



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317525-23

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<b>Development</b>	Demolition of the existing buildings and the construction of a four-storey mixed use building.
<b>Location</b>	Munster Avenue, Galway.
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	2394
<b>Applicant(s)</b>	Munster Avenue Developments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First
<b>Appellant(s)</b>	Munster Avenue Developments Ltd
<b>Observer(s)</b>	Angela Casey Ray Diamond Martina Burke Gerard Burke Thomas & Margo Lee
<b>Date of Site Inspection</b>	14 <sup>th</sup> of September 2023
<b>Inspector</b>	Darragh Ryan

## 1.0 Site Location and Description

- 1.1. The site is located on Munster Avenue Galway City between Sea Road/ William Street to the north west and Fr. Griffin Road to the south east. The site is 0.074ha.
- 1.2. There are a number of disused buildings on the site. These include an existing workshop – formerly mechanics workshop, a derelict commercial building and several outbuildings of various floor areas. The existing buildings on site have a mixture of roof profiles and tallest building on site is indicated at 6m. The properties on site are in a poor state of repair or in a derelict state.
- 1.3. A terrace of residential two storey (1990's construction) immediately abuts the site to the south. There is an existing vehicular access and lane way that runs through the site between the proposed site and this terrace of houses.
- 1.4. To the west along Sea Road and William Street there are several retail operators including Silkes Cash and Carry and a three-storey apartment block with rear residential open space. The "Blue Tepot" theatre company is located to the north of the development, consisting of single storey and two storey elements.
- 1.5. Opposite the proposed site on Munster Avenue there is a terrace of 20<sup>th</sup> century dwelling houses, to the north of which is the site known as "Parkhead House" consisting of ground floor retail and 9 apartments and associated car parking.

## 2.0 Proposed Development

2.1. The development comprises the following:

- Demolition of existing buildings of 454m<sup>2</sup>
- Construction of a four-storey mixed use building with gross floor area of 1,657m<sup>2</sup> as follows:

Retail on ground floor

Restaurant and offices on first floor

Offices on second and third floor

2.2. Following the planning authority's decision to refuse permission revised detail has been submitted as part of the appeal.

- Revised drawings include for the removal of the fourth floor of the scheme with a revised gross floor area of 1371m<sup>2</sup>

Additional documents included as part of the appeal include:

- Appropriate Assessment Screening Report
- Traffic Report
- Contaminated Land Risk Assessment
- Photomontage
- Shadow Study March 21<sup>st</sup>, June 21<sup>st</sup>, September 21<sup>st</sup>, December 21<sup>st</sup>

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority issued a decision to refuse permission. There were six refusal reasons outlined:

1. It is considered that the proposed development by reason of its excessive scale, height and density, would represent an over development of the site, and would be contrary to the maximum permitted plot ratio standard set out under Section 11.3 of the Current Galway City Development Plan 2023 – 2029 for development on city centre zoned lands.
2. The design and visual appearance of the proposed building is considered to provide an overbearing expression onto the streetscape and offers little relationship with the surrounding urban fabric, greatly detracting from the character of the area and Architectural Conservation Area
3. As stated in Section 11.4.2 of the Galway City Development plan 2023-2029, "in general for new development, the maximum plot ratio permitted is and ' 'in the

Dominick Street Upper/William Street West/Sea Road [Raven Terrace CC zone and in the CC zone adjoining Father Burke Park the maximum plot ratio permitted will be 160:1". With a proposed gross floor area measuring some 1,657 rn2, the proposed development has a plot ratio of 2.22:1, which is substantially in excess of the plot ratio normally permissible.....The proposal therefore represents a material contravention of the provisions of the Galway City Council Development Plan 2023 - 2029 and would be contrary to the proper planning and sustainable development of the city.

4. The applicant has failed to submit any mobility management plan or information/ assessment with regard to the implications that may arise for traffic and pedestrian safety, as a result of the proposed development. In the absence of this information/ assessment it is not possible to ensure that a traffic hazard will not result and that pedestrian safety will not be compromised.
5. The Planning Authority is not satisfied based on the submissions received that the proposed development would not be seriously injurious to the amenities of residential property in the vicinity because of the potential harm and risk of contaminated land on the subject site given the historical siting of a commercial garage on the lands and the emissions or volatiles which could potentially be caused by it. The proposed development would accordingly be potentially prejudicial to public safety.
6. The development site is located within 400m of Galway Bay SAC. "The Planning Authority notes the proximity of the site to said European site and having regard to concerns in relation to the scale of development proposed and plot ratio, the Planning Authority consider that likely significant effects on said sites and any other European sites within the zone of influence of the subject site cannot be screened out. Therefore, if permitted as proposed, the Planning Authority cannot be satisfied that the proposal will not adversely affect the integrity of European sites in light of their conservation objectives.

## 3.2 Planning Authority Reports

3.2.1 The main issues within the planning authority report are outlined under section 3.1. Other issues relevant to the appeal and referenced in the planning authority report include:

- The site is located within Flood Zone B. The applicant should be required to submit a site-specific flood risk assessment for the proposed development.
- There are aspects of the site that may be of archaeological interest and neighbouring sites were indicated to be of significance with an industrial archaeological legacy. In this regard the applicant should be required to submit an archaeological assessment of the site.

### 3.2.2 Other Technical Reports

**Chief Fire Officer** –The proposals as submitted would not comply with the current Fire Safety requirements for such a development in particular with regards to the shared means of escape between assembly and offices.

The works will be subject to a Fire Safety Certificate Application to the Building Control Authority. Fire Section would advise the applicant to resubmit plans to remedy the above deficiencies. Prior to resubmission, the applicant should be advised to consult with the Fire Authority.

**Drainage Section** –No objection to the proposal. Recommend conditions for the control and management of surface water on site.

