



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316298-23

#### Development

Permission to (a) retention of two bed apartment at first and second floor level (b) change of use of ground floor from office to an apartment c) construction of a single storey and two-storey extension to the rear (d) alterations to front elevation and all ancillary site development works

#### Location

180 Bohermore, Galway City

#### Planning Authority

Galway City Council

#### Planning Authority Reg. Ref.

22220

#### Applicant

Millway Properties Ltd

#### Type of Application

Permission

#### Planning Authority Decision

Grant Permission

#### Type of Appeal

Third Party v Grant

#### Appellant

Mary Mahon

#### Observer(s)

None received

**Date of Site Inspection**

14<sup>th</sup> February 2024

**Inspector**

Fergal Ó Bric

## **1.0 Site Location and Description**

- 1.1. The appeal site comprises a two-storey terraced structure with the attic space converted to habitable accommodation and has a stated area of 0.0213 hectares. The site is located on the eastern side of the Bohermore Road, southwest of the R336 and the Bohermore Cemetery and the Moneennageesha Roundabout when entering the city from the east. The appeal site is located approximately six hundred metres north-east of Eyre Square, in Galway city. Bohermore is a two-way street which comprises largely residential terraced properties with a number of retail and commercial properties along its length. There is no on-street parking along the street at this point. There is a footpath and street lighting on both sides of the street. The adjoining area is predominantly residential in character, with residential properties located on each side and to the rear of the appeal site.
- 1.2. From reviewing the existing floor plans within the structure submitted as part of the planning documentation (Drawing No. 148 2022/4), the structure accommodates a vacant office space at ground floor level and a two-bedroom apartment within the upper levels.
- 1.3. There is no dedicated car parking associated with the appeal site nor indeed with any of the adjacent terraced properties. There is a long narrow garden space area located to the rear of the property. The rear garden space of the appeal site is bound by a 1.8-metre-tall block wall to the rear and a 1.5 metre block wall to the sides within the rear garden space.
- 1.4. Further information was submitted by the applicants whereby the height, bulk and scale of the proposals were scaled back, details of existing ground levels and proposed finished floor levels within the appeal site and on neighbouring sites were submitted and written confirmation from the applicants that the apartments will not be used for the short-term rental market.

## **2.0 Proposed Development**

- 2.1. The development description as set out within the public notices describes the development as follows:

1. Permission for retention of a two-bedroom apartment at first and second floor levels.
2. Change of use of ground floor from office use to an apartment.
3. Construction of single storey and two-storey extensions to the rear.
4. Alterations to the front elevation.
5. Ancillary site development works.

2.2. From reviewing the plans and particulars submitted with the planning application/appeal, I consider that the proposal can be summarised as follows.

1. The redevelopment/refurbishment of an existing structure (comprising a vacant ground floor office unit and the existing residential accommodation in the upper two floors comprising 1 no. 2 bedroom apartment unit. The proposals would involve a change of use of the ground floor vacant office space to an apartment unit.
2. Construction of single and two storey extensions to the rear of the structure comprising bedroom space, kitchen/living space as well as a balcony area.
3. Alterations to the front elevation in the form of altering the fenestration detail.
4. The upper floor apartment will be served by a first-floor balcony area.
5. An amenity area to the rear of the site serving the ground floor apartment.

### **3.0 Planning Authority Decision**

#### **3.1 Decision**

The Planning Authority issued a Notification of Decision to grant planning permission on the 23<sup>rd</sup> day of March 2023 subject to ten planning conditions which are of a standard nature. The pertinent planning conditions are as follows:

Condition number 2: Development Contributions.

Condition number 3: The residential units shall not be used for short term lettings as defined within the Residential Tenancies (amendment) Act 2019 and the Planning and

Development Act 2000 (as amended) Exempted development (No. 2) regulations 2019.

Condition number 4: Landscaping plan for external amenity area.

Condition number 9: Demolition/construction activity hours.

Condition number 10: Irish Water connection agreements.

## **3.2 Planning Authority Reports**

### **3.2.1 Planning Reports**

The report of the Planning Officer set out the following.

- The appeal site comprises a two-storey dwelling located within the designated city centre residential area as set out within the City Development Plan.
- Concerns regarding the scale of the proposal were originally expressed, However, following the submission of revised plans, the Planning Officer was satisfied that the revised scale and height of the rear extensions to be acceptable.
- The revised proposals provide adequate amenity space for the apartment units.
- The revised proposals would not give rise to issues of visual dominance, overshadowing nor adversely impacting the residential amenities in the area.
- The proposals would bolster the vibrancy and vitality of the city centre.

