



An  
Coimisiún  
Pleanála

## Inspector's Addendum Report

**ABP-317076-23**

<b>Development</b>	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.
<b>Location</b>	Rosario, Kingston, Galway.
<b>Planning Authority</b>	Galway County Council.
<b>Planning Authority Reg. Ref.</b>	19295
<b>Applicant(s)</b>	Diagnostic Medical Imaging International Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	Diagnostic Medical Imaging International Limited.
<b>Observer(s)</b>	<ol style="list-style-type: none"><li>1. Gerard O'Sullivan and Karena Meehan.</li><li>2. Ross Rooney and others.</li></ol>

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).

**Inspector**

Stephen Rhys Thomas.

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## 1.0 Introduction

- 1.1. This report is an addendum to the Inspector's report in respect of ABP-317076-23 dated 18<sup>th</sup> April 2024, and has been prepared pursuant to a Board Direction (reference number BD-019436-25) dated 10<sup>th</sup> April 2025. The Direction seeks an addendum report to be prepared by the Inspector that assesses the scheme on which the decision has been appealed. Specifically, a planning assessment is required to address all relevant matters of the proposal with reference to use of a vehicular access route at Garraí De Brún. The Board decided that the file be referred back to the Inspector to prepare an Addendum report.

## 2.0 Relevant Planning Policy

### 2.1. Galway City Development Plan 2023-2029

- 2.1.1. Relevant parts of the City Development Plan include:
- Chapter 4. Sustainable Mobility and Transportation
  - Policy 4.2 Land Use and Transportation - 6.
  - Policy 4.4 Sustainable Mobility - Walk and Cycle - 8.
  - Policy 4.6 Road and Street Network and Accessibility - 8.
  - Policy 7.7 Childcare

## 3.0 Assessment

### 3.1. Development Description

- 3.1.1. The Board Direction seeks an assessment of the development that is the subject of the appeal, with specific reference to the proposed access route at Garraí De Brún to the north of the site and with references to the layout changes that resulted. For clarity and ease of reference, the development the subject of the appeal is described as follows:

#### **As First Proposed:**

The 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

A resident's gym

New vehicular entrance and 175 car parking spaces.

### **Further Information Request:**

Further Information was requested by the planning authority on the 16<sup>th</sup> of December 2019. An extension of time was requested by the applicant on the 13<sup>th</sup> of May 2020 for three months. The planning authority by Order dated 15<sup>th</sup> May 2020, extended the period for making a decision to the 7<sup>th</sup> of August 2020. A further extension of time was requested by the applicant on the 21<sup>st</sup> of May 2020 for an additional three months. The planning authority by Order dated 29<sup>th</sup> May 2020, extended the period for making a decision to the 18<sup>th</sup> of November 2020.

### **The development as amended by Further Information:**

A response to further information was submitted to the planning authority on the 21<sup>st</sup> 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 the omission of apartment block 1, provision of two new apartment blocks proposed in place of nine dwellings on sites 45 to 53 (inclusive) and repositioned central public open space and spine road.
- Primary access to be taken from Garraí De Brún, vehicular access from Kingston Road to be one way entry only, footpath improvements along Kingston Road, internal layout changes to spine road, car parking areas and landscaping.

- Provision of a crèche building in place of two dwellings on sites 54 and 56.

Revised public notices dated 6<sup>th</sup> of November 2020, with an additional public notice erected at Garraí De Brún, dated 17<sup>th</sup> of November 2020.

Clarification of Further Information was sought on the 14<sup>th</sup> December 2020 with reference to legal ownership and the provision of bollards along Kingston Road.

- The applicant explains that the roads, footpaths and water services of Garraí De Brún are all taken in charge and a map illustrates an area outlined in red to demonstrate this.
- An explanation of the use of bollards.

Revised public notices dated 5<sup>th</sup> March 2021.