**Transportation and Infrastructure Department.** The report is summarised by the planning officer as follows:

- Demonstrate consistency with the Galway Transport Strategy
- Accessible cycle facilities/ mobility management plan
- Construction management plan prior to the commencement of development
- Attached are a number of recommended conditions including submission of a public lighting scheme.

### 3.3 Prescribed Bodies

None

### 3.4 Third Party Observations

There were 8 number valid observations received. The issues raised in observations to the planning authority are reflected in the observations received on the first party appeal. The observations are summarised under paragraph 6.3 below.

## 4 Planning History

### **Subject site and part of adjacent site to the South.**

**Planning Authority Reference No 06/704 & ABP.61.222315** (2006) – Permission granted by An Bord Pleanála, upholding a grant of decision by Galway City Council for demolition of No.12 A Sea Road and 31 to 35 Munster Avenue including all outhouses and stores, construction of 2 story infill at 12A Sea Road, and construction of 2 blocks containing 2 No. retail units (152 m<sup>2</sup>), 5 No. office units (971 m<sup>2</sup>), 18 No. apartments (4 No. 1 bed, 12 No. 2 bed and 2 No. 3 bed) over basement car parking and all associated site works. Permission was granted by ABP subject to 20 no. conditions including design changes and archaeology assessment.

### **Adjacent Site**

**Planning Authority Reg. ref. 07/1014** (immediately adjacent) - Permission refused by Galway City Council (2007), for alterations and amendments to a previously approved mixed development (pa Ref. 06/704) to include the following: Addition of a vehicles service center , reduction in retail floor area, reduction in office floor area ,16 Residential Units (2 No, bed apartments, 6 No. 2 bed apartments, 8 No, bed duplex townhouses) as previously approved, over basement car parking and all associated parking and site development works. The 3 no. reasons for refusal can be summarised as follows; (1) Considered that a vehicle service center of the scale envisaged is unacceptable in this location, and that it would not be in the best interests of the future residents of the development, the adjoining

residents, and the character and amenity of the area generally. (2) The large-scale omission of communal spaces and landscaping to accommodate the service center is unacceptable. (3) Traffic impact is likely to be unacceptable

**Planning Authority Reg. Ref. NO. 05/20 and ABP 61.213831** —(immediately adjacent) permission refused by Galway City Council and ABP (2005) for demolition all buildings on site including all outhouse and stores, and adjacent garage at 36 Munster Avenue, construction of a two storey infill at 12A Sea Road, construction of three-storey plus penthouse level building stepping down to two storey and one-storey towards the east terrace all accommodating 1,181 square metres of ground floor office use, 27 apartments

**ABP refused for the following reason;**

Notwithstanding the transitional location of the site, its proximity to the city center and the zoning provisions relating to the site, as set out in the current 2005 Galway City Development Plan, it is considered that the proposed development by reason of its relationship to adjoining residential property on Munster Avenue, in particular, having regard to its height, scale and form would seriously injure the residential amenities of these properties in contravention of the requirement of Section 11.2 of the current development plan in relation to the avoidance of developments in the boundary areas of adjoining zones which would be detrimental to the amenities of the more environmentally sensitive zone and would result in overdevelopment of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

## **5 Policy Context**

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

5.1.2 The operative development plan is the Galway City Development Plan 2023 – 2029. According to the plan this area is zoned City Centre or CC. To provide for city centre activities and particularly those, which preserve the city centre as the dominant commercial area of the city.

Uses which are compatible with and contribute to the zoning objective include:

- Retail
- Offices, banks and professional services

### 5.1.3 Section 11.4 – City Centre Area

#### 11.4.1 General

The Council shall consider the following standards and guidelines when considering the design and layout of development in the CC zone, in so far as they relate to a particular development proposal in the city centre.

- Maximum densities shall only be attainable under optimum site conditions having regard to criteria such as height, impact on built heritage, urban design, open space and protection of amenities. (Refer to Chapter 8: Built Heritage, Placemaking and Urban Design.)
- Adequate space must be available for on-site storage of materials and waste, loading and unloading, on site circulation of vehicles and parking for motor vehicles and bicycles, where appropriate.
- Potential noise and air nuisances and lighting arrangements shall be addressed at the design stage and appropriate mitigation measures included for in the proposed development.
- Plant shall be integrated into the overall design of the building and shall be shown on relevant planning drawings

#### 11.4.2 Plot Ratio

The plot ratio density standard is designed so as to help prevent the adverse effects of over-development on the amenities of the area.

- In general for new development, the maximum plot ratio permitted will be 2:1.
- In the Dominick Street Upper/William Street West/Sea Road/Raven Terrace CC zone and in the CC zone adjoining Father Burke Park the maximum plot ratio permitted will be 1.60:1.

### 5.2 Policy 8.2 Architectural Conservation Areas



“Protect and enhance the character and special interest of designated Architectural Conservation Areas, in accordance with legislation and DEHLG Architectural Heritage Protection Guidelines 2011.”

### 5.3 Policy 9.1 Flood Risk

“Ensure the recommendations of the Strategic Flood Risk Assessment (SFRA) for the Galway City Development Plan 2023-2029 are taken into consideration in the assessment of developments in identified areas of flood risk. Require site specific Flood Risk Assessment (FRA) and associated design and construction measures appropriate to the scale and nature of the development and the risks arising, in all areas of identified flood risk including on sites where a only small proportion of the site is at risk of flooding and adopt a sequential approach in accordance with the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).”