### **3.2.2 Other Technical Reports**

Drainage Section – No objection, subject to conditions.

Environment Section – No objection, subject to conditions.

## **3.3 Prescribed Bodies**

None.

### **3.4 Third Party Observations**

One observation was received by the Planning Authority. Issues raised related to the following:

- Privacy/overlooking concerns.
- Lack of information regarding first floor proposals.
- Lack of adequate private amenity space.
- Use of flat roof areas as amenity space.

### **4.0 Planning History**

There relevant planning history pertaining to the appeal site is considered to be the following:

PA. Ref. 20/233 – Planning permission refused by Galway City Council for a change of use of a ground floor office unit to an apartment with single storey rear extension and changes to front elevation. Reasons for refusal included, the design and layout did not comply with the 2018 apartment guidelines, substandard amenity space to serve two apartment units and that the proposals represented an overdevelopment of the site.

### **5.0 Policy Context**

#### **5.1 National Policy**

##### **5.1.1 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 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 (2023).
- 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).
- Urban Development and Building Height Guidelines, Guidelines for Planning Authority (2018).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities, 2010.

### 5.3. Development Plan

5.3.1 The Galway City Development Plan 2023-2029 came into effect on the 4<sup>th</sup> day of January 2023 and is the relevant development plan for consideration in this instance.

5.3.2 The appeal site is zoned - 'Residential' (R) under the Galway City Development Plan 2023 – 2029. The zoning objective for the 'Residential' land use zoning is '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. 'Residential' use class is considered compatible with the 'R' zoning.

5.3.3 The appeal site is located within the 'Inner Residential Area' (see Section 3.7 & also 11.3 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 3.6 - Sustainable Neighbourhoods: Inner Residential Areas
- Policy 8.7 - Urban Design and Placemaking

Chapter 11 includes development standards and guidelines, the following 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 (j) Conversion and sub-division of dwellings
- 11.3.3 Inner Residential Areas
- 11.3.3 (a) Car Parking Standards-General (Inner Residential Areas)

#### **5.4 Natural Heritage Designations**

- Galway Bay Complex pNHA (Site Code: 000268), located approximately 445 metres east of the appeal site.
- Galway Bay Complex SAC (Site Code: 000268), located approximately 445 metres east of the appeal site.
- Inner Galway Bay SPA (Site Code: 004031), located approximately 445 metres east of the appeal site.
- Lough Corrib SAC (Site Code 000297) located approximately 585 metres west of the appeal site.

#### **5.5 EIA Screening**

Having regard to the limited nature and scale of the development works located on lands that are zoned and fully serviced, 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 third-party appeal by Mary Mahon, a resident within number 182 Bohermore, a terraced residential property located north-west of the appeal site which immediately adjoins the appeal site. The appeal was submitted by her Consultant Engineer on her behalf against the decision to grant planning permission for the development. The issues raised are similar to those set out within her observation to the Planning Authority. The grounds of appeal may be summarised as follows:

- Her privacy nor residential amenity has not been adequately respected or taken into consideration within the planning decision.
- She wishes for the Board to analyse the development proposals and make its recommendations.

## **6.2 Planning Authority Response**

None received.

## **6.3 First party response to issues raised within the third-party appeal submission.**

- The third-party appeal does not provide any planning reasons or arguments in relation to the positive planning decision issued by the Planning Authority.
- The appellant included a copy of a previous submission which related to a historic planning application pertaining to the appeal site, which has no relevance to the current appeal.
- The current proposals differ significantly from those previously refused planning permission on the site in 2020 and, therefore, are not considered relevant.
- The contents of the appeal submission do not meet the minimum requirements for the making of a valid appeal.
- The initial proposals submitted to the Planning Authority were deemed excessive by the Planning Authority. The revised proposals, whereby the scale and height were reduced were deemed acceptable by the Planning Authority. This is set out within the second planning report addressing the amended proposals which were deemed to meet the development management standards set out within the current City Development Plan having regard to scale, height and amenity space provision.
- The issue of overlooking from the first-floor balcony space has been addressed by means of the proposed 1.8-metre-tall screening proposals around the balcony perimeter.

## 6.4 Observations

None received.

## 7.0 Assessment

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

- Principle of Development
- Density, Unit Mix
- Compliance with Relevant Guidelines/Standards
- Design & Visual Impact
- Impact on Residential Amenity
- Appropriate Assessment

## 7.2 Principle of Development

7.2.1 The appeal site, and curtilage of the appeal property is zoned 'Residential' as per the current Galway City Development Plan 2023-2029. The appeal site is also located within the designated Inner city centre residential area within the Plan. The proposals which would involve changing the use of the ground floor space from office to residential and reconfiguring and the upper floor residential accommodation as well as extending the accommodation at ground floor and first floor levels. Residential development is a permissible use on residential zoned lands. I consider the principle of the proposed development to be acceptable.

7.2.2 The appeal site is also located within the designated Sustainable Neighbourhoods, Inner Residential Area as per figure 3.1 of the City Plan. The following is set out within Section 3.7 in relation to redevelopment within these areas: It is recognised that these areas are dynamic, and that potential still exists for some additional residential development which can make efficient use of existing public transport

routes and social and physical infrastructure. It is the priority of the Council to ensure that new development will not adversely affect the character of these areas. In this regard infill development and housing extensions should not be of such a scale that represents a major addition to, or redevelopment of the existing urban fabric. In this respect, infill development will have regard to the existing pattern of development, plots, blocks, streets and spaces. Infill development will also have regard to the scale and proportion of existing buildings, building lines, massing and height of buildings in relation to the street. Section 8.7 of the Plan pertains to urban design and placemaking. This section of the plan encourages the redevelopment of existing residential properties particularly those within the designated inner residential area which includes the appeal site. Therefore, I consider the principle of the proposed development to be acceptable. In this instance.

7.2.3 I also note that Section 3.3.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2023) pertains to development in cities and Metropolitan Areas. Among the key priorities for growth in these areas include:

- To realise opportunities for adaptation, reuse and intensification of existing buildings and for incremental brownfield and infill development.

### **7.3 Density, Unit Mix**

7.3.1 The proposal entails the development of two apartment units within an existing terraced structure on a site of 0.0213 hectares, equating to a density of c. 47 dwelling units per hectare (dpha). Section 3 of the Sustainable Residential Development and Compact Settlement Guidelines (2023), sets out density ranges for the regional cities including Galway. Residential densities in the range of 50dph to 200dph shall generally be applied in city urban neighbourhoods within the compact medium density neighbourhoods around the city centre that have evolved over time. The Guidelines state that these densities are encouraged 'in order to maximise inner city and town centre population growth. there should in principle, be no upper limit on the number of dwellings that may be provided within any town or

city centre site, subject to safeguards'<sup>1</sup>. Section 5.8 of the Guidelines recommends that increased densities should be promoted, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations / bus stops, and decreasing with distance away from such nodes. The appeal site is located on Bohermore, c. six hundred metres north-east of the city centre of Galway. There are a number of bus stops in the vicinity of the appeal site, including a number of locations along Bohermore, and as such I consider that the density proposed is appropriate in this context.

### 7.3.2 Unit Mix

The proposed development would comprise a ground floor two bedroomed apartment and another two bedroomed apartment within the upper two floors. Given the proposals will involve the bringing back into to use of a vacant ground floor unit, I consider the mix of units to be acceptable, given the modest scale of the existing structures on site.

## 7.4 **Compliance with Relevant Guidelines/Standards**

### Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022

7.4.1 Having reviewed the plans and particulars submitted with the application and the appeal, I consider that the proposal complies with, and in many instances exceeds the standards for internal accommodation set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2022.

7.4.2 SPPR5 requires that ground floor apartments have a minimum floor to ceiling height of 2.7 metres. SPPR5 however provides that discretion from this requirement may be exercised on a case-by-case basis, subject to overall design quality, for building refurbishment schemes on sites of any size, or urban infill schemes up to 0.25 ha.

The appeal site comprises 0,0218 hectares and, therefore, this standard is not applicable in this instance.

7.4.3 As addressed below within paragraph 7.4.6 below, Apartments 1 and 2 will both be served by private amenity space. The Apartment Guidelines similarly provide that for building refurbishment schemes, private amenity space standards may be relaxed on a case-by-case basis subject to overall design quality. The ground floor apartment would be served by a courtyard area with an area of 13 square metres (sq. m.) and this apartment has access onto the rear garden area which comprises c. 72 sq. m. The upper floor apartment would be served by an 11 sq. m. balcony area at first floor level. In order to protect the amenity of the future residents of the ground floor apartment and those of neighbouring residents, the applicants are proposing to erect a 1.8 metre screen along the sides of the balcony area, I consider that the quantum and quality of amenity space afforded to the ground floor apartment to be generous and well in excess of the apartment guideline standards. Although the amenity space afforded to the first-floor apartment is not ideal, given the proposals relate to the refurbishment within an existing built footprint, with some minor rear extensions, the quantum of amenity space is considered acceptable. I also consider that the extension of the perimeter screening to include along the rear (south-east facing) perimeter of the first-floor balcony, along with the screens along the sides of the balcony area would adequately protect the amenities of neighbouring residents. This is a matter that can be addressed by means of an appropriate planning condition if the Board deem appropriate.

Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021)

7.4.4 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. As the proposed development would comprise two apartment units, the requirements set out in these guidelines are not applicable.

### **Galway City Development Plan 2023 – 2029**

#### **Open Space:**

7.4.5 Policy 11.3.1 (c) of the Galway City Development Plan 2023 – 2029 requires communal amenity space at a rate of 15% of the gross site area, or 10% on restricted sites. In this instance I consider it reasonable to consider the site as a restricted site noting its terraced form. The area of the appeal site is stated as comprising 0.0218 ha, or 218 sq. m. and the proposal therefore has a communal open space requirement of 21.8 sqm. From reviewing the site plan submitted the proposal provides approximately 85 sq. m. of private open space at ground floor level in the form of an internalised courtyard area providing approximately thirteen square metres and a rear garden space comprising 72 sq. metres, giving a total private amenity space of 85 sq. m to serve the ground floor apartment unit. At first floor level, a balcony area comprising 11 square metres is proposed as the private amenity space to serve the upper floor apartments. The quality and quantity of the private amenity space was assessed in Section 7.4.3 of this report. Therefore, I am satisfied that the private amenity space afforded to future residents of the two apartments units is in compliance with the City Development Plan standards as set out within Section 11.3.1.(c) in relation to private amenity space.

#### **Overlooking:**

7.4.6 Policy 11.3.1 (d) of the Galway City Development Plan 2023 – 2029 provides that residential units shall generally not directly overlook private open space or land with development potential from above ground floor level by less than 11 metres and that in the case of developments exceeding 2 storeys in height, a greater distance than 11 metres may be required. The appeal site backs onto two storey residential properties, which are part of the Forster Court residential development. The applicants have left a 12.58 metres long garden space between the back wall of the

rear extension and the rear garden boundary wall, and, therefore, exceeds the 11-metre standard set out within the City Development Plan. I consider that overlooking is a relevant consideration. Whilst the existing building results in a degree of overlooking of the property to the north from first floor windows, I note that the proposal entails an increased level of overlooking, through the provision of balconies at both first and second floor level. However, I am satisfied that the 1.8 metre tall perimeter screens that are proposed (or can be addressed by means of a planning condition) will address the issue of overlooking. I am satisfied that the overlooking impact the impact would not be so adverse as to warrant a refusal of planning permission in this inner-city residential district. I consider that the development accords with Policy 11.3.1 (d) of the Galway City Development Plan 2023 – 2029.

#### 7.4.7 Refuse Storage:

Policy 11.3.1 (i) of the Galway City Development Plan 2023 – 2029 requires that 3 no. x 240 litre bins shall be provided for each pair of apartments, or a set of 3 no. 1100 litre bins shall be provided for a block of ten apartments. As the proposed development would comprise two apartments, I consider there to be a requirement to provide 3 no. 240 litre bins per unit, therefore six bins in total. The drawings submitted with the planning application/appeal indicate space for refuse storage to serve both apartment units but does not indicate the specific capacity of each refuse storage area. The capacity of the bin storage areas provided for is unclear. Should the Board be minded to grant permission for the proposed development, I recommend that this issue is addressed by condition, specifically that details indicating how provision would be made for refuse storage for each apartment unit.

Car Parking:

7.4.8 Policy 11.3.3 and 11.3.3 (a) of the Galway City Development Plan 2023 – 2029 requires 1 space per dwelling (maximum), and states that in new developments in the inner residential areas at locations that are served by public transport or close to high density employment areas, a reduced overall car parking standard can apply, in particular on grounds of sustainability or urban design. The proposed development, comprising two apartment units has no ability to provide for on-site parking. Neither



is there on-street parking along Bohermore at this particular location. However, I note that Bohermore is located approximately six hundred metres north-east of Eyre Square in the heart of Galway city and that Bohermore is served by City Bus route 405 linking Ballybane with the city centre and Ragoon. The 405 bus route serves Bohermore every twenty minutes from Monday to Saturday and every 30 minutes on Sundays. There is footpath connectivity from the appeal site directly to the city centre and dedicated cycle pathways for a portion of this route. Therefore, despite the absence of on-site parking, the appeal site is located in close proximity to the city centre with ease of access to/from the city by walking, cycling or the use of the city bus service. Noting the central location of the site and proximity to public/sustainable transport modes, I am of the opinion that this matter is not something which would preclude the board from granting planning permission. should the Board be minded to grant permission for the proposed development.