## 3.2. Introduction

3.2.1. In order to address the Board Direction, I assess the development as amended by further information dated October and December 2020. The purpose of this addendum report is to consider the development proposal in the context of the scheme submitted to the planning authority as amended by further information October 2020 and clarification of further information December 2020, I have already carried out a de novo assessment with regard to the items listed below:

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

- 3.2.2. The Commission now seek an assessment of the relevant planning matters to do with the Garraí De Brún access proposal, layout changes and this includes all drawings and particulars submitted October and December 2020. In that context the topic headings are similar to the initial Inspector's Report, and updated analysis with respect to all drawings and documentation is as follows:

### **3.3. Principle of Development**

- 3.3.1. The operative statutory plan for the subject appeal is the Galway City Development Plan 2023-2029, the application was lodged with the planning authority within the previous development plan. The site is still 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. From the perspective of suitability of the site for residential uses, I am satisfied that the land use zoning supports such residential and childcare development, and the principle of development is entirely acceptable.

### **3.4. Ownership and Consent**

- 3.4.1. Permission was refused by the planning authority in relation to the suitable design of vehicular access onto Garraí De Brún 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. With reference to section 9.3 of my previous report, the matter of ownership and consent has already been examined in detail and I concluded that there is enough information on the file with regard to land ownership and consent to lodge a planning application. However, issues remain as to the implementation of the permission and in particular a new vehicular entrance at Garraí De Brún and additional works along this residential street to accommodate new traffic flows in accordance with the principles set out in the Design Manual for Urban Streets. The ownership of a wall that must be demolished remains outstanding and causes a barrier to the construction of a new two way vehicular entrance.
- 3.4.2. 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 right to lodge an application and carry out development within the red line boundary of the site originally lodged with the application and emended by further information. However, details that have been submitted with the appeal refer to works that will be carried out far beyond the initial site boundary. In any case, it is not for me or the Commission to forensically investigate issues that are better examined in another forum if that is necessary. As such, it is my understanding that there are no grounds for the Commission to refuse permission in this instance in terms of land ownership alone.

### **3.5. Access, Traffic and Transport**

- 3.5.1. In summary, I raised no initial and significant concerns as to the provision of a single two way access point at the southern end of the of the site and onto Kingston Road. That point of view was based upon a development of 74 residential units and the Traffic Impact Assessment that rationalised its design and use. The increase of the development from 74 units to 84 units together with a crèche facility set within the site is a material change to the development and could be significant in terms of the existing and proposed traffic environment. In an urban context, a single access point could work, especially when the applicant's TIA already demonstrated its effectiveness and safety for 74 residential units. However, the planning authority have continually raised concerns about a single access point, permission was refused on traffic safety grounds and this cannot be ignored. Consequently, I have difficulty with a development that is now proposed for an additional quantum of development that will inevitably add to traffic volumes.
- 3.5.2. My initial conclusions with reference to traffic are set out in detail at section 9.4 of the Inspector's Report. The applicant's first TIA was based on the design of a single

vehicular access point for 74 residential units, now 84 units, a 228 sqm crèche and new two-way vehicular access are proposed and the traffic impact of these were considered by a revised TIA (dated October 2020). The revised TIA raised no issues, given that a one way entrance off the Kingston Road and a new two way access from Garraí De Brún is on the table. In addition, clarification of further information with reference to traffic and transport, states no obstacle to development of the Garraí De Brún access point (report dated February 2021). Lastly, traffic calming measures are proposed along a 160 metre stretch of Garraí De Brún, outside the application area to overcome the planning authority's concerns. All these matters form the basis for the applicant's grounds of appeal against the decision of the planning authority to refuse permission on traffic safety and design grounds.