### 5.4 Other relevant development Plan policies & objectives

- Section 11.10 – Urban Development & Building Height
- Section 11.11.1 – Transportation – Parking Space requirement
- Section 11.11.3 – Travel Plans – Mobility Management Plans
- Section 11.20 - Green Design & Surface Water/ SUDS
- Section 11.12.5 – Construction & Demolition

### 5.5 National Policy & Guidelines

- National Planning Framework 2018
- Urban Development & building Height Guidelines for Planning Authorities (DHPLG 2018);
- The Planning System & Flood Risk Management – Guidelines for Planning Authorities
- Other Relevant Documents
- Galway Public Realm Strategy, 2019
- Galway Urban Density and Building Heights Study, 2021

- Compact Settlement Guidelines

## **5.6 Natural Heritage Designations**

Galway Bay SAC 250m to the south

Lough Corrib SAC 260m to the east

Galway SPA inner 650m to the south

## **5.7 EIA Screening**

See completed form 2 on file. On the issue of Environmental Impact Assessment screening, I note that the relevant class for consideration is class 10 (iv) “Urban development which would involve an area greater than 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”. Having regard to the size of the development site (0.074ha) and scale of development, it is sub threshold and the proposal does not require mandatory Environmental Impact Assessment. Having regard to the nature and scale of the proposed development and to the nature, extent, characteristics and likely duration of potential impacts, I conclude that the proposed development is not likely to have significant effects on the environment and that the submission of an Environmental Impact Statement is not required. The need for environmental impact assessment can, therefore, be excluded at preliminary examination. An EIA – Preliminary Examination form has been completed and a screening determination is not required.

## **6 The Appeal**

### **6.1 Grounds of Appeal**

An appeal was lodged on behalf of Munster Avenue Developments Ltd., by Sean Dockry & Associates, in which it is submitted that after significant design changes and the submission of additional documentation as part of the appeal, the reasons for refusal as set out by the local authority with respect to the development have been addressed. (The refusal reasons are set under section 3.0 above) The

applicant sets out each refusal reason and refutes each refusal reason in turn as follows:

#### 6.1.1 Refusal Reason 1

- The appellant outlines that there is precedent for development of similar size and scale in the immediate area. These sites include: The “Parkhead Building”, granted under GCC Reg. Ref. 96/489 to the Northeast of the site. This site has a permitted plot area of 2.188 with a development of four storey accommodating 1000m<sup>2</sup>.
- There is a permitted unbuilt scheme granted permission under Planning Authority Reg. Ref. 06/704 and ABP 61.222315 for the current site incorporating adjacent site to the South. This scheme had three storeys over basement to the Northeast of the site and development on plots to the south were reduced to 2 storeys to complement with the neighbouring residential development.
- The applicant has submitted revised details as part of the appeal to address reason for refusal. The revised details include for the following: revised drawings, elevations, sections and associated photo montages for the removal of the uppermost fourth floor of the scheme resulting in a reduced floor area and therefore plot ratio. The reduced plot ratio is 1.85:1.
- The height of the proposed building is reduced from 15.25 to 11.455 over street level. It is set out based on the above revised detail that the revised development will address concerns of height and scale in addition to concerns of plot ratio.

#### 6.1.2 Refusal reason 2

- The reference to scale and height are addressed with revised design detail submitted with the appeal.
- The appellant wishes to challenge part of the refusal reason with respect to design and visual appearance. It is set out that proposed design as set out takes its reference from the Protected Structure known as “Silk’s Cash and Carry at William Street West. The stretch of road (Munster Avenue), where the development site is proposed does not have a positive character. It is

stated that the streetscape at this location is a collection of underutilised, semi- derelict industrial structures offering nothing to the existing streetscape or “character of the area”. The building as proposed is “conscientiously visually dominant” to overcome dereliction with a suitable modern intervention. The visual appearance of the proposed development on the streetscape will be a considerable enhancement on current arrangement.

- The appellant rejects the assertion that the proposed development will detrimentally impact the Galway City Core Architectural Conservation Area. The development is remote from the ACAs, which is demonstrated with additional photomontages. The site is not visible from any ACA as indicated in the refusal reason.

#### 6.1.3 Refusal reason 3

- The reason for refusal is a repetition of reason 1 with respect to plot ratio.
- The site should not be viewed as an “infill site” but rather the first intervention into an area characterised as delict or underutilised sites.
- The design is of high quality with use of high quality materials and is heavily influenced by historic references in the immediate vicinity.
- The other issue outlined in the refusal reason are dealt with by the appellant through the submission of revised detail with the appeal.

#### 6.1.4 Refusal Reason 4

- As part of the appeal the applicant has submitted a “Traffic Report” that details aspects of the development such as facilitating deliveries, pedestrian safety and addressing matters pertaining to mobility management planning.
- A mobility management plan has also been submitted.
- The scheme is designed so as not to facilitate or encourage car usage by commuters using the office space. The scale of the retail is such that it is locally serving, and the restaurant is primarily for the occupants use.

#### 6.1.5 Refusal Reason 5 -

- The applicant has submitted a Contaminated Land Risk Assessment by Higgins consultancy Ltd. On the management of any contaminated lands the

applicant has set out environmental measures to deal with any contaminated land that will be found upon the demolition of structures on site.

#### 6.1.6 Refusal Reason 6

- An Appropriate Assessment screening report has been submitted as part of the appeal. It is concluded that the proposed development taken individually or in combination with other plans or projects can be excluded from any significant effect on any European Site

#### 6.1.7 Other Matters

- The applicant has submitted updated shadow studies – these demonstrate the level of impact on neighbouring residential amenities.
- National Policy has a focus on increasing density and height particularly in city centre locations in accordance with sustainable development principles. Development being consolidated and strengthened is preferred to the unsustainable pattern of outward growth- in areas where there is underutilised development and buildings. The development as proposed does not create any negative impacts on the area and is appropriate to the recommendations of the Government guidelines.

