



An
Bord
Pleanála

Inspector's Report

ABP-317076-23

Development

Demolition of two existing houses and the construction of 74 residential units, resident's gym, new vehicular entrance along with all associated site works and service connections.

Location

Rosario, Kingston, Galway.

Planning Authority

Galway City Council.

Planning Authority Reg. Ref.

19295.

Applicant(s)

Diagnostic Medical Imaging International Limited.

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First party

Appellant(s)

Diagnostic Medical Imaging International Limited.

Observer(s)

1. Brendan McGrath.
2. Ross Rooney and others.
3. Angela McCluskey.

4. Noel Bolger (Fort Lorenzo Residents Association).
5. Laura O'Donnell.
6. Tony and Sally O'Leary.
7. Neil O'Leary (Galway Cycling Campaign).
8. Louise and Fergal Boyle (Garrai de Bruin Residents).

Date of Site Inspection

24 January 2024.

Inspector

Stephen Rhys Thomas.

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1.0 Preliminary

- 1.1. The Board's decision on appeal reference no. ABP-310067-21 was quashed by the Court (case number 2021 No 1075 JR) and remitted to the Board for a fresh determination. The Order perfected on the 4th April, 2023, states that the matter shall be remitted to the Board to be determined in accordance with law and that such remittal shall take effect from the point in time immediately following receipt of correspondence and enclosures from Galway County Council, dated 30th August, 2021 and received by the Board on the 1st September, 2021.
- 1.2. The remitted appeal was considered by the Board on the 19th May, 2023 and the terms of the High Court Order were duly noted. With regard to the matter, the Board decided that a number of steps be taken, including:
- A new Inspectors report be completed.
 - Participants to be invited to make submissions/observations, under section 131 of the Planning and Development Act 2000 as amended.
 - Upon completion of the section 131 process, new Inspector to carry out a de novo assessment of the appeal.
- 1.3. In accordance with the wishes of the Board, the following report has been prepared as if the appeal had been received in the first instance (lodgement of the appeal on the 27th April, 2021) and all relevant matters have been taken into consideration.

2.0 Site Location and Description

- 2.1. Located in the western suburbs of Galway City, north of Salthill, the site is accessed from Kingston Road to the south. The southern portion of the site is narrow and comprises two dwellings and their respective gardens. The majority of the site is to the north and borders residential development on all sides. With Manor Avenue Estate to the west, Bru na Mara to the north and Fort Lorenzo House and Cuan na Coille to the east. Two large dwellings accessed from Kingston Road are located along the western leg of the appeal site.
- 2.2. The site rises sharply from the public road at the south of the lands and reaches a plateau or level section at the northern end of the site. This area of the site is more

or less level with remnant internal field boundaries and a variety of mature trees and hedgerows. Residential development borders the larger portion of the site with some dwellings at the Manor Avenue estate set at a lower level than the site along its western side. Dwellings at the Brú Na Mara estate to the north of the site back onto the field boundary and are set at a similar level as the subject lands. Fort Lorenzo House and Cuan Na Coille estate comprise apartments set in small three storey blocks around open landscaped gardens, these dwellings are set well away from the site. The overall neighbourhood can be described as residential with a combination of detached, semidetached and terraced housing, with a number of three storey apartment blocks. Public bus services run along the Kingston Road to the south of the site and the Western Distributor Road to the north. A variety of schools, shops, social and recreational amenities, and employment opportunities are all easily accessible in the wider area of the site.

3.0 Proposed Development

3.1. The proposed development comprises the following:

Demolition of two existing houses.

The construction of 74 residential units, comprising:

Three 4/5 storey apartment blocks containing a total of 20 one bedroom apartments, 18 two bedroom apartments, 6 three bedroom penthouse apartments

8 four bedroom detached houses

8 three bedroom semi-detached and terraced houses

14 four bedroom semi-detached houses

Resident's gym

New vehicular entrance and 175 car parking spaces.

3.2. Further Information was requested on the 16th of December 2019 and included the following matters:

- Clarify ownership.
- Increase residential density.

- Revisions to apartment blocks- and shadow analysis.
- Omit apartment block 2, and retain residential density.
- Revise open space arrangement to increase usability.
- Address 11 metre separation distances at upper levels.
- Maintain greater separation distances between buildings.
- In accordance with DMURS, address sight visibility.
- Address car parking dimensions, configuration and revise auto track drawings accordingly.
- Consider a second vehicular access point to alleviate traffic congestion along Kingston Road. Increase pedestrian/cyclist permeability. Address turning movements at the Kingston Road entrance. Address footpath width along site frontage, raised table design and junction radii.
- Public lighting design standards.
- Address cycle route proposals along Kingston Road, within the TIA, cycle parking spaces.
- Part V proposals.

3.3. An extension of time was requested by the applicant on the 13th of May 2020 for three months. The planning authority by Order dated 15th May 2020, extended the period for making a decision to the 7th of August 2020. A further extension of time was requested by the applicant on the 21st of May 2020 for an additional three months. The planning authority by Order dated 29th May 2020, extended the period for making a decision to the 18th of November 2020.

3.4. A response to further information was submitted to the planning authority on the 21st of October 2020, material changes to the development included:

- Residential density increased to 46.41 units per hectare, by the provision of 84 units, comprising 65 apartment units and 19 houses. Changes achieved by omission of apartment block 1, two new apartment blocks proposed in place of nine dwellings on sites 45 to 53 (inclusive).

- Primary access to be taken from Garrai de Bruin, vehicular access from Kingston Road to be one way and entry only, footpath improvements along Kingston Road, internal layout changes to car parking areas and landscaping.
- Provision of a crèche building in place of two dwellings on sites 54 and 56.

3.5. Revised public notices dated 6th of November 2020, with an additional public notice erected at Garrai de Bruin, dated 17th of November 2020.