#### Vehicular access from Garraí De Brún

- 3.5.3. The Board Direction for this addendum report asks for consideration of the development proposal that is the subject of the appeal in the context of the relevant matters to do with the use of a new vehicular access route at Garraí De Brún and this naturally includes the increased density and layout changes. By way of background, the planning authority encouraged the applicant to consider an additional vehicular entrance to the north of the site at Garraí De Brún. The applicant complied and designed a new vehicular entrance; this met with considerable third party opposition. Subsequently, the planning authority refused permission on the basis that the dispersal of traffic through Garraí De Brún was not designed in accordance with DMURS and is not under the control of the applicant. Without a second access to the site, arrangements from Kingston Road would present a traffic hazard. The applicant appealed this reason for refusal and states that access/consent has been granted to use Garraí De Brún and there is no basis to refuse permission in terms of traffic safety as two vehicular entrances are now proposed and additional traffic calming works are advanced along Garraí De Brún, together with other layout changes.
- 3.5.4. In their grounds of appeal, the applicant proposes speed ramps and pedestrian crossings along a 160 metre stretch of Garraí De Brún, in order to address the concerns of some observers and the planning authority, drawing 3002 refers. All of these changes are enclosed within an expanded red line boundary and this presents difficulties for the observers to the appeal, not least of which is whether there is any

consent to carry out these works. Notwithstanding the issues with regard to ownership and legal consent, I see a procedural problem with arbitrarily expanding the development site to now include works along a considerable length of road in order to facilitate the development. This change has not been advertised and to include these works as a condition to any permitted development would be problematic.

3.5.5. Though parties to the original appeal have been notified about the reactivation of the proposal, the wider public will not know that the development could now include works well beyond the original site boundaries in order to facilitate the development and their opportunity to comment has been restricted. The idea of providing a second vehicular access point at Garraí De Brún is probably a good one, it relieves traffic complications along Kingston Road and accords with development plan policy to increase permeability. However, other interested parties have been excluded from the planning process, by virtue of not being party to this appeal, if the expanded work area of the site is consented to. Policy 4.6 of the development plan refers to the implementation of improvements on the general road network, including new links and junction revisions where needed in the interest of safety and convenience for all users. However, in this instance, I am not satisfied that the works along Garraí De Brún would achieve this aim without public participation in the overall process and hence this suggestion in the grounds of appeal would be contrary to the development plan. I advise against attaching a condition that requires these works outside the original red line boundary of the site.

3.5.6. From a street layout perspective, I note that more car parking is now located along the main access way to serve the increased number of apartments, a total of 126 spaces as opposed to the 124 required by the previous development plan. Whilst the provision of 126 car parking spaces would accord with the advice set out within SPPR 3 of the Sustainable Residential Development and Compact Settlements, for a site located at an accessible location. I am not satisfied that such a proliferation of car parking is either necessary or appropriate, the current development allows for a certain amount of flexibility regarding car parking provision. In any case, as density has increased, so too has car parking and this will militate against the advice set out in DMURS, section 4.4.9 of DMURS refers - *Once densities reach 40-50 dwellings per ha (net) the street will become saturated with parking and reduced parking rates*

*(a max of 1.5 per dwelling) and/or supplementary off-street parking will be required.*

In addition, section 4.6 of the development plan references DMURS and states that street design in the city will be required to comply with the guidance it provides. In this respect, I note the documentation on file prepared by the applicant that defends their proposal on the basis of DMURS compliance, however, I am not satisfied that the principles of good place making have been fully applied. Given the arrangement, design and quantum of car parking spaces provided, I am not satisfied that the principles of good urban design and the advice provided by DMURS has been fully applied. Car parking now dominates the housing scheme and this results in a reduced quality of amenity, increase in likelihood of traffic conflicts between pedestrian/cyclist and motor car and consequently poor overall public realm design, for these reasons permission should be refused.

#### Density, Housing Mix and Layout

- 3.5.7. Density – My initial Inspectors Report considered in detail issues around density, housing mix and layout. 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 dwellings per hectare (dph) to 50 dph (net), is acceptable at this location. The difference between the initially proposed 41 dph and the amended proposal up to 46 dph is small, and either density range is acceptable at this location.
- 3.5.8. Mix and Design - The proposed development, as amended by further information, is for 84 dwelling units, comprising 65 apartment units and 19 houses, by the omission of apartment block 1, and the addition of two new apartment blocks proposed in place of nine dwellings on sites 45 to 53 (inclusive). 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.