### 6.2 Planning Authority Response

- The changes proposed, the revised drawings and removal of the uppermost floor of the scheme, resulting in a reduced plot ratio and reduction in the overall height of the scheme are noted.
- It is agreed that Lower Dominick Street ACA and Crescent/ Sea Road ACA are closer to the site than the Galway City Core ACA.
- The revisions of the proposed scheme do not address or overcome all the issues outlined in the reasons for refusal and do not change planning authority opinion that the development as proposed should be refused.

### 6.3 Observations

5 observations have been received in relation to the proposed development. The issues raised can be grouped and summarised as follows:

#### 6.3.4 Design, Height & Scale

- Development of this size & scale will overwhelm residents and will impact daylight and privacy. The development is of a scale to have a significant negative impact on amenity of residents.
- Photomontages clearly outline the negative impact visually on Munster Avenue. The Photomontages are taken from a viewpoint too remote from the site to give an accurate reflection of the site.
- The proposal will result in overshadowing of private amenity open spaces in the terrace of houses 1-6 Munster Avenue

#### 6.3.5 Impact on Residential Amenity

- The shadow study is incomplete and not accurate. The shadow studies appears to reference the height of the existing building only. The shadow that will be overcast on adjoining properties will be far more pronounced than what is indicated within the assessment. The shadow study is lacking in technical information and of no benefit to the application.

#### 6.3.6 Traffic

- The traffic report submitted as part of the appeal is not consistent with original planning application, in that the proposed scheme was originally to exclusively rely on public transport, walking and cycling.
- There is no parking indicated for the proposed workers or visitors within the scheme. The traffic study comments in relation to available parking and pay parking along Munster Avenue is inaccurate.
- The proposal will significantly increase traffic in the area, the traffic report submitted does not reflect the realities of residents.
- The existing funeral home and gym on Munster Avenue take up any excess parking available, a third development will completely overwhelm the area. There is no currently limited parking available for residents. The proposal will result in residents been blocked into their own driveways.

- No details of the potential impact of restaurant has been provided

#### 6.3.7 Nature of Use/ Substandard drawings

- Southeast elevation not reflective of the situation on the ground the terrace of 5 houses are set back off Munster Avenue with parking to the front, this is not clear in the drawings.
- 567sqm is a considerable floor area.
- Application is incomplete and fails to identify the nature of the retail development and the associated potential impacts in terms of noise, traffic, suitability and impact on adjoining residential amenity.
- The first floor plan shows windows along southwest, northwest and northeast however these opes have not been demonstrated on elevations
- No detail supplied with respect to location of external ventilation on the building
- Details with respect to proposed use of restaurant have not been provided:

#### 6.3.8 Flooding

- The site is in Flood Zone A according to Strategic Flood Risk Assessment (SFRA), the SFRA states that any new development will have no benefit from existing flood defences. The objectors believe that the planner's report is incorrect in stating the area is in Flood Zone B, and the correct site characterisation is Flood Zone A.
- The site is at risk of flooding and photographs provided in third party submission to indicate same.

#### 6.3.9 Archaeology

- There should be a study carried out of the area, to identify major archaeological interest.

#### 6.3.10 Impact on SAC/ Contaminated Land Risk Assessment

- The potential for impact on the Galway Bay SAC has not been ruled out.

- The contaminated Land Risk Assessment identifies “significant potential pollutant linkages” – this assessment has not been considered in the AA screening carried out. The contaminated Land Risk Assessment makes assumptions based on desk top studies without any investigative sampling.
- The AA screening inaccurately states that there is no connectivity to River Corrib or Galway Bay. Overtopping of the Eglinton Canal (2018) and surface water flooding provide a direct connection to the SAC.

#### 6.3.11 Future Use

- Concerns that change of use from office to residential will occur in the future – seek that a condition is included to prevent this.

#### 6.3.12 Other Matters

- The site is not an industrial area as stated by the applicant but an area zoned City Centre. The surrounding area is primarily residential development with small commercial component on ground floor only.

## 7 **Assessment**

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

- Design, Height & Impact on Residential Amenity,
- Plot Ratio / Material Contravention
- Traffic & Pedestrian Safety
- Flood Risk
- Other Issues/ Contaminated Land
- Appropriate Assessment

### 7.2 **Design Height, Impact on Residential Amenity**

A reason for refusal as outlined by the Planning authority was that the size, scale



and density of development would constitute overdevelopment of the site. The design and visual appearance of the proposed building is considered to have an overbearing expression onto the streetscape and offers little relationship with the surrounding urban fabric.

- 7.2.1 The original development proposal consisted of 4 storeys over street level with three floors of offices over a retail element. The ridge height of the 4-storey element as proposed was 15.25m. The planning authorities primary concern was in respect to the height of the structure and its relationship in terms of overbearing expression onto adjoining residential properties to the southwest and Silkes Cash and Carry to the northeast. The provision of a four-storey structure at this location is in my opinion not excessive. The site is zoned city centre, and the development is proposed on a site that is significantly underutilised. Although the structure is higher than neighbouring residential properties, I do not consider the provision of a four storey structure at this location to be excessive. There is adequate provision within the Galway City Development Plan for the provision of increased height and notwithstanding the reason for refusal of the planning authority with respect to plot ratio standards, I would consider the provision of a four-storey structure to be acceptable in principle at this location.
- 7.2.2 As part of the appeal the applicant has submitted revised detail omitting the fourth-floor element of the proposal. The development has reduced from a gross floor area 1671m<sup>2</sup> to 1371m<sup>2</sup> and reduced in height from four storeys down to three storeys. The new proposed ridge height over street level is 11.455m.
- 7.2.3 With respect to the design the overall footprint of the building in terms of site coverage remains the same as the original application. The proposed development is represented as one large block across the entire width of the site at 29.26m. The proposal immediately abuts the site boundary to the west and is set back approx. 1m from all remaining site boundaries. The Computer Generated Images (CGI's) are taken from a distance set back to the south west of Munster Avenue and not from a contiguous perspective. The contiguous elevation drawings submitted do not provide any design details of neighbouring adjacent properties. The final design is identical to the original planning application. However, the fourth floor has been omitted to provide for a three-storey structure. The fenestration proposed to all floors serving the front elevation are of a vertical emphasis. The elevation finishes are a mixture of

dark limestone cladding or similar, metal trim/cladding or similar and painted render to select colour.