4.0 Planning Authority Decision

4.1. Decision

4.1.1. The planning authority issued a notification to refuse permission for two reasons, summarised as follows:

1. Dispersal of traffic is through alternate routes, the route via Garrai de Bruin has not been demonstrated to meet DMURS requirements and is not under the control of the applicant. Access arrangements from Kingston Road would not stand if the Garrai de Bruin is excluded and a traffic hazard would therefore result.
2. Sufficient legal interest and consent to apply for permission and to carry out works to adjacent structures and lands has not been demonstrated by the applicant.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The basis of the planning authority decision includes:

4.2.2. First Report

- Site could support higher residential densities.
- Urban design acceptable, with minor concerns about overshadowing.
- Issues arise with respect to overlooking and the provision of 11 metre separation distances. Separation between buildings are also not met in some cases.

- Quantum of open space acceptable, however, layout and level difference require amendment.
- Note enough car parking has been provided and the car space dimensions do not meet standards.

In accordance with the recommendation of the Planner, a request for further information to issued, to address the items above.

4.2.3. Second Report

- Legal consent still an issue for clarification.
- Legal ownership and consent questions now arise over the proposed entrance onto Garrai de Bruin.
- Density has increased and a crèche is now proposed, this is acceptable.
- Revisions to block design, arraignment and overshadowing analysis, all acceptable.
- Separation between blocks and a separation distance of 22 metres now provided between opposing first floors, acceptable.
- Visibility splays now not needed on Kingston Road.
- A minor shortfall of 4 car parking spaces is acceptable, 83 provided when 87 advised in the development plan. Other traffic and transport issues are noted.

In accordance with the recommendation of the Planner, Clarification of Further Information was requested.

4.2.4. Third Report

- Ownership and legal consent remain significant issues. The front/lower section of the site appears to be in the ownership of Margaret Forde (Folio 36069) and no consent has been forthcoming.
- No consent has been given with regard to Garrai de Bruin access point and associated works. It is uncertain if the prosed access point at Garrai de Bruin can be provided in accordance with accepted standards, DMURS.

In accordance with the recommendation of the Planner, a decision to refuse permission issued.

4.2.5. Other Technical Reports

Transportation Report – dated 13/12/19 FI required, dated 25/11/20 clarification of FI required and dated 23/03/21 refuse permission.

Drainage – dated 22/11/19 no objections.

Housing – dated 14/11/19 Part V comments.

4.3. Prescribed Bodies

Irish Water – design standards for piped network may not be met and network improvements may be required.

4.4. Third Party Observations

4.4.1. Initially, 19 objections received and included a signed petition, issues include: legal consent, pedestrian linkage, design, density, overlooking, cycling and traffic.

4.4.2. After the submission of further information, 14 additional observations/objections were submitted, similar issues raised as before, with the specific reference to the creation of a new vehicular entrance via Garrai de Bruin, stone wall removal, level changes not considered and additional traffic on a road not designed for such is problematic. The location of a new crèche is not acceptable.

4.4.3. After the submission of clarification of further information, 7 observations/objections were submitted, similar issues raised as before, with the specific reference to the creation of a new vehicular entrance via Garrai de Bruin.

5.0 Planning History

5.1. Appeal Site:

5.1.1. None.

6.0 Policy Context

6.1. Development Plan

6.1.1. The Elected Members of Galway City Council adopted the Galway City Development Plan 2023-2029 at the Full Council Meeting held on Thursday 24th November 2022 and it came into effect from Wednesday 4th of January 2023. A Ministerial Direction of the 3rd May 2023 concerns minor amendments that do not affect this site.

6.1.2. The operative development plan is the Galway City Development Plan 2023-2029 according to which the site area, is subject to the zoning objective R – Residential, that seeks 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. Relevant sections of the development plan include:

Chapter 3. Housing and Sustainable Neighbourhoods

Chapter 4. Sustainable Mobility and Transportation

Chapter 8. Built Heritage, Placemaking and Urban Design

Chapter 10. Compact Growth and Regeneration, specifically Section 10.22 Salthill, however, the site falls just outside the area defined by figure 10.20 Salthill on page 271 of the plan.

Chapter 11 incorporates development management standards (Part B) and guidelines to be applied to future development proposals in the city. Part B Development Standards General Development Standards and Guidelines is most relevant and includes guidance in relation to the following:

- Residential Development
- Advertisements and Signage
- Urban Development and Building Height
- Transportation
- Waste Management

Specific Development Standards are also highlighted and relevant guidance includes:

- Childcare Facilities
- Community / Educational Facilities
- Built Heritage
- Green Design & Surface Water
- Street Furniture, Signs and Structures
- Access for All
- Flood Risk Management & Assessment
- Climate - Scheme Sustainability Statements
- Appropriate Assessment/ Natura Impact Statement
- Invasive Alien Species
- Ecological Impact Assessment (EcIA)

6.2. National and Regional Policy

6.2.1. Section 28 Ministerial Guidelines

Having considered the nature of the appeal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines in addition to those considered in the preparation of the current development plan is the following:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

6.3. Natural Heritage Designations

- 6.3.1. The site is not located within any designated site. The closest Natura 2000 sites are the Galway Bay Complex SAC (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031), both located 1.1km to the south of the site.

6.4. EIA Screening

- 6.4.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination stage and a screening determination is not required, appendix 1 of my report refers.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. The applicant has appealed the decision of the planning authority to refuse permission, the grounds of appeal can be summarised as follows:
- Reason 1 – Access/Consent - Garrai de Bruin road is in the charge of the Council and consent to lodge an application has been given. The second basis for refusal with regard to a single access is not relevant as the proposal provides two vehicular access points.
 - Reason 2 – Legal Interest – Issues that concern legal interest are not planning matters. Sufficient documentation has already been submitted to demonstrate that the applicant is the owner of the majority of the site, appendix 2 of the grounds of appeal refer. The remainder of the site, the access proposal along Garrai de Bruin is in the charge of the Council and a letter of consent to make the application can be found in appendix 1, as per consent letter from Galway City Council dated 20/10/20.