## **7.5 Design & Visual Impact**

7.5.1 The appellant has raised the issue of the proposed development adversely impacting her residential amenity by reason of overlooking. This was something that the Planning Authority were concerned about, and they sought to address this issue by requesting the submission of revised plans, whereby the scale of the development would be reduced.

7.5.2 The proposed development (as revised) entails the redevelopment of a terraced building, which is presently vacant at ground floor level and provides for a two-storey apartment within the upper two storeys. This is consistent with the residential property located at number 178 Bohermore, which similarly provides for residential accommodation within its upper two floors. The appellants property at number 182 Bohermore is a lower-level property comprising a conventional two storey residential structure. The applicants are proposing to provide for a first-floor kitchen/living room area extension and a balcony area at first floor level to the rear of the existing property. The first-floor kitchen/living room extension would be constructed side by side with a two storey return to the rear of the appellants' property. The first-floor balcony area would be constructed in line with a single storey return extension to the

rear of the appellants property. In my opinion, any redevelopment of the site should provide for a building of a sufficiently high architectural quality and a design approach which provides for the effective assimilation of the development into the area. The appeal site is located within the designated inner city residential area. Many of the properties in the vicinity of the appeal site, including those immediately adjoining the appeal site, including that of the appellant have developed single and two storey rear extensions. Therefore, the principle of developing rear extensions is long established in this area. In particular, I note the prevalence of 2-3 storey buildings along the Bohermore Road and as such I consider the principle of a two-storey building with attic space conversion at this location acceptable, subject to the quality of its design and adherence to Development Management standards.

7.5.3 Section 8.7 of the Plan pertains to urban design and placemaking. This section of the plan encourages the redevelopment of existing residential properties particularly those within the designated inner residential area which includes the appeal site. I note that the ridge line of the existing property on site will not be breached by the proposals. The rear elevation contextual elevation plans demonstrate that the proposals would integrate appropriately within the existing built environment. The changes to the front elevation are of a relatively minor nature, whereby the ground floor fenestration would provide for the installation of two windows with a vertical emphasis to replace the existing single ground floor window and is considered acceptable. I am satisfied that the proposed ground and first floor rear extensions would integrate appropriately with the existing building on site and allow for the two apartment units to be developed in accordance with the current City Development Plan standards. The proposals would provide adequate living, bedroom and amenity space without unduly compromising the neighbouring residential properties. Given the location of the property within the designated city centre residential area and having regard to the existing vacant ground floor use, I am satisfied that the proposals provide for an opportunity to redevelop and reconfigure the partially vacant property in an appropriate manner that will provide an adequate level of amenity for future residents without unduly compromising the amenity of neighbouring residents. I am satisfied that the proposals can be assimilated

appropriately within this urban streetscape without serious injury to the character and amenities of the area.

## **7.6 Impact on Residential Amenity**

7.6.1 The appellant requested within her submission that the Board consider whether her privacy and/or residential amenity would be adequately respected within the development proposals. From reviewing the plans and particulars submitted as part of the planning documentation, I consider that a number of issues arise in respect of residential amenity. These issues relate to the residential amenity of adjacent property and also the amenity of future residents of the proposal. I will address each issue below in more detail.

7.6.2 In terms of the impact of the proposal on the residential amenity of neighbouring property owners, I consider that the main impact arises as a consequence of the potential for overlooking from the upper floor level of the development. As addressed at paragraph 7.4.6 (above), I note that a certain extent of overlooking arises from the first-floor bedroom window on the rear elevation of the property to the rear garden areas of the neighbouring residential properties. However, the same can be said of the neighbouring residential properties providing a certain extent of overlooking of the appeal site rear garden space. The proposals in my opinion would not result in a significant increase in the extent of overlooking, through the provision of the 1.8-metre-tall perimeter screens on each side of the first-floor balcony area, thus restricting direct overlooking of the neighbouring residential properties. I am also satisfied that the rooflights provided within the rear roofslope will not result in overlooking and are to be provided for functional purposes in terms of a secondary means of escape and for illumination purposes. I note that the Planning Authority were satisfied that the neighbouring residential amenities would not be unduly impacted upon as a result of the revised design proposals, submitted as part of the further information response. I would concur with the view expressed within the Planners report. I consider that the level of direct overlooking of adjoining property

will not increase to such an extent above the level of overlooking that exists from the existing rear facing first floor bedroom window.