7.2.4 Policy 8.7 of the Galway City Development Plan sets out principles with respect to good urban design and placemaking. In terms of design there is merit in examining the proposal in the context of neighbouring sites in particular Parkhead house to the north. This is a four-storey structure on a corner site with similar pallet of materials and finishes as proposed under this application. It is my opinion the design as proposed is a welcome intervention on the streetscape, within a city centre zoning. The mixture and pallet of materials will offer an attractive perspective while trying to marry the two functions of the street in terms of residential and commercial uses. With respect to the planning authority comments in regard to scale and overbearing expression, I do consider the building fenestration on its own to have strong design features and I do not consider the approach to be overbearing. I agree with the applicant there is no unique strong design character on this stretch of road, and the proposed fenestration and finishes are capable of assimilating into the streetscape. The residential dwellings to the southwest are a terrace of 5 dwellings but do not offer a unique character to the area. The buildings to the northeast are a mixture of fenestrations and building heights. The site is in a transitional area between commercial development and inner city residential. In my view, the revised design as presented is respectful of this location. Having regard to the above and city centre zoning of the site I, consider the revised design to be accordance with Policy 8.7 of the Galway City Development Plan.

7.2.5 Having regard to height, as per the appeal documentation the development has reduced in height from four storeys down to three storeys. The new proposed ridge height is 11.455m, the neighbouring parapet heights are 10.4m and 8.5m respectively. The Urban Density and Building Height Strategy for Galway City 2021 identifies this section of Munster Avenue as having a prevailing height of 2-3 storeys. I do not consider a three-storey building at this location to be excessive. Along Munster Avenue there is a significant mix of 1 & 2 storey dwellings with the 4 storey Parkhead building further north, in this regard I do consider the proposed height of 11.455 to be acceptable.

7.2.6 As per the refusal reason there is a potential impact on amenity of neighbouring properties in terms of the overbearing nature of the development and potential for

overlooking. The proposed structure is in close proximity to site boundaries. However, this proximity is considered acceptable owing to site location and city centre zoning. I note the submissions on file and the planning authority report which state the possibility for overlooking from 2<sup>nd</sup> floor and 3<sup>rd</sup> floor level into the residential properties to the west and north of the site. The windows on these elevations are designed for horizontal emphasis 1.8m off finished floor level. The purpose of this design is to provide high level glazing that will allow natural light into the building while aiming to limit any potential overlooking. Owing to the nature of use on site, I do not consider the proposed development will give rise to significant issues of overlooking.

- 7.2.7 Regarding overshadowing, a shadow analysis was submitted with the planning application, and this was updated in the first party appeal submission to the Board dated 5th July 2023. The updated shadow analysis takes account of the proposal to reduce the height of the building. The shadow analysis examines the impact of the proposed development for the periods of winter/December 21<sup>st</sup>, spring/March 21<sup>st</sup>, summer/June 21<sup>st</sup> and Autumn/September 21<sup>st</sup>, and for the times of 0900 hours, 1200 hours, 1500 hours and 1800 hours. I consider this range to be acceptable in terms of providing a representation of overshadowing. From reviewing the shadow analysis submitted I note that a degree of overshadowing that occurs to the rear of properties on William Street west and Sea Road. Having reviewed the shadow analysis, I do not consider the extent of overshadowing indicated in respect of property within William Street, Sea Road or Munster Avenue to be significant. The construction of a three-storey structure 11.455m in height is not exceptional in this urban context. Having regard to periods/durations of overshadowing concerned, I consider that the degree of overshadowing indicated would fall within the bounds of acceptance for an urban site.
- 7.2.8 A third-party objection on file states the proposal will have a negative impact on their property on Munster Avenue with there already being extensive overshadowing on Munster Avenue over the summer period. There are also stated implications for energy consumption, heat, and requirement for increased use of fossil fuels to heat the home. As the issue of determining rights to light is a matter for the courts, I do not consider that the Board is in a position to draw any conclusions in relation to the

matters raised. As detailed above, I do not consider that the proposed development would have a significant negative impact in terms of overshadowing.

### **7.3 Plot Ratio/ Material Contravention**

A primary reason for refusal as outlined by the Planning Authority is that the development would be contrary to Section 11.3 and Section 11.4.2 of the Galway City Development Plan in that the proposal would exceed maximum permitted plot ratios as outline. The Development plan states that in general the maximum permitted plot ratio for new developments in this area shall be 2:1. This Section of the Development Plan typically addresses a broad approach to plot ratio standards and, in my opinion, lacks the necessary specificity to warrant the use of the term "materially contravene."

The refusal reason further states that, in the area of Dominick Street Upper/ William Street West/ Sea Road/ Raven Terrace CC zone and in the CC zone adjoining Father Burke Park, the maximum plot ratio permitted will be 1.60:1. The above areas, though are in proximity to Munster Avenue, do not form any part of Munster Avenue. I do not consider the plot ratio standard of 1.60 :1 as outlined by the planning authority to be of relevance to this planning appeal. I consider the plot ratio standard of 2:1 to be the informing guideline most relevant to the site.

7.5.10 As part of the appeal the applicant has submitted revised layout and drawings. The revised drawings include the removal of the uppermost fourth floor of the scheme resulting in a reduction of plot ratio from 2.22: 1 to 1.85:1. As the revised proposal results in a reduction of plot ratio to 1.85:1, I consider the proposal to be in accordance with Section 11.3 and Section 11.4.2 of the Galway City Development Plan.

### **7.4 Traffic & Pedestrian Safety**

In response to this refusal reason the applicant has submitted a mobility management plan and a traffic assessment to determine the impact of the development on pedestrian and traffic safety.

#### 7.4.1 Traffic Report

Using the Trip Rate Information Computer System or TRICS 2022 the traffic assessment sets out potential traffic impact for each of the uses on site. The assessment indicates that there will be a total of 16 AM peak and 16 PM peak traffic generating trips in terms of arrivals and 8 AM peak and 21 PM peak departures from the site. These trips are further broken down per transport use with single vehicle occupancy vehicles at 28.8% for retail and 26.6% for offices. It is set out within the report that less than 30% of the trips would be new to the surrounding road network during the PM peak period and the remaining 70% of these trips exist are already on adjacent road network. Therefore, during the PM peak period of the 31 trips undertaken approximately 11 of these trips would be new to the area.

7.4.2 The research supplied as part of the traffic report and TRICS information refers to trips pertaining to a food retail outlet. i.e traffic counts in other jurisdictions relating to large retailers such as Tesco, Aldi and Morrisons. Owing to the location of the site in a transitional area between residential and city centre uses and nature of uses in the surrounding area on a relatively narrow road, I consider it appropriate that the traffic implications relating to a potential retail food offering is considered in full. Having regard to the information in the traffic report, no details have been provided with respect to deliveries or on-site management for the retail element. The site layout plan as submitted makes no reference to set down areas or on-site manoeuvrability with respect to accommodating large vehicles (HGV's) for deliveries.

7.4.3 Three number car parking spaces are indicated outside the front of the building, there are no set down areas for larger vehicles. It would appear that all deliveries relating to the retail would have to go through the retail shop and a platform lift, as the access to the store is via an escape corridor with external stairs. Based on the above I do not consider that all of the traffic movements have been considered by the applicant in the overall design of the development, I therefore consider the traffic report as submitted to be lacking. I am therefore in agreement with the Planning Authority assessment that the proposal does not have adequate regard to traffic safety.

7.4.4 If the Board were of a mind to grant permission in this instance, I would recommend revised drawings and details along with a management plan be submitted to the

planning authority outlining how management of deliveries be accommodated on site. A designated set down area for the management of deliveries should also be provided.

#### 7.4.5 Mobility Management Plan

7.4.6 Section 11.11.3 of the Galway City Development Plan sets out requirements with respect to mobility management plans for new development. The requirement for the submission of a travel plan is to be assessed on a case-by-case basis with location, scale of development and the nature of uses proposed and impact on existing and proposed transport network. The preparation of a travel plan should be carried out at earliest possible stage of the process demonstrating that it is an integral part of the development.

7.4.7 The mobility management plan outlines the nature of the development with a proposed Enterprise Office or Work Hub with accommodation for up to 50 people. The restaurant/ canteen as proposed is ancillary to the primary use as office.

7.4.8 The measures within the Mobility management plan include for staff to be made aware through the on-site mobility manager, that there is no parking available on site. The applicant sets out the location of the rail station relative to the site and several bus route options to the city centre. As part of revised design detail associated with mobility management plan it is proposed to provide 36 secure cycle spaces on ground floor level of the development. 26 of these spaces will be within the development site. A designated GoCar space is also to be provided at the front of the site to accommodate a Car Club initiative. Mobility Management Plan targets are also set out within the plan. A new public footpath is proposed for outside the proposed building, along with the proposed relocation of an existing ESB pole. The above measures are intended to improve pedestrian safety and promote sustainable transport measures to and from the site. Based on the above I therefore consider the mobility management plan as submitted largely accords with Section 11.11.3 of the Galway City Development Plan.

## 7.5 **Contaminated Land Report**

As part of the appeal, the applicant has submitted a Contaminated Land Risk Assessment for the proposed development. The report makes a recommendation for the carrying out of a more detailed assessment of the site to determine the extent of

contamination on site. The historical mapping and planning records for the site and adjacent land indicate that the area was subject to previous potentially contaminative land uses (PCLU's)

7.5.1 A preliminary conceptual risk model was developed, and an assessment of potential risks undertaken for the site. In Section 8 of the report the potential risks are categorised as follows:

- Significant potential risks identified to onsite human health as a result of potential contamination present during groundworks.
- Significant potential risks identified to offsite human health if mobile contaminates are present in the sub surface, these could impact upon adjacent residential properties.
- Significant potential risks identified with respect to surface water as there are 2 significant water bodies located within 250m of the site.
- Significant potential risks to neighbouring properties whereby there is contaminated land that contains aggressive chemicals such as sulphate that can attack building materials and services.

7.5.2 Section 9 of the report provides conclusions on a qualitative risk assessment undertaken on site. It identifies that the risk to groundwater is very low and risk to surface water as being low to moderate. The report on foot of these finding makes a number of recommendations including the carrying out a detailed site assessment and quantitative risk assessment. Having regard to the level of detail submitted in the Contaminated Land Risk assessment I am not satisfied that the issue of contaminates has been adequately addressed. No soil sampling has been carried out or detail supplied with respect to the actual level of contaminates on site, therefore it is not possible to provide a definite assessment of potential risks. No details have been provided with respect to measures that will be employed on site to alleviate the risk associated with any contaminated land. In the absence of identification of the extent of contaminated soils on site I think it appropriate that a more detailed assessment of the site be carried out.

7.5.3 Given that there are potentially significant potential pollutant linkages on site, it is recommended that an intrusive site investigation is undertaken with the objective of

determining the presence and extent of any soil contamination. Section 8 of the report states that there is potential for significant risks to surface water associated with the contaminants on site. This needs further investigation in line with potential impact on any Natura 2000 sites and having regard to potential flood risk identified below. This element of the contaminated land risk assessment shall be dealt with under Section 7.7.4 of this report.

- 7.5.4 Where the Board is of a mind to grant permission, I recommend a condition should attach seeking a detailed contaminated land report be carried out to include for soil sampling and construction, environmental management plan & site remediation to be submitted, prior to commencement of development.

## **7.6 Flood Risk**

- 7.6.1 The site is identified in the Galway City Development Plan Strategic Flood Risk Assessment 2023 -2029 as within Flood Zone A & B. The main risk in this area is from tidal flooding. The Strategic Flood Risk Assessment for Galway indicates that the city centre area has no benefit from any permanent flood relief scheme works. As per section 7 of The Strategic Flood Risk Assessment where sites in the city centre are to be developed, a site-specific FRA would be required.
- 7.6.2 The applicant has not provided a site-specific flood risk assessment for the proposed development. No details have been provided with respect to control, management or protection of surface water on site, including use of SUDS measures. Both the Planning Authority report and third-party submissions on file raise issues with respect to flooding along Munster Avenue. Photographs of Surface water flooding have also been provided. In the absence of a SSFR I cannot rule out the possibility of the site flooding or displacement effects arising as a result of the new development. Having reviewed the Galway City Development Plan Strategic Flood Risk Assessment 2023 -2029 and Flood Risk Management Guidelines 2009 I consider it necessary that a site-specific flood risk assessment be carried out for the proposed development.

## **7.7 Appropriate Assessment - Screening**

Given the proximity of the site to the Galway Bay SAC, the planning authority were not satisfied that the proposed development would not have a significant effect on



the SAC, therefore it was recommended permission be refused. As part of the appeal the applicant has submitted an Appropriate Assessment Screening report. This screening report determined that based on the distance of the subject site to the SAC and lack of direct hydrological connectivity to the SAC that there is not likely to be any significant impact on the European Site.

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

7.7.2 Background - The applicant submitted an Appropriate Assessment Screening report for the proposed development prepared by Moore Group Environmental on the 4<sup>th</sup> of July 2023. There are 9 no. European sites within a 15km zone of influence of the appeal site. Following this screening exercise, 3 no. European sites were identified based on proximity/potential hydrological connectivity with the appeal site, specifically Galway Bay Complex SAC, Inner Galway Bay SPA and Lough Corrib SAC. The screening report concluded that based on lack of direct connectivity between the proposed development and any hydrological pathways; that the proposed development is not likely to have significant effects on the conservation status of any European site.

7.7.3 The Appropriate Assessment Screening does not identify the potential for onsite flooding and fails to address issues of contaminated soil on the subject site as set out in the Contaminated Land Report where there is a potential for a significant negative impact on surface water.

7.7.4 A Contaminated Land Risk Assessment prepared by Higgins Consultancy was submitted with the planning appeal. The plan makes recommendations for a future detailed site assessment and quantitative risk assessment, as the site soil is currently inaccessible externally due to overgrowth. The plan fails to assess if there is currently any contaminated material on site. No details have been provided with respect to the extent of potential contaminated material. No details has been provided with respect to site clearance works and construction methodologies to manage against the presence of contaminated material on site.

Section 8 of the report indicates that there may be an impact on surface water bodies to the east of the site namely Eglinton Canal. Flood Risk on site is also a factor and notwithstanding conclusion in Section 9 of the contaminated Land Risk Assessment of low risk/very low with respect to surface water and ground water, I cannot conclude beyond a reasonable doubt that that the proposed development as outlined will not have a negative impact on the conservation status of the Galway Bay Complex SAC.

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

7.7.6 The Proposed Development. The applicant provides a description of the project on page 4/5 of the screening report. The development comprises of the demolition of existing building on site and construction of a 4-storey mixed use building with retail on the ground floor, restaurant on the first floor and offices on the second and third floor, along with connections into the existing public foul network. (As per the appeal the scheme has been reduced to three storeys and with a reduced floor area)

The development site is described in page 10 of the AA screening report. The proposed development is located along a primarily residential road, within the historic inner western core of Galway City. The nearest European sites to the proposed development are the Lough Corrib SAC (Site Code 00297) ,Galway Bay SAC (Site Code 000268) – approx. 250m to the East and South of the site and the Inner Galway Bay SPA (Site Code 004031) – 670m to the South.

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

- The uncontrolled release of pollutants to ground water and surface water (e.g. run-off, silt, fuel, oils, etc.) and subsequent impacts on water quality sensitive habitats of Galway Bay Complex SAC (Site Code – 000268), Inner Galway Bay

SPA (Site Code – 004031) & Lough Corrib SAC (Site code – 000297). The Groundwater vulnerability for the site

- Potential disturbance to bird species which are Special Conservation Interests (SCI) of Inner Galway Bay SPA (Site Code – 004031).
- Should any bird species which are Special Conservation Interests (SCI) of Inner Galway Bay SPA (Site Code – 004031), or another European site use the site for resting, foraging, breeding etc., then the proposed development would have the potential to result in habitat fragmentation and disturbance to bird species (i.e. ex-situ impacts).

7.7.8. Submissions and Observations – see paragraph 6.3 (above).

7.8. **European Sites and Connectivity.** A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in Table 7.1.

<b>Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.</b>				
<b>European Site (code)</b>	<b>List of Qualifying interest /Special conservation Interest</b>	<b>Distance from proposed development (Km)</b>	<b>Connections (source, pathway receptor)</b>	<b>Considered further in screening Y/N</b>
Galway Bay Complex SAC (Site Code 000268)	<ul style="list-style-type: none"> <li>• Mudflats and sandflats not covered by seawater at low tide [1140]</li> <li>• Coastal lagoons [1150]</li> <li>• Large shallow inlets and bays [1160]</li> <li>• Reefs [1170]</li> <li>• Perennial vegetation of stony banks [1220]</li> <li>• Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</li> <li>• Salicornia and other annuals colonising mud and sand [1310]</li> </ul>	c. 260 metres south of appeal site	Noting the proximity of the appeal site to Galway Bay Complex SAC a likelihood of significant effects exists. The site has a groundwater vulnerability of high and the site is 260m from the SAC, there are outstanding concerns with respect to the presence of onsite contaminated soils therefore is a possibility of a hydrological	Y

	<ul style="list-style-type: none"> <li>• Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</li> <li>• Mediterranean salt meadows (Juncetalia maritimi) [1410]</li> <li>• Turloughs [3180]</li> <li>• Juniperus communis formations on heaths or calcareous grasslands [5130]</li> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>• Calcareous fens with Cladium mariscus and species of the Caricion davalliana [7210]</li> <li>• Alkaline fens [7230]</li> <li>• Limestone pavements [8240]</li> <li>• Lutra lutra (Otter) [1355]</li> <li>• Phoca vitulina (Harbour Seal) [1365]</li> </ul>		connection to the SAC.	
Inner Galway Bay SPA (Site Code 004031)	<ul style="list-style-type: none"> <li>• Black-throated Diver (Gavia arctica) [A002]</li> <li>• Great Northern Diver (Gavia immer) [A003]</li> <li>• Cormorant (Phalacrocorax carbo) [A017]</li> <li>• Grey Heron (Ardea cinerea) [A028]</li> <li>• Light-bellied Brent Goose (Branta bernicla hrota) [A046]</li> </ul>	c. 267 metres east of appeal site	Noting the proximity of the appeal site to Galway Bay SPA a likelihood of significant effects exists. The site has a groundwater vulnerability of high and the site is 267m from the SPA, there are outstanding concerns with respect to the presence of onsite contaminated soils therefore is a	Y

	<ul style="list-style-type: none"> <li>• Wigeon (Anas penelope) [A050]</li> <li>• Teal (Anas crecca) [A052]</li> <li>• Red-breasted Merganser (Mergus serrator) [A069]</li> <li>• Ringed Plover (Charadrius hiaticula) [A137]</li> <li>• Golden Plover (Pluvialis apricaria) [A140]</li> <li>• Lapwing (Vanellus vanellus) [A142]</li> <li>• Dunlin (Calidris alpina) [A149]</li> <li>• Bar-tailed Godwit (Limosa lapponica) [A157]</li> <li>• Curlew (Numenius arquata) [A160]</li> <li>• Redshank (Tringa totanus) [A162]</li> <li>• Turnstone (Arenaria interpres) [A169]</li> <li>• Black-headed Gull (Chroicocephalus ridibundus) [A179]</li> <li>• Common Gull (Larus canus) [A182]</li> <li>• Sandwich Tern (Sterna sandvicensis) [A191]</li> <li>• Common Tern (Sterna hirundo) [A193]</li> <li>• Wetland and Waterbirds [A999]</li> </ul>		<p>possibility of a hydrological connection to the SPA</p>	
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<p>Lough Corrib SAC (Site Code 000297)</p>	<ul style="list-style-type: none"> <li>• Oligotrophic waters containing very few minerals of sandy plains (Littorelletalia uniflorae) [3110]</li> <li>• Oligotrophic to mesotrophic standing waters with vegetation of the Littorelletea uniflorae and/or Isoeto-Nanojuncetea [3130]</li> <li>• Hard oligo-mesotrophic waters with benthic vegetation of Chara spp. [3140]</li> <li>• Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</li> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]</li> <li>• Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410]</li> <li>• Active raised bogs [7110]</li> <li>• Degraded raised bogs still capable of natural</li> </ul>		<p>Noting the separation of the appeal site to Lough Corrib SAC and assumed groundwater directional flow there is no real a likelihood of significant effects. There is no evident direct hydrological pathway the SAC.</p>	<p><b>N</b></p>
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	<p>regeneration [7120]</p> <ul style="list-style-type: none"> <li>• Depressions on peat substrates of the Rhynchosporion [7150]</li> <li>• Calcareous fens with <i>Cladium mariscus</i> and species of the Caricion <i>davallianae</i> [7210]</li> <li>• Petrifying springs with tufa formation (Cratoneurion) [7220]</li> <li>• Alkaline fens [7230]</li> <li>• Limestone pavements [8240]</li> <li>• Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles 91A0]</li> <li>• Bog woodland [91D0]</li> <li>• <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029]</li> <li>• <i>Austropotamobius pallipes</i> (White-clawed Crayfish) [1092]</li> <li>• <i>Petromyzon marinus</i> (Sea Lamprey) [1095]</li> <li>• <i>Lampetra planeri</i> (Brook Lamprey) [1096]</li> <li>• <i>Salmo salar</i> (Salmon) [1106]</li> </ul>			
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7.8.1 Having reviewed the screening document, I am not satisfied that the information allows for a complete examination and identification of all potential significant effects of the development. The screening statement does not accurately indicate the groundwater vulnerability for the area, which is categorised as high risk. It can be assumed that groundwater at this location discharges to the SAC and SPA south of the proposed site. The site is at risk of flooding and there is also a risk of surface water flooding at this location, this may also be a pathway to the SAC and SPA that has not been addressed within the screening documentation. I therefore consider the site to have a direct hydrological connection to the SAC and SPA and a source -pathway – receptor has been identified.

7.8.2 Galway Bay Complex SAC and Inner Galway Bay SPA have been ‘screened in’ having regard to the proximity with the appeal site and potