building contributes to

the height of the building, its scale and massing. Density of scheme should be reduced further and height lowered. Calculations of density should be based on the developable area of the site and exclude the public footpath and road.

- Item 2 – Regarding Item 4 of the FI request, concerns remain in respect of overshadowing of communal open space and properties to the east. Applicant should reduce height of building and submit revised configuration/layout.

3.1.4. Clarification of Further information² submitted on 4th November 2022

- Item 1 – number of apartment reduced further, i.e. from 16 no. to 14 no. (unit mix now comprises 4 no. 1 bedroom units, 8 no. 2 bedroom units, and 2 no. 3 bedroom units). Apartment Guidelines require a minimum density of 45 dpha. Proposal has density of 73 dpha and is appropriate noting nature and location of the area, and in relation to precedent cases within Galway City. Height of building has been reduced along Ballymoneen Road and Partacarron estate road and flat roof proposed at these locations.
- Item 2 - Building now located c. 7.3 metres from eastern site boundary. Other changes arising include relocation of refuse and bicycle store and introduction of south facing terrace at second floor level (with 1.8 metre high opaque screen to east elevation). Level of overshadowing arising from the proposed development is imperceptible when compared to that under PA. Ref. 14/142 (as extended under PA. Ref. 20/164). Existing trees on the site create a significant amount of shadowing. The reduction in the height of the building has however reduced overshadowing. (Revised Shadow Analysis submitted).

3.2. Decision

The Planning Authority issued a Notification of Decision to GRANT Permission on the 13th December 2022 subject to 21 no. conditions. The following condition is relevant;

C2 – revised site plan, floor plan and elevations to be submitted omitting Units 8, 9, and 13.

² The CFI was also deemed significant and subsequently readvertised in accordance with Art. 35 of the Planning and Development Regulations, 2001, as amended.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The first report of the Planning Officer generally reflects the issues in the Further Information request.

Further Information Recommended.

3.3.2. The second report of the Planning Officer notes that the proposed density remains too high and that overshadowing remains a concern.

Clarification of Further Information Recommended.

3.3.3. The third report of the Planning Officer notes that the density of the proposal remains high, however the omission of 3 no. apartments (see Condition no. 2) will address the concerns in respect of plot ratio and density.

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

3.3.4. Other Technical Reports

Transport & Infrastructure – initial report notes that bicycle parking should be included on the site plan; that EV parking provision should be made; sightlines demonstrated and that public lighting should be in accordance with required standards. Subsequent report recommends conditions.

Chief Fire Officer – report notes non-compliance with Fire Regulations.

3.4. Prescribed Bodies

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

3.5. Third Party Observations

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

- Traffic impact.

- Concerns regarding the impact of the proposed development on the amenity of neighboring property from overshadowing. The building should be reduced to 2 stories.
- Windows would overlook adjacent property and do not meet Development Plan standards.
- The proposal is excessive/overdevelopment of the site and is out of character with the area.
- Insufficient car parking provided to serve the development.
- Additional pedestrian access should be provided.
- Non-standard bicycle parking provision should be made.
- Changes made to the proposal do not address the concerns raised.

4.0 Planning History

Appeal Site:

PA. Ref. 07/742 - Permission GRANTED for the demolition of an existing house and construction of 3 No. apartments, 4 No. townhouse/duplex units and 3 No. terraced houses.

(PA. Ref. 12/250 - Extension of Duration GRANTED in respect of PA. Ref. 07/742).

PA. Ref. 14/142 & ABP. Ref. PL61.244644 – Permission GRANTED for 8 no. own door apartments/townhouses.

(PA. Ref. 20/164 – Extension of Duration GRANTED for PL. Ref. 14/142).

Lands in Vicinity (to west):

PA. Ref. 19/368 & ABP. Ref. 308638-20 – Permission GRANTED for construction of apartments and medical centre.

PA. Ref. 19/366 & ABP. Ref. 308256-20 – Permission GRANTED for amendments to PA. Ref. 17/30, PA. Ref. 19/68 and PA. Ref. 19/02, appeal WITHDRAWN.

PA. Ref. 17/30 & ABP. Ref. 300032-17 – Permission GRANTED for residential & commercial development including childcare facility, car parking & ancillary works.

PA. Ref. 14/317 & ABP. Ref. PL61.245218 – Permission REFUSED for discount foodstore.

PA. Ref. 12/268 & ABP. Ref. PL61.243237 – Permission REFUSED for discount foodstore.

5.0 Policy Context

5.1. National Policy

National Planning Framework 'Project Ireland 2040'

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

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

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

- **National Policy Objective 33**: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

- **National Policy Objective 35**: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2. Ministerial Guidelines

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

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023).
- Design Manual for Urban Roads and Streets (2019).
- Urban Development and Building Height Guidelines, Guidelines for Planning Authorities (2018).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010.
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

5.3. Development Plan

5.3.1. The proposed development was considered by the Planning Authority under the Galway City Development Plan 2017-2023 however the Galway City Development

Plan 2023-2029 came into effect on the 4th January 2023 and is now the relevant development plan.

5.3.2 The appeal site is zoned 'Residential' (R) under the Galway City Development Plan 2023 – 2029, with an objective *'to provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods'*.

5.3.3. The appeal site is located within the 'Outer Suburbs' (see Fig. 3.1 & also Fig 11.32 Galway City Development Plan 2023 – 2029).

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

- **Policy 3.3** - Sustainable Neighbourhood Concept
- **Policy 3.4** - Sustainable Neighbourhoods: Outer Suburbs
- **Policy 8.7** - Urban Design and Placemaking

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

- **11.3.1 (c)** Amenity Open Space Provision in Residential Developments
- **11.3.1 (d)** Overlooking
- **11.3.1 (g)** Car Parking Standards (Outer Suburbs)
- **11.3.1 (h)** Cycle Parking Standards
- **11.3.1 (i)** Refuse Storage Standards

5.4. **Natural Heritage Designations**

- Galway Bay Complex pNHA (Site Code: 000268), c. 750 metres south.
- Galway Bay Complex SAC (Site Code: 000268), c. 750 metres south.
- Inner Galway Bay SPA (Site Code: 004031), c. 900 metres south.

5.5. EIA Screening

(See Form 1 and Form 2 attached). 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 Condition no. 2 of the Notification of Grant of Permission issued by Galway City Council. The issues raised in the appeal can be summarised as follows.

- The applicant's preference is to develop the proposal as submitted on the 4th November 2022 (response to Clarification of Further Information), i.e. 14 no. apartments.
- The proposal accords with all applicable policy, this has been demonstrated in the Planning Statement which accompanied the initial application.
- The site is an infill site, on zoned, serviced lands, situated on a high frequency public transport corridor, directly across from a local centre where a higher density scheme has been developed. The site is therefore an optimal location for higher density residential development.
- Multiple apartment units have previously been permitted on the site.
- Frustration is expressed at the approach of the Planning Authority in terms of pre-planning consultation and the assessment of the planning application.
- Condition no. 2 is a further concession to third parties.
- The design of the proposal has been revised and it will not adversely affect the residential amenity of existing residents.

- An Bord Pleanála has previously accepted that this location is an ‘Intermediate Urban Location’ (see ABP-Ref. PL61.308638). The Planning Authority has also accepted this to be the case. In respect of such locations the Apartment Guidelines (Section 2.4(2)) provide that higher density development may be suitable at such locations, including apartments, and at a density >45dpha. The Guidelines do not refer to 45 dpha as being a maximum, but rather as a general recommended minimum. The proposal (14 units on a site of 0.19 Ha.) results in a density of 73 dpha, this density is not excessive and is consistent with the Apartment Guidelines. Dwelling per hectare measurements can result in high figures when applied to small site and the Planning Authorities approach in this regard is akin to a ‘planning by numbers’ exercise.
- The proposed density is not excessive when compared to other schemes granted by the Board in Galway City (specific examples cited in appeal submission).
- The Sustainable Residential Density Guidelines identify locations suitable for increased densities, such as brownfield sites within city and town centres, public transport corridors and inner suburban infill sites. The site is compliant with these guidelines.
- The Planning Authorities approach to plot ratio is inconsistent. The resultant plot ratio (0.77) is not unreasonable and is comparable to other infill apartment schemes in Galway City granted by the Board (examples cited in appeal submission).
- The proposal does not result in an abrupt transition in scale when the development along Ballymoneen Road is considered.
- Existing trees at the south-east of the site are to be retained.

6.2. Planning Authority Response

None received.

6.3. Observations

The following observations were received in respect of the appeal.

Conradh na Gaeilge

- The site is located in the Bearna and Cnoc na Cathrach Language Planning Area.
- The Planning and Development Act, 2000, as amended, provides that a development plan should include objectives for the protection of the linguistic and cultural heritage of the Gaeltacht. No such objective was evident in the Galway City Development Plan 2017-2023.
- The Planning and Development Act, 2000, as amended, provides that permission can be refused, or conditions imposed, to protect the linguistic or cultural heritage of the Gaeltacht without attracting compensation. No such conditions were include in the grant of permission.
- The proposed development would damage the linguistic/cultural heritage of this area.
- No language impact assessment was submitted and there is no specified percentage of units for which Irish would be required.
- Permission should be ‘cancelled’ as it violates the Council’s statutory duty to protect the linguistic and cultural heritage of the Gaeltacht, and the promotion of the Irish language, or, conditions attached requiring/providing for;
 - (i) An independent language impact assessment for each unit, carried out by a suitably qualified person (i.e. a person with a background or qualification in language planning or sociolinguistics), to prove that that development would benefit of the Irish language locally.
 - (ii) A restriction on the resale of a unit to anybody but an Irish speaker, for at least 15 years and restriction on the house from being let long term (longer than 3 months in any one year) except to Irish speakers. (B2 or higher competence in spoken Irish).
 - (iii) A specific percentage of the units be reserved for Irish speakers. (35% in Gaeltacht areas in Category C).

Alan McHale (on behalf of the Residents of Portacarron)

- The proposed development will overlook the rear gardens of properties within Portacarron and will also result in overshadowing of rear gardens of properties within Portacarron.
- Condition no. 2 of the Planning Authorities grant of permission should be upheld and is necessary to protect the amenity of adjacent property.
- The density proposed is unreasonable.
- The examples/precedents cited by the first party in relation to density are not comparable to the application site (when factors such as proximity to city centre, separation distances, green spaces adjoining site are considered).
- The separation distance as sought by the applicant (i.e. 7 metres) remains below what is required under the Galway City Development Plan 2017-2023 (Section 11.3.1.(d)). Condition no. 2 allows for compliance with the required 11 metres separation distance.
- Should Condition no. 2 be omitted the proposal will result in overdevelopment of the site and set an undesirable precedent.
- The proposal contravenes the residential zoning of the site as it does not protect existing amenities.

7.0 **Assessment**

7.1. Scope of Appeal: This is a first party appeal in respect of Condition no. 2 of the Planning Authorities Notification to Grant of Permission. Condition no. 2 requires the omission of 3 no. apartment units and was attached to address the concerns of the Planning Authority in relation to the density of the scheme, which the Planning Authority considered excessive, and the impact of the proposal on the residences within Portacarron. The issues raised in the observation on behalf of the residents of Portacarron relate to density and amenity impacts and do not raise any other issues outside that of Condition no. 2. Having regard to the nature and scale of the proposed development and to the nature of Condition No. 2, it is considered that a *de novo* assessment would not be warranted in this instance. Therefore, the Board should determine the matters raised in the appeal only, in accordance with Section 139 of the

Planning and Development Act 2000, as amended. An observation from Conradh na Gaelige raises the impact of the proposed development on the linguistic/cultural heritage of this area. The observation recommends that permission should either be refused, or that conditions should be attached including that a percentage of units to be reserved for Irish language speakers. As addressed above, this is a first party appeal against Condition no. 2 and I consider that a *de novo* assessment would not be warranted in this instance. I further note that Conradh na Gaelige did not make an observation to the Planning Authority in respect of the planning application. The observation of Conradh na Gaelige raises new issues which are outside the scope of Condition no. 2 and as such I submit to the Board it should determine the matters raised in the appeal only.

I consider the main issues in relation to this appeal are as follows:

- Condition no. 2 (issues relating to residential amenity and density)
- Appropriate Assessment

7.2. Condition no. 2 (issues relating to residential amenity and density)

7.2.1. Residential Amenity: Condition no. 2 of the Planning Authorities Notification to Grant Permission requires the omission of 3 no. apartment units (i.e. units 8, 9 and 13). The Planning Authority required the omission of 3 no. units in order to address the potential impact of the proposed development on the residential amenity of dwellings to the east within Portacarron (in addition to reducing the density of the proposal). The observation on behalf of the residents of Portacarron requests that Condition no. 2 is retained so as to protect the amenities of the residents within Portacarron from overshadowing and overlooking. The applicant contends that the proposed development does not affect the residential amenities of adjacent properties. Potential impacts on the residential amenity of properties within Portacarron could arise as a result of overlooking from above ground windows and terraces/balconies on upper floors, overshadowing and overbearance. I will address each in turn.

7.2.2. Overlooking: The proposed building as submitted to the Planning Authority at Clarification of Further Information stage is located c. 7 metres from the eastern site boundary. The ground floor of the building is stepped with distances to the eastern site

boundary increasing for upper floors. At the closest point there will be window/door opes above ground level (i.e. Apartment no. 8) situated c. 9 metres from the eastern boundary of the site. These window/door opes serve a terrace which is fitted with opaque glazing to a height 1.8 metres above FFL. Separation distances subsequently increase to c. 13 metres (i.e. living/dining area serving bedroom Apartment no. 9). Apartment no. 9 is served by a balcony, situated c.13 metres off the eastern site boundary. At second floor level the closest window ope is located c. 13 metres off the eastern site boundary (i.e. living/dining area serving Apartment no. 13). A balcony serving Apartment no. 13 is situated c. 13 metres off the eastern site boundary. I note that the closest above ground window to a dwelling in Portacarron (i.e. to the rear wall of no. 112 Portacarron) will be in excess of 17 metres, with the closest terrace (serving Apartment no. 8) being c. 15.5 metres from the rear wall of no. 112 Portacarron. Having regard to the separation distances concerned, and the design measures incorporated, specifically the use of opaque glazing for the terrace serving Apartment no. 8, I am satisfied that the proposed development (submitted to the Planning Authority as Clarification of Further Information) does not result in significant overlooking of the dwellings within Portacarron, or their rear gardens. Additionally, I consider that the proposed development accords with the requirements of Section 11.3.1 (d) of the Galway City Development Plan 2023-2029 in respect of overlooking. I note that the window/door opes at first floor level serving Apartment no. 8 face into a terrace with an opaque glazed screen and as such do not directly overlook adjacent property. Separation distances between windows and balconies on the second floor of the proposed apartment building are in excess of 11 metres from private open space of adjacent properties.

- 7.2.3. Overshadowing: The applicant submitted a Shadow Analysis Study of the proposed development in response to the Planning Authorities request for Clarification of Further Information. *Drawing no. 21175-3013 Rev A* indicates the existing extent of overshadowing on the site and adjacent property, that is in the absence of the proposed development. *Drawing no. 21175-3014 Rev B* indicates the extent of overshadowing arising from the proposed development on adjacent property and also on the subject site itself. For comparative purposes, the applicant has also submitted *Drawing no. 21175-3015* indicating the extent of overshadowing from the development which was permitted on the site under PA. Ref. 14/142. From reviewing the information

submitted I note that the proposed development does not indicate any significant overshadowing of the dwellings within Portacarron, or their rear gardens. Some overshadowing is indicated from the proposed development on the communal open space serving the proposed development in March (at 3pm and 6 pm) and also in June (at 6pm) however I do not consider the extent of this overshadowing to be significant. I also note that there is no appreciable difference in terms of overshadowing on the properties within Portacarron between the proposed development and the development previously permitted on the site under PA. Ref. 14/142. In summation, I consider the proposed development to be acceptable in terms of overshadowing.

7.2.4. **Overbearance:** As noted above, the proposed building as submitted to the Planning Authority at Clarification of Further Information stage is located c. 7 metres from the eastern site boundary, and as the ground floor of the building is stepped distances to the eastern site boundary increase on upper floors. Having regard to the modulated design of the proposed apartment building, its height and the separation distance to the dwellings within Portacarron, I am satisfied that the proposed development would not result in significant overbearance of the dwellings within Portacarron.

7.2.5. **Density:** Condition no. 2 reduces the number of apartments in the development from 14 no. units as proposed at Clarification of Further Information stage to 11 no. units. The Planning Authority required the omission of 3 no. units in order to reduce the density of the proposed development. I note that the observation on behalf of the residents of Portacarron states that the density of the proposal is unreasonable. In relation to the appropriateness of the density of the proposal, the report of the Planning Officer refers to the Section 2.4. (2) of the 'Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities' March 2018, which in respect of 'Intermediate Urban Locations' indicates an appropriate density of >45 dpha. The Planning Authority contend that the density of the proposal, at 73 dpha³ is inappropriate in this context. I note that the aforementioned section of the Guidelines does not preclude densities above 45 dpha but rather provides that densities above 45 dpha are appropriate at 'Intermediate Urban Locations'. Furthermore, I note that

³ Based on 14 no. units on a site of 0.191 Ha.

the updated Apartment Guidelines (issued July 2023) provides the same guidance in respect of density at 'Intermediate Urban Locations'.

7.2.6. The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) provides guidance in respect of the density of residential development at different locations/scales. Table 3.2 (Area and Density Ranges Limerick, Galway and Waterford City and Suburbs) provides three density ranges. In my opinion, the 'City – Urban Neighbourhoods' range is the most relevant typology to the appeal site. This typology is described as including: (i) the compact medium density residential neighbourhoods around the city centre that have evolved over time to include a greater range of land uses, (ii) strategic and sustainable development locations; and (iii) lands around existing or planned high capacity public transport nodes or interchanges (defined in Table 3.8) all in the city and suburbs area. The appeal site is located c. 700 metres from a planned BusConnects route with a service frequency of 10 minutes (i.e. no. 9 Route - Knocknacara - W. Distributor Road). Whilst in the context of accessibility, Table 3.8 in the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) refers to locations within 500 metres walking distance of an existing or planned BusConnects 'Core Bus Corridor' stop I note that the appeal site is just outside this range. Under the 'City – Urban Neighbourhoods' level *'it is a policy and objective of these Guidelines that residential densities in the range 50 dph to 200 dph (net) shall generally be applied in urban neighbourhoods of Limerick, Galway and Waterford'*. The Guidelines also require consideration of the character, amenity and natural environment when considering density. In this regard I note that the appeal site is located in an area where there is an emerging pattern of higher density development, most notably to the west where apartments of up to 5 stories have been constructed. I also note that the appeal site is not sensitive from an ecological perspective.

7.2.7. SPPR 4 (1) of the Urban Development and Building Heights: Guidelines for Planning Authorities (December 2018) provides that 'is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure - the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential

Development in Urban Areas (2007)” or any amending or replacement Guidelines. The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) have replaced the Sustainable Residential Development in Urban Areas (2007) Guidelines and this regard I consider that the density set out in Table 3.2 of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) is therefore required to be complied with.

7.2.8. The developable area of the site is stated as 0.191 Ha. (i.e. excluding the area to the centre line of Ballymoneen Road and the public footpath) and on the basis of a proposal for 14 no. units (i.e. the development proposed at Clarification of Further Information stage, and prior to the omission of the 3 no. units required by Condition no. 2) the resultant density is c. 73 dpha. In my opinion the appeal site is analogous with the ‘City – Urban Neighbourhoods’ range as set out at Table 3.2 of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) and as such I consider that the proposed density of 73 dpha is acceptable at this location.

7.2.9. Conclusion on Condition no. 2: Having regard to the forgoing, I do not consider that the requirements of Condition 2, requiring the omission of 3 no. apartment units to be warranted in this instance, and I recommend that the Planning Authority be directed to remove Condition No. 2.

7.3. **Appropriate Assessment**

7.3.1. The appeal site is located c. 0.75 km north of Galway Bay Complex SAC and c. 0.9 km north of Inner Galway Bay SPA. Having regard to the nature and limited scale of the proposed development and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 **Recommendation**

8.1. I recommend that the Planning Authority be directed that Condition No. 2 be removed.

9.0 Reasons and Considerations

9.1. Having regard to the nature of the condition which is the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE Condition No. 2 for the reason(s) as follows:

- (i) It is considered that the density of the proposed development submitted to the Planning Authority at Clarification of Further information stage would accord with the guidance set out at Section 2.4. of the 'Sustainable Urban Housing: Design Standards for New Apartments: Guidelines for Planning Authorities' March 2018, in respect of 'Intermediate Urban Locations', and also the density range set out in Table 3.2 (Area and Density Ranges Limerick, Galway and Waterford City and Suburbs) of the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) in relation to 'City – Urban Neighbourhoods.'
- (ii) It is considered that the height and design of the proposed development submitted to the Planning Authority at Clarification of Further information stage would not have any significant negative impacts on the residential amenity of the area, and in particular on the amenity of the residences within Portacarron, and would therefore, be in accordance with 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

4th March 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-315598-23			
Proposed Development Summary	3 storey apartment block comprising 17 no. apartments, vehicular and pedestrian entrances, 18 no. car parking spaces, bicycle parking, refuse store, landscaping, boundary treatments, and associated site works.			
Development Address	Ballymoneen Road, Galway City			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	X		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes		Class 10, (b), (i) (threshold is 500 dwelling units)	Proposal is significantly below threshold	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Ian Campbell**Date: 4th March 2024**

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-315598-23	
Proposed Development Summary	3 storey apartment block comprising 17 no. apartments, vehicular and pedestrian entrances, 18 no. car parking spaces, bicycle parking, refuse store, landscaping, boundary treatments, and associated site works.	
Development Address	Ballymoneen Road, Galway City	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
	Examination	Yes/No/ Uncertain
<ul style="list-style-type: none"> • Nature of the Development • Is the nature of the proposed development exceptional in the context of the existing environment? • Will the development result in the production of any significant waste, emissions or pollutants? 	<p>The proposed development comprises a residential development of 17 no. apartments and is located within an urban area.</p> <p>The proposed development will not give rise to the production of significant waste, emissions or pollutants.</p>	<ul style="list-style-type: none"> • No • No
<ul style="list-style-type: none"> • Size of the Development • Is the size of the proposed development exceptional in the context of the existing environment? • Are there significant cumulative considerations having 	<p>The size of the proposed development would not be described as exceptional in the context of the existing environment.</p>	<ul style="list-style-type: none"> • No • No

<p>regard to other existing and/or permitted projects?</p>	<p>There are no significant developments within the vicinity of the site which would result in significant cumulative effects/considerations.</p>	
<p>• Location of the Development</p> <ul style="list-style-type: none"> • Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? • Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area? 	<p>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.</p>	<ul style="list-style-type: none"> • No • No
<p>• Conclusion</p>		
<p>• There is no real likelihood of significant effects on the environment.</p> <ul style="list-style-type: none"> • EIA not required. 	<p>• There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>• Schedule 7A Information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>• EIA required.</p>

Inspector: Ian Campbell

Date: 4th March 2024

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIA required)