Appendix 3 of the grounds of appeal contains a legal opinion.

7.2. Planning Authority Response

- 7.2.1. None.

7.3. Observations

Eight Observations were received after the initial appeal and the issues outlined as similar to those raised at the application stage of the process. For clarity, issues are summarised as follows:

- Vehicular Access – entrance from the Kingston Road will encourage dangerous traffic manoeuvres. A new vehicular entrance via Garrai de Bruin is opposed and a through route through the lands will be dangerous. Non compliance with DMURS, Garrai de Bruin would change from a local to a linked street. Access arrangement contravenes City Plan Policy in the outer suburbs. The RSA is limited in scope. Traffic calming measures along the access route should be considered.

The access point at Kingston Road should be removed altogether, save for pedestrians and cyclists.

- A pedestrian/cyclist route through the lands is supported and more should be provided. The southern boundary should be set back to allow for a wider footpath along Kingston Road. Adequate and well designed cycle parking should be included.
- Boundary – greater clarity on boundary treatment required, especially to the east of the site.
- Ecology and biodiversity issues have not been adequately identified or addressed.
- Residential Density has not been adequately addressed.
- Housing mix is disproportionately directed towards apartments. The overall scheme in all its elements is criticised.
- Legal interest not demonstrated.
- The location of the crèche is inappropriate.
- No Archaeological Appraisal of the site.

- The planning application process and assessment are both flawed. Significant changes occurred during the application process that have resulted in a very different scheme.

Observations include, drawings, maps, photographs and a DMURS engineering report.

7.4. Further Observations

- 7.4.1. After the appeal was remitted to the Board for fresh consideration, observers were invited to make submissions, six observations were received, and the same issues are raised as before.

7.5. Further Responses

- 7.5.1. The applicant was invited to make a submission after the appeal had been remitted to the Board, the responses are similar to the grounds of appeal already made and summarised above.

9.0 **Assessment**

9.1. Introduction

9.1.1. This is a first party appeal against the decision of the planning authority to refuse permission for 74 apartment units in Galway City. During the planning application process the overall scheme changed markedly, it increased in density and number of units, added a crèche and changed the road layout and vehicular access arrangements. The proposed changes to the initial proposal excited a high level of opposition from local residents. The grounds of appeal are tightly bound to the reasons for refusal that relate to issues over legal interest, consent and ability to carry out the works necessary for the second vehicular entrance to ensure compliance with Design Manual for Urban Roads and Streets (DMURS).

9.1.2. Leaving aside legal matters to do with ownership and consent, this appeal has been remitted to the Board to consider afresh from a point following receipt of documentation from Galway City Council dated 30th August 2021 and received by the Board on the 1st September 2021. The Board have directed me to carry out a de novo assessment of the appeal. Further responses to the remitted appeal have been invited and received from observers and the applicant. In this instance and in the interests of clarity, my report considers the appeal as if the case was being considered for the first time and I refer to all submissions and observations present on file. Bearing this in mind, the issues can be dealt with under the following headings:

- Principle of Development
- Ownership and Consent
- Access, Traffic and Transport
- Density, Housing Mix and Layout
- Childcare Facility
- Archaeology
- Wildlife
- Boundary Treatments

- Other Matters
- Appropriate Assessment

9.2. Principle of Development

- 9.2.1. The operative statutory plan for the subject appeal is the Galway City Development Plan 2023-2029, it has been in operation since the 4th of January 2023. The site is located on lands subject to zoning objective R – Residential, that seeks 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. Uses which are compatible with and contribute to this zoning objective include residential and childcare facilities.
- 9.2.2. It is clear that the appeal site, like others in the statutory plan that are zoned residential are appropriate for residential and residentially compatible development. There is no disagreement between parties that some form of residential development is acceptable at this location. However, it is the form and evolution of plans for the site that have evoked opposition and these matters are examined in the following sections of my report. From the perspective of suitability of the site for residential uses, I am satisfied that the land use zoning supports such development, and is entirely acceptable in terms of the principle of development.

9.3. Ownership and Consent

- 9.3.1. Observers are concerned that the applicant does not have the requisite ownership rights to develop the site. Specifically, and subsequent to amended plans submitted to the planning authority in the course of further information and clarification requests, that the applicant has no right over land to the north of the site in order to facilitate a vehicular connection. Observers are also critical of the suitability of a vehicular entrance that will open onto a residential cul-de-sac road not designed for additional traffic and that the ground levels between the site and Garrai De Brun have not been adequately addressed.
- 9.3.2. Permission was refused by the planning authority in relation to the suitability of vehicular access onto Garrai De Brun and that sufficient legal interest or consent has not been provided by the applicant. These two issues form the basis of the appeal

grounds rendered by the applicant and a significant portion of the observers concerns.

- 9.3.3. The applicant makes the point that the Garrai De Brun estate roads are in the charge of the local authority and a letter of consent dated 13th April 2021 confirms the availability of access and to carry out works along Garrai De Brun for DMURS compliance. However, upon reading this letter, I note that it does not expressly refer to the Garrai De Brun estate. From an examination of the documents submitted as clarification of further information and received by the planning authority on the 10th May 2021, I can see that sufficient documentation has been submitted to confirm relevant title and consent to carry out development on the lands where housing is proposed, drawing number 3001 refers, but not along Garrai De Brun as outlined on drawings submitted with the appeal, drawing number 3001 Rev ABP refers. In addition, I note that a previous letter from Galway City Council dated 14th January 2020 explains that the roads, footpaths and water services of Garrai De Brun are all taken in charge and a map illustrates an area outlined in red to demonstrate this.
- 9.3.4. Observers to this appeal continue to point out that various land registry folios in the area are unresolved at present. Specifically, it is highlighted that though the Council have taken in charge aspects of Garrai De Brun, the roadway remains in private ownership and no consent to lodge a planning application or carry out works has been granted. I note that observers refer to and include a letter from Galway City Council dated 18th May 2021 that clarifies that the council do not own lands and simply discharge their duties with reference to roads and services taken in charge. Finally, the masonry wall that separates the site from Garrai De Brun is not in the ownership of the applicant and cannot therefore be demolished to facilitate the development. The vehicular access aspect of the proposal is strongly opposed by a large number of residents of Garrai De Brun, a signed petition can be found on file.
- 9.3.5. Issues to do with legal title to land and consent, stand outside the planning process and are not matters that can be solved with any element contained within the Planning and Development Act 2000 as amended. The planning system is not designed as a mechanism for resolving disputes about title to land or premises or consents over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development.

Commonly, a grant of permission is subject to the provisions of section 34(13) of the Act, referred to above. In other words, the developer must be certain under civil law that he/she has all rights in the land to execute the grant of permission. I have seen enough information on the file to demonstrate that the applicant has the relevant rights to lodge an application and carry out development within the red line boundary of the site, it is not for me or the Board to forensically investigate issues that are better examined in another forum if that is necessary. As such there are no grounds for the Board to refuse permission in this instance in terms of land ownership alone.

- 9.3.6. From a sustainable planning perspective, I can see the logic of making this site permeable with an entrance on Garrai De Brun and an entrance to Kingston Road. However, the form and design of an access with Garrai De Brun has evolved in an unsatisfactory manner and this has troubled local residents. Issues remain outstanding in terms of ownership and consent and though these matters are better suited to resolution outside the planning process there remains a high degree of opposition to an entrance at all, at the northern edge of the site. This is problematic for a development that has been amended by the numerous requirements requested by the planning authority, including the notion of providing a vehicular entrance on to Garrai De Brun. The matter of access is examined in more detail in section 9.4 of my report. In relation to ownership and consent, I am satisfied that the applicant has the necessary consents to lodge a planning application with reference to the red line boundary of the site, drawing number 3001 refers. However, I am not satisfied that the necessary consents are currently in place to execute the development if a vehicular entrance is provided to Garrai De Brun. In fact, it is clear that in its final iteration the development is completely opposed by parties that claim ownership, anyway these are matters for the courts. The development as first proposed, without a vehicular entrance to Garrai De Brun is not so encumbered by local opposition and it is this iteration that I consider further in my assessment in the following sections of the report.

9.4. Access, Traffic and Transport

- 9.4.1. The development as initially proposed comprises 74 residential units with a vehicular access taken from the south of the site along Kingston Road. Observers to the initial proposal highlighted traffic issues along the Kingston Road and how the development would add to problems associated with traffic congestion and the

present the likelihood of traffic hazard. The planning authority were also concerned about traffic and access issues and required the applicant to consider an additional vehicular access point at Garrai De Brun and modify the proposed access onto to Kingston Road. Together with an increase in units the applicant submitted a revised proposal and this ignited a significant amount of opposition from the residents of Garrai De Brun and this is carried through to the observations on this appeal.

- 9.4.2. By way of background, the appeal site is located in a residential area, and I consider it to be a combination of infill and backland in character. Three storey apartment blocks are located to the east of the site and two storey housing to the north and west. There is nothing unusual about this suburban site, it has 35 metres of road frontage to the Kingston Road at a point where the road is wide with footpaths on both sides and a bus layby opposite. Drawings submitted by the applicant show that a visibility splay of 45 metres to the west and 24 metres to the east can be achieved. There is a signalised cross roads junction (Threadneedle Street/Taylor's Hill/Bishop O'Donnell Road) 70 metres to the east and this is heavily trafficked. At present the Kingston Road west of this busy junction is rural in character with a golf course to the south and a number of single house access driveways along its northern side before the road meets a neighbourhood shopping centre 1.2 kilometres to the west.
- 9.4.3. The applicant prepared a Traffic and Transport Assessment (TTA) in order to consider the traffic and transport implications of the development of 74 units and a vehicular access onto the Kingston Road. Access to the proposed development will be restricted to left in movements only, that means that right turning manoeuvres into the site from the east along Kingston Road will not be permitted. The TTA explains that the Kingston Road/Threadneedle Street/Taylor's Hill/Bishop O'Donnell Road is already at saturation point and the inclusion of the proposed development will result in a slight increase in impact. After traffic modelling and an assessment of the receiving environment, the TTA concluded that the delivery of the Galway City Ring Road will improve general traffic problems in the area, and the provision of good pedestrian/cycling facilities with the development and linkage of same to Garrai De Brun to the north will provide alternatives to car borne journeys.
- 9.4.4. The planning authority noted the contents of the TTA but had reservations about how the vehicular entrance would work in practice and that the possibility of a second vehicular entrance on to Garrai De Brun should be explored. I can see from the

Council's Transport, Planning and Physical Development Reports that the prospect of a second entrance to Garrai De Brun was welcomed and that matters to do with the Kingston Road access could be clarified by design amendments and the implementation of a Road Safety Audit (RSA). The Garrai De Brun access was not welcomed by local residents.

9.4.5. There are two aspects to the issues that concern traffic and transport problems for the appeal site. On the one hand, the initial designs for a single vehicular access were questioned by the planning authority and general concerns from local residents about traffic volumes were voiced. On the other hand, once a second vehicular access to Garrai De Brun was suggested, this elicited a high volume of opposition from local residents but support from the planning authority. In this instance, I am satisfied that it is appropriate to only consider the first proposal to access the site from Kingston Road alone, the drawings first submitted, and the modelling set out in the TTA initially prepared to support the scheme. I consider that the evolution of the site from 74 units to 84 units, a crèche and a second disputed vehicular entrance is a materially different proposal than that first envisaged. Public notices have allowed wider engagement by the public, but the final iteration of the development is markedly different and presents new problems for third parties that have not been adequately addressed. Therefore, my assessment that follows refers only to the drawings and documentation submitted to the planning authority on the 24th October 2019 and I have had regard to the points raised by the planning authority and observers.

9.4.6. I have already stated that this is a suburban site with access to the Kingston Road and that the area is heavily trafficked at present. The TTA adequately details the traffic scenario at present and into the future once the site is developed. The planning authority and observers alike, do not dispute the findings of the TTA to any great degree. All in all, this area of Galway like many others has traffic problems at peak times and this is not disputed. The provision of a second vehicular entrance to Garrai De Brun might improve matters and makes logical sense in terms of permeability, but I do not consider it here. Instead, whether this site is developed or not, traffic problems already exist. The TTA explains that with the development as proposed (74 units) the severity of impact on the network will be marginal and I agree. The development of this site at a low or high density will inevitably lead to an

increase in traffic volumes, however imperceptible they may be. I see that drawings submitted by the applicant show the potential for a pedestrian/cyclist access to Garrai De Brun, this is a good idea and merits further exploration. I note that other pedestrian/cyclist routes between housing estates have been successfully implemented in the wider area, the route between Manor Drive/The Orchard/Western Distributor Road is a case in point. However, I am satisfied that the indication on drawings for a future pedestrian/cyclist connection is sufficient in this instance.

- 9.4.7. The planning authority raise some issues with regard to the quantum of car parking proposed and the configuration of the vehicular access point, and the requirement for DMURS compliance. All these points can be addressed by a suitably worded condition. Local observers have raised issues about traffic congestion in general and car parking. The applicant can address these matters by the prepared of a detailed Parking Strategy and Mobility Management Plan. The Kingston Road and the Kingston Road/Threadneedle Street/Taylors Hill/Bishop O'Donnell Road junction are busy in terms of traffic volumes and this leads to congestion. It is clear that current commuting habits based on the private motor car are unsustainable and even a low density residential development would not improve matters and in fact damage the economic viability of public transport or make more sustainable modes unattractive.
- 9.4.8. I note that the Compact Settlements Guidelines deals with car parking under SPPR 3, and as an intermediate and peripheral locations, the maximum rate of car parking provision for residential development shall be two spaces per dwelling. In this instance 175 spaces were proposed for 74 units, and further reduced to 70 units and 168 car spaces by my recommendation. The current development plan sets out car parking standards and these already accord with SPPR 3 and allow for flexibility to reduce car spaces based upon a variety of factors. I can see that car parking provision is not excessive, provides visitor spaces and complies with the relevant guidelines and the current development plan.
- 9.4.9. On balance, the proposed development is located at a well-served suburban location close to a variety of amenities and facilities. Current public transport options include the 402 city centre bus route that runs every half hour along Kingston Road and the 405 and 415 along the Western Distributor Road to the north. At present, there are good pedestrian facilities in the area and the proposed development will add significant improvements to the public realm in this respect. It is inevitable that traffic

in all forms will increase as more housing comes on stream. However, I am satisfied that most of the ingredients are in place to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport and this can be achieved by the implementation of the mobility management plan and car parking strategy submitted by the applicant.

9.5. Density, Housing Mix, Design and Layout

- 9.5.1. Density and housing mix do not form part of the reasons for refusal that the planning authority issued after the development was amended by further information. At the outset observers were critical of the density of development, that apartments are proposed, and that the layout is unsuitable for the area. Observations from third parties intensified once the density was increased after the submission of further information. In that regard, the planning authority had concerns that the initial residential density proposed by the applicant was too low and that some reorganisation of the site layout and an increase in density should be considered. The applicant duly responded to the requests made by the planning authority to increase density, the changes were advertised by revised public notices and broadly welcomed by the planning authority but not by many of the observers to the planning application. The following parts of this section of my assessment deal with density, housing mix, design and layout, as these were all issues that came alive once the application was lodged and subsequently amended.
- 9.5.2. Density - The initial proposal for the appeal site was 74 units across 1.81 Hectares and this equates to a residential density of 41 dwellings per hectare (dph). The initial development was amended by further information, resulting in 84 units and this equates to 46 dph. The aim of the planning authority to increase the residential density associated with this site was achieved, but not welcomed by observers.
- 9.5.3. I note that the planning authority, when they requested the applicant to consider an increase in residential density, quoted from the Sustainable Urban Housing guidelines (2018) in order to frame the desire for a higher density at this location. The current development plan also references these guidelines and others and I am satisfied that there is the basis in the 2023 City Development Plan to examine the matter of residential density. However, I note that under Circular Letter: NRUP 02/2024 issued by the Department of Housing, Local Government and Heritage, the

Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities have been revoked and are replaced by the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities. These new guidelines critically examine the issue of residential density and replace earlier documents. To ensure consistency planning authorities are requested to review statutory development plans currently in force and form a view as to whether the plan(s) is materially consistent with the policies and objectives (including SPPRs) of the new Guidelines. If not, then steps should be taken to vary the statutory development plan so as to remove the material inconsistency(s) concerned. What this means for residential densities for Galway in general and the appeal site in particular is that the issue of residential density must be assessed in accordance with the Compact Settlements Guidelines until a formal review has been completed. Throughout my assessment, I refer to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, as the 'Compact Settlements Guidelines'.

- 9.5.4. The Compact Settlements Guidelines refer to residential density in terms of settlements and area types. Section 3.3.1 refers to cities and Metropolitan (MASP) areas and the appeal site is located in the city of Galway. The current development plan supports compact growth and higher residential density in accordance with relevant guidelines on strategic Regeneration and Opportunity Sites and sites close to public transport, this site is close to a public transport route. The Compact Settlements Guidelines explain that for the city and suburb area of Limerick, Galway and Waterford, density ranges are set out in Table 3.2. Given the characteristics of the site, its location from the city centre and lack of proximity to existing or planned high capacity public transport nodes or interchanges I consider the appeal site to be a City - Suburban/Urban Extension site. As such the Compact Settlements Guidelines seek residential densities in the range of 35 dph to 50 dph (net), and that densities of up to 100 dph (net) are open for consideration at 'accessible' suburban / urban extension locations (as defined in Table 3.8). With reference to accessibility, though the site is adjacent to a bus route, the 402 service runs every half hour and would not be considered a high frequency urban bus service, densities up to 100 dph could be problematic at this location.

- 9.5.5. I have already stated that the current development plan relies on previous guidelines now revoked with respect to residential density, such as the Sustainable Residential Development in Urban Areas 2009. I find that the current development plan allows for flexibility with regard to residential density and the newer Compact Settlements Guidelines simply provides more clarity and similar flexibility on the matter. That being so, I am satisfied that a density range between of 35 dph to 50 dph (net), is entirely acceptable at this location. The difference between the initially proposed 41 dph and the amended proposal up to 46 dph is marginal. As before and with reference to the traffic and transport impacts of the development, I rely on the initial drawings submitted by the applicant. In that respect, the proposal for 74 units at 41 dph is acceptable at this location, given the locational aspects of the site, the level of public transport availability and the access arrangements proposed. Furthermore, under the previous Sustainable Residential in Urban Areas 2009 guidelines and Circular 02/2021, net densities in the 35-50 dwellings per hectare range within cities is an appropriate range and is met by the proposed development.
- 9.5.6. Given the foregoing, I am satisfied that a residential density of 41 units per hectare is entirely appropriate at this location. In in this light, I am satisfied that no contravention of the current development plan would take place if the proposed density of 41 units per hectare were to be permitted, because the development plan allows for discretion when assessing residential density and generally accords with the new published Compact Settlements Guidelines.
- 9.5.7. Housing Mix – Observers are broadly dissatisfied that houses and apartments should be considered at this location and have expressed opposition to the development as it was initially proposed and amended. The planning authority raised no similar concerns with respect to the housing mix proposed, other than some minor design issues and the potential to increase residential density.
- 9.5.8. The proposed development is for 74 residential units, comprising three 4/5 storey apartment blocks containing a total of 20 one bedroom apartments, 18 two bedroom apartments and 6 three bedroom penthouse apartments. 30 houses are proposed in a variety of detached, semidetached and terraced formats. The current development plan states that proposed residential developments will need to provide sufficient housing mix to meet the requirements of different households and demographics and in particular to reflect emerging household trends. In this instance I can see that the

applicant has proposed a variety of different house types, providing a wide range of one, two, three and four bedroom units, from detached house to apartment unit. I note that the current development plan does not stipulate what housing mix should apply and relies on a flexible approach. In addition, the current development plan has been written in the context of the Sustainable Urban Housing: Design Standards for New Apartments (2020), Policy 3.1 Housing Strategy (18) refers. In this context, the housing mix comprising a combination of apartments and traditional housing complies with Specific Planning Policy Requirement 1 with reference to housing mix.

9.5.9. I have had regard the concerns raised by observers at the application stage of the process. I note the issues raised that concern a reluctance to accept that the housing mix proposed is appropriate at this location. In addition, I note the amplified concerns raised by objectors once the proposed residential density had been increased.

Throughout my assessment I have relied on the initial design proposal submitted by the applicant and that is outlined above. I am satisfied that the 74 unit scheme that combines a number of different formats of accommodation is acceptable and meets all of the requirements of the development plan to satisfy community mix including the demographic trend of reduction in average household sizes. The proposed development is not out of character with existing development in the vicinity in terms of housing mix and I see no reason to refuse permission on that basis.

9.5.10. Design and Layout – The planning authority raised some relevant concerns about the layout of the scheme, these included a reduction in the height of apartment blocks 1 and 3 and the omission of block 2 altogether. There were also some other layout changes to do with car parking, greater clarity on the usability of open spaces across ground levels and greater definition of separation distances set out in the development plan. No similar concerns were raised with respect to the design and position of conventional houses across the site. All of these changes were in the context of a desire to increase residential density and comply with the development management standards of the development plan at the time the decision issued. Some observers also raised concerns about the layout of the scheme and this centred on the initial position of apartments and how this was compounded after the amended plans introduced greater density, repositioned and larger apartment blocks, a second vehicular entrance and a childcare facility.

- 9.5.11. At a very high level, the proposed development provides for a single access street that snakes up the narrow portion of the site to provide a closed loop to the balance of the site. The upper portion accommodates conventional two storey housing and apartment block 3, five storeys in height to the south and four to the north, all overlook a large central open space. The lower portion of the site accommodates blocks 1 and 2, both are five storeys in height to the south and four to the north, set amidst open space and car parking areas. Conventional two storey houses line the perimeter of the large upper portion of the site and present rear elevations to the rear elevations of existing housing, separation distances of over 20 metres and more are maintained.
- 9.5.12. I agree in part with the concerns raised by the planning authority about the height and bulk of the apartments. However, I am satisfied that the position of blocks 1, 2 and 3 on the site are acceptable and will not pose issues of adverse impacts to residential amenity. This is because apartment blocks 2 and 3 are more than 40 metres from the nearest existing dwellings, loss of privacy, overbearing appearance and overshadowing will not impact these nearby dwellings. Block 1 is aligned with the neighbouring dwelling to the west and so I do not anticipate that issues will result from adverse overlooking or overshadowing. I note that the house to the west of block 1 has a blank elevation facing the appeal site with high level windows on its third floor lighting an ensuite and a bathroom. I do have some concerns that the bulk and scale of block 1 may present an overbearing appearance to the neighbouring dwelling to the west. In addition, I am concerned that as viewed from the road and illustrated on drawing number 3222 (Contiguous Elevation), that apartment block 1 stands out in a negative way in terms of bulk and scale when compared to adjacent housing and apartments. I am satisfied that the contemporary design approach to the apartments and block 1 in particular is appropriate and in keeping with the surroundings, the height of block 1 however, is not acceptable. The removal of the second floor would be appropriate and this would entail the loss of four units, 2 one bed and 2 two bed units. The omission of the second floor would not detract from the overall architectural approach, such a change can be achieved easily without major redesign and address the issue of overbearing appearance and visibility from the street.

- 9.5.13. With reference to the other two apartment blocks within the scheme, blocks 2 and 3, I do not have any concerns about their scale and bulk and impacts upon residential or visual amenity, as they are located well within the site, screened by mature trees and away from neighbouring dwellings. Consequently, I do not recommend any changes to apartment blocks 2 and 3. In terms of residential amenity for future occupants, I note the planning authority's considerations and the Housing Quality Assessment prepared by the applicant. I note that the apartment floor areas and private amenity spaces proposed exceed the minimum standards set out in appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments (2020) and this is therefore acceptable. In addition, the private amenity spaces (rear gardens) of the proposed houses all meet or exceed the minimum requirements set out in the Compact Settlements Guidelines 2024 and this is acceptable too.
- 9.5.14. I note that the planning authority had some concerns about the arrangement of public open space and car parking. I agree in part and mainly that an increase in landscaping as opposed to car parking should be provided at the entrance to the scheme along Kingston Road. This area at the front of the site is dominated by car parking and could be improved by a more careful consideration of landscaping design. I consider that seven car spaces from the southernmost portion of car parking associated with block 1 should be removed. I am satisfied that this would not present an undersupply of car parking spaces as I have already recommended that four units be removed from block 1. I recommend that the space left by the removal of car parking at this location be reconfigured as public open space and a revised landscape plan should reflect this.

Density, Housing Mix, Design and Layout conclusion

- 9.5.15. I have been clear throughout my assessment of Density, Housing Mix, Design and Layout, that I have concerned myself with the initial design proposal for 74 units. I have had regard to the observations on the appeal and I note that most opposition revolves around the increase in density, number of units and a second vehicular entrance. In terms of the initial proposal for 74 units, I have examined the impacts to neighbouring areas and have found there to be very little to be concerned about. My only reservation with regard to design and layout considerations is that apartment block 1 presents an overbearing impact to a neighbouring dwellings and would appear out of scale for the area when viewed from the street. I have recommended a

reduction of a single floor from block 1 and this will alleviate any adverse impact, from a visual or residential amenity perspective. The removal of four units from block 1 results in a residential density of 39 dph and this is still well within the range of 35-50 dph for the location of the site and the prevailing character of the area. In terms of residential amenity for future occupants and neighbouring property, all relevant standards have been met or exceeded and I am satisfied that the proposed development is acceptable from a residential amenity perspective.

9.6. Childcare Facility

- 9.6.1. Once the development had been amended by further information to increase density, the applicant considered it necessary to add a childcare facility. The facility is located at a corner of the site in place of houses on plots 54 and 56, in close proximity to houses at Manor Avenue. Observers at this location of Manor Avenue are concerned that their residential amenities will be impacted upon if the cr che went ahead. I have visited the site and note the existing boundary treatments are quite low between the site interior and adjacent housing along Manor Avenue. This can be solved by a more suitable and higher boundary wall or fence.
- 9.6.2. However, I consider that the imposition of a cr che within the development site is haphazard and without due concern for existing residential development in the vicinity. Despite a cr che being an appropriate land use in the current residential zoning objective for these lands, careful consideration is required when choosing a site for such a facility. In addition, I am not certain that a cr che at the location proposed is necessary or viable from a commercial perspective, being located well within the scheme and all of the issues of traffic generation that this might entail. Lastly, I note that the applicant only proposed a cr che because of the increase in the number of units desired by the planning authority and this triggered the need for at least an assessment of the need for a childcare facility. The previous sections of my report have all been based on a proposal for 74 residential units and as such a cr che is not a requirement of the Galway City Development Plan or the childcare guidelines referenced by same.

9.7. Archaeology

- 9.7.1. An observer has raised an issue that no Archaeological Appraisal of the site has been carried out. Based on the maps available to me I have not seen any mapped

evidence for archaeological remains on the site, nor did I observe any obvious upstanding remains. However, given the scale of the site and the relatively undisturbed nature of the lands concerned, an appropriate archaeological condition should be attached to ensure ongoing monitoring during construction.

9.8. Wildlife

- 9.8.1. Observers are concerned that ecology and biodiversity issues have not been adequately identified or addressed. A landscape assessment was prepared but it is perfunctory with respect to ecology and biodiversity and simply outlines a summary of existing site conditions and trees to be retained within a landscape plan. In addition, the applicant submitted a landscape drawing as further information that outlines an ecological mitigation and biodiversity proposal for a revised layout, drawing 19103-2038-03 refers There is no Ecological Impact Assessment on file and there is no assessment of the ecological or biodiversity value of the site. This situation is not ideal, and it is possible that this agricultural remnant site of 1.81 hectares has some value and the older buildings on site may provide bat roost potential. The planning authority did not identify any of this as an issue when they sought further information.
- 9.8.2. There is no requirement to prepare an Ecological Impact Assessment for a development, though it is good practice. The current development plan states that an Ecological Impact Assessment (EclA) will be required to be undertaken for developments proposed in areas that support, or have the potential to support, protected species or features of biodiversity importance, and that appropriate avoidance and mitigation measures are incorporated into all development proposals. I note that the site has no particular ecological or biodiversity designation and any protected species such as bats have legal protection outside the planning process. It is inevitable that that there will be some habitat loss and that there will be some disruption to fauna during the construction phase. However, I am satisfied that an appropriate condition can be attached to ensure that works are conducted in accordance with best practice, the correct time of the year and the protection of wildlife as far as is possible.

9.9. Boundary Treatments

9.9.1. Observers have raised issues about boundary treatments and that greater clarity on boundary treatment should be required, especially to the east of the site. From my observations of the site, I see that the existing boundary treatments are a combination of remnant agricultural field boundaries and in places possible remains of former estate walls associated with the much altered Fort Lorenzo to the east of the site or the long demolished Bath Lodge to the west. In particular, I notice that the boundaries to the rear of dwellings along Manor Avenue are very low and vary depending on each individual property owner. I am satisfied that a unified boundary treatment can be erected between the site and these homes along Manor Avenue. The boundary treatments to the rear of housing at Brú Na Mara is more uniform and comprises masonry and concrete block, no further assessment warranted here. The boundary to the east along the boundary between the site and Cuan Na Coille/Fort Lorenzo is an attractive low masonry wall that follows the incline of the site and mature demesne tree planting. Careful consideration of the repair and renewal of this boundary should be undertaken together with appropriate landscape plans within the appeal site. All of this can be achieved by a suitably worded condition to ensure improved landscape plans that take account of boundary treatments and subject to the approval of the planning authority prior to the commencement of development.

9.10. Other Matters

9.10.1. Procedural Issues - Observers are critical about how the planning application and assessment process are both flawed. Observers are frustrated that significant changes occurred during the application process that have resulted in a very different scheme. I have explained throughout my report that I have assessed the appeal in relation to the initial proposal for 74 residential units and a single access to the Kingston Road. I have duly considered all observations from third parties, the planning authority and the applicant as they relate to the initial proposal and subsequent observations post remittal. I am satisfied that I have had regard to all relevant information on file and the Board can make a decision on that basis.

9.11. Appropriate Assessment

9.11.1. I have considered the housing development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

- 9.11.2. The subject site is located in an urban and serviced site where the the closest Natura 2000 sites are the Galway Bay Complex SAC (Site Code: 000268) and the Inner Galway Bay SPA (Site Code: 004031), both located 1.1km to the south of the site.
- 9.11.3. The proposed development comprises 74 residential units and set out in detail within section 3 of my report above. No nature conservation concerns were raised in the planning appeal with respect to Natura 2000 sites.
- 9.11.4. 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:
- The nature and scale of the housing development on urban and serviced land.
 - The lack of proximity between the appeal site and any Natura 2000 site and the lack of direct connections between same.
- 9.11.5. 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.
- 9.11.6. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

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

11.0 Reasons and Considerations

Having regard to the R - Residential zoning objective, the provisions of the Galway City Development Plan 2023-2029, and the scale and nature of the proposed development, it is considered that the proposed development would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic and pedestrian safety and visual amenity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

12.0 Conditions

1. The development shall be carried out and completed only in accordance with the plans and particulars lodged with the application on the 24th day of October 2019, 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 proposed development shall be amended as follows:

(a) Reduction in residential units from 74 to 70 by the omission of floor number 2 of apartment block 1.

(b) Omit 7 car spaces from the car parking area associated with apartment block 1 and provide a margin of landscaped grounds in place of car spaces to be omitted of at least 15 metres from the boundary with Kingston Road.

(c) All internal roads and footpaths shall extend right up to the boundary with neighbouring lands in order to eliminate any ransom strips and facilitate future connections subject to the necessary consents.

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 interests of visual and residential amenity and sustainable transport.

3. Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried

out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

Reason: In the interest of wildlife protection.

4. Revised plans indicating the preservation of any mature hedgerow and trees on the site and their incorporation into open space in such a manner as to ensure that its value as a nesting habitat is protected shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the protection of a feature of major importance for local wild birds.

5. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

Reason: In the interests of clarity and public health.

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

Reason: In the interest of visual amenity.

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

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

8. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the development and where required, revised plans and particulars demonstrating compliance with these requirements shall be submitted to, and

agreed in writing with, the planning authority prior to commencement of development:

- (a) The details and the extent of all road markings, bollards and signage requirements on surrounding roads, shall be submitted to the Planning Authority for approval prior to the commencement of development.
- (b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (c) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings and car parking bays shall comply with the requirements of the Design Manual for Roads and Streets, the Cycle Design Manual (CDM) prepared by the National Transport Authority (NTA) 2023 and with any requirements of the planning authority for such road works.
- (d) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.
- (e) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
- (f) All car parking spaces are reserved for the sole use of residents of the approved apartment buildings.

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

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

9. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has

not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

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

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

11. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

12. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with the planning authority prior to installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

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

Reason: In the interests of visual and residential amenity.

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

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

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

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

16. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to,

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

Reason: In the interest of sustainable waste management.

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

- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;
- (b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to guidance on the protection of fisheries during construction works prepared by Inland Fisheries Ireland.

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

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

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

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

19. A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating and play equipment;
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

20. Prior to the occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall

provide for incentives to encourage the use of public transport, cycling, walking and car pooling by occupiers and visitors to the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the scheme. Details to be agreed with the planning authority shall include the provision of facilities within the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

22. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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

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

24. 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.

Stephen Rhys Thomas
Senior Planning Inspector

18 April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317076-23			
Proposed Development Summary	Demolition of two existing houses and the construction of 74 residential units, resident's gym, new vehicular entrance along with all associated site works and service connections.			
Development Address	Rosario, Kingston Road, Galway.			
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	✓	
		No		
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			EIA Mandatory EIAR required	
No	✓		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	✓	10. Infrastructure projects, (b) (i) Construction of more than 500 dwelling units. And (iv) Urban development which would involve an area greater than	Urban development, mixed use comprising 74 dwelling units, all on a site of 1.81 Hectares, suburban location.	No EIAR or Preliminary Examination required

		2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.	Scale of development is less than 500 dwelling units, on a site 1.81 Hectares outside of the business district area.	
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	N/A	Preliminary Examination required
Yes	N/A	Screening Determination required

Inspector: _____

Date: _____