- 3.5.9. The planning authority raised no particular issues with regard to house or apartment design or residential amenity impacts and I see no significant issues that cannot be addressed by condition if necessary. In terms of house design I note appendix 3 supplied as part of the further information request and I am satisfied that the updated standards set out in the Sustainable Residential Development and Compact Settlements Guidelines (2024) are met. With reference to apartment design, I refer to appendix 2 Apartment Quality Assessment and I am satisfied that the requirements set out in the Design Standards for New Apartments (July 2023) and the Planning Design Standards for Apartments 2025 are also met and exceeded. I am aware that the housing scheme proposed and amended by further information spans a number of national guidance documents on the design standards regarding houses and apartments. However, the house and apartment design parameters deployed by the applicant and their design team are generally good and I am satisfied that all relevant standards are met or exceeded.
- 3.5.10. Layout - The layout of the original scheme and that proposed as a response to further information differs in a number of ways. The layout, the subject of the appeal, still provides a central spine street that runs from south to north but with a new vehicular entrance to Garraí De Brún. This spine street provides access throughout the scheme but is dominated by perpendicular and parallel parking spaces along its length in front of all apartment blocks and the main open space. This would be contrary to development plan standard 11.3.1 that seeks to deliver open space in new residential developments easily accessible to all. A central open space remains but is now encroached upon but overlooked by apartment blocks 3 and 4. I note that new public open space will be provided to the south of block 1 and this is noted but at the periphery of the site.
- 3.5.11. The imposition of apartment blocks 3 and 4 within the central open space, where the site is most level and will receive the most use by future occupants, will result in impacts that erode residential amenity. Taken together with the provision of car parking spaces around most of its perimeter, I anticipate that the usability of the public open space will be compromised. An assessment has been made by the

applicant of the impact of blocks 3 and 4 regarding overshadowing of the open space with the apartment blocks in place, drawing 3223 refers. It is evident that the main central open space will suffer an unacceptable level of overshadowing during most of the year and this is not appropriate for the key residential amenity component of the overall scheme. The provision of open space for the scheme as a whole (2,842 sqm/16% in total), would exceed the 15% required by the development plan. However, I am not satisfied that the central public open space for the overall scheme will be of a sufficient quality to be usable all year round and on that basis, permission should be refused.

3.5.12. The narrow portion of the site to the south now provides two apartment blocks instead of three and there are no visual or residential amenity impacts as a result. The further information layout provides a crèche facility, section 3.5 explains why that is not suitable. Finally, a two way vehicular access point to Garraí De Brún produces problems beyond the site access, the traffic and transport section of this report explains why.

3.5.13. In conclusion, there are significant residential amenity impacts that will follow from the proposed layout that includes a new vehicular entrance via Garraí De Brún. Firstly, the provision of apartment blocks on the southern side of the main public open space will present unacceptable levels of residential amenity impacts for future residents in terms of poor quality open spaces. Secondly, the preponderance of car parking along the main spine street departs from the advice provided by DMURS and results in a poor urban design outcome. Finally, the provision of creche raises issues to do with neighbouring residential amenity and traffic generation, this is explored in detail at section 3.5 below.

### **3.6. Childcare Facility**

3.6.1. With reference to the provision of a crèche within the development. I consider that the imposition of a crèche within the development site is haphazard and without due concern for existing residential amenities in the vicinity. Observers have objected to the proximity of such a facility close to their rear gardens and combined with low boundary treatments, matters will be made worse. Despite a crèche 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. I note that

the 2001 childcare guidelines seek a standard childcare facility (at least 20 childcare places) per 75 dwellings. However, I am not certain that a crèche at the location proposed is necessary from a demand or need perspective and there has been no consultation with the Galway Childcare Committee as advised by Policy 7.7 of the development plan.

- 3.6.2. Section 11.14 of the development plan advises that new childcare proposals should take account of existing residential amenities and the resultant intensity of vehicular movements. The site selected is located well within the planned scheme and all of the resultant issues of traffic generation that this might entail could cause traffic issues. In addition, given the location of the crèche, so close to existing dwellings, I am not satisfied that residential amenity concerns have been fully considered and this is borne out by the concerns raised by observers. There has been no assessment of a childcare demand in the wider area and whether such a facility at the scale proposed is required. Issues over residential amenity or demand cannot be overcome by further amendments to the scheme, and houses on plots 54 and 56 should be retained and the crèche omitted if a permission is to issue.