7.6.3 I also note that the existing walled boundaries around the perimeter of the rear garden space only reach a height of approximately 1.3 metres along the sides and 1.5 metres to the rear. I consider that in order to adequately respect the amenities of the neighbouring residential properties that the walled boundaries should be raised to a height of 1.8 metres. The height should be measured from the developers' side of the rear garden perimeter boundary. This is a matter that can be addressed by means of an appropriate planning condition.

7.6.4 Regarding overshadowing, noting the orientation of the appeal site/property from the appellants' property, which is located to the north-west of the appeal site, and to the path of the sun, I am satisfied that the proposed development will not result in significant overshadowing of the adjacent property to the north-west. I do not consider that the proposed development, will give rise to any significant degree of overbearing of the property to the north-west over and above what is currently experienced.

7.6.5 The issue of amenity to be provided was addressed previously within Section 7.4.3 of this report above. I am satisfied that the design and layout as submitted as part of the further information response provides an appropriate quality and quantity of residential amenity for future residents and would not adversely impact upon neighbouring residential amenities.

## **7.7 Appropriate Assessment**

7.6.1 I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 445 metres west of the nearest European sites, namely the Galway Bay Complex SAC (site code 000268) and the Inner Galway Bay SPA (site code

004031). The development description was set out with Section 2 of the report above. No nature conservation concerns were raised in the planning appeal.

7.6.2 Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows [insert as relevant:

- The modest scale of the works proposed.
- The separation distance from the nearest European site and the lack of hydrological or ecological connectivity to any Natura 2000 site.

7.6.3 I conclude, that on the basis of objective information, that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. Likely significant effects are excluded and, therefore, Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000(as amended) is not required.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective pertaining to the site location of the appeal site within the designated Inner City residential area, the policies and objectives of the Galway City Development Plan 2023-2019, specifically policy objective 3.6 regarding Sustainable Neighbourhoods-Inner Residential Areas, and the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2023), specifically Section 3.3.1., it is considered, subject to the conditions set out below, that the proposed development would not seriously injure the residential amenities of the area and would be acceptable in terms of design and layout. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. Having regard to the Sustainable Residential Development and Compact Settlement Guidelines, the Sustainable Urban Housing: Design Standards for New Apartments Guidelines, and

the policies and objectives of the Galway City Development Plan 2023 – 2029, it is considered that, subject to conditions, the proposal would fulfil the existing residential zoning objective for the site and it would be of an appropriate density and height to this site within its context.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 4th day of August 2022 and as amended, by the further plans and particulars submitted on the 24th day of February 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2 The existing perimeter rear garden area walled boundaries shall be raised to a minimum height of 1.8 metres. The height shall be measured from the developers' side of the boundary.

**Reason:** In the interest of visual and residential amenity.

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

- (a) A plan to scale of not less than 1:500 showing –
  - (i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash,

birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.

(ii) Details of screen planting which shall not include cupressocyparis x leylandii

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

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

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

**Reason:** In the interest of residential and visual amenity.

- 4 Construction and demolition waste shall be managed in accordance with a construction traffic, waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

- 5 The proposed development shall be amended as follows:

(a) The first-floor balcony area on the rear elevation shall be provided with perimeter surround screens of either solid material or obscured toughened glass along its entire perimeter. The screens shall have a minimum height of 1.8 metres.

(b) Details of materials, colours and textures of all the external finishes to the proposed apartments

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of protecting residential amenities and the proper planning and sustainable development of the area.

- 6 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of traffic management, including timing and routing of construction traffic, measures to obviate queuing of construction traffic, details of materials and staff compounds, details of hoardings and security fencing, intended construction practice for the development, including noise, dust and vibration mitigation measures and off-site disposal of construction / demolition waste. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

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

**Reason:** In the interest of public health.



- 8 The applicant shall enter into water and waste-water connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

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

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

- 10 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

- 11 Prior to the commencement of development, the developer shall submit precise details of bin storage to serve the two apartment units in accordance with the requirements of the Planning Authority

**Reason:** In the interest of public health.

- 12 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority

in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

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Fergal Ó Bric

Planning Inspectorate

29<sup>th</sup> day of July 2024