### **3.7. Archaeology**

- 3.7.1. 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. Such a condition should be attached for any proposed development of the site, pre or post further information.

### **3.8. Wildlife**

- 3.8.1. I am satisfied that an appropriate condition can be attached to ensure that works are conducted in accordance with best practice, at the correct time of the year and the protection of wildlife as far as is possible.

### **3.9. Boundary Treatments**

3.9.1. I note the variety of existing boundary treatments across the site and a suitably worded condition to ensure improved landscape plans that take account of boundary treatments should be attached in the event of a grant of permission.

### **3.10. Overall Conclusion**

3.10.1. To recap, the initial proposal at this site was refused by the planning authority and the Board on appeal. That decision to refuse was judicially reviewed and the decision of the Board quashed. The appeal was reactivated with the direction from the Board to the Inspector to carry out a de novo assessment. That assessment was considered, and it was decided that a new assessment should be made with respect to the decision made by the planning authority and most importantly with respect to the implications of the Garraí De Brún access point.

3.10.2. At the outset the Board Direction asked for an assessment of the development the subject of the appeal with specific reference to the proposed access route at Garraí De Brún to the north of the site. Whilst, the layouts are somewhat similar and the quantum of development broadly align, the provision of a crèche, changes to the main public open space, car parking and a new vehicular entrance with significant changes to the appearance and function of Garraí De Brún beyond, are important departures. These departures have been commented on by observers to the appeal, as notified by the Board, but the wider public have not been informed, and this presents a procedural problem as issues around the planning merits of the scheme. It is my view that permission should not be granted for this reactivated development, because significant changes are proposed in the grounds of appeal that exclude some third parties if these off site matters are to be considered as part of any permission. To be clear, the vehicular access at Garraí De Brún necessitates significant changes to this estate road within a larger red line boundary. Leaving aside the matter of whether legal consent to carry out these works or demolish a dividing wall are in place, significant changes to the layout as a consequence of the revised proposal have resulted in problems around public open space provision and quality, car parking and childcare provision. For all these reasons permission should be refused.

## **4.0 Recommendation**

- 4.1. Given the forgoing, I recommend that planning permission should be refused for the reasons and considerations as set out below.

## **5.0 Reasons and Considerations**

1. Having regard to the provision of a new two way vehicular entrance to Garraí De Brún estate to the north that will result in a significant volume of new traffic to an existing residential street that will require traffic calming measures outside the red line boundary of the site in order to facilitate the development as proposed, the development would result in the following adverse impacts:

(a) The resultant revised internal street layout, proliferation of car parking and the distribution of apartment blocks three and four have all resulted in the unsatisfactory reduction in quality and usability of the main public open space, by reason of extensive overshadowing and a street layout that would not be conducive to safe pedestrian access. This would be contrary to development plan standard 11.3.1 that seeks to deliver open space in new residential developments easily accessible to all.

(b) Car parking dominates the overall scheme and this departs from the advice provided by Design Manual for Streets (DMURS) and development standard 11.3.1, of the City Development Plan where adherence to the principles of DMURS is advised. No investigation of reduced car parking or supplementary and well designed off-street parking has been advanced and so the layout and arrangement of car parking conflicts with the sustainability objectives of the development plan and results in an adverse and visually dominant feature that diminishes the potential residential amenity value of the main central open space.

(c) Section 11.14 of the development plan advises that new childcare proposals should take account of existing residential amenities and the resultant intensity of vehicular movements. The centralised location and position of the proposed childcare facility is unsatisfactory in terms of separation distance from adjacent dwellings and its position at the centre of the overall scheme that would lead to additional traffic generation, hence the proposed development would detract from the

residential amenities of adjacent property and lead to the potential for traffic hazard generated by the childcare facility.

For all of these reasons, the proposed development would thereby constitute a substandard form of development which would seriously injure the amenities of the area, would endanger public safety by reason of traffic hazard and be contrary to the proper planning and sustainable development of the area.

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

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Stephen Rhys Thomas  
Senior Planning Inspector

15 October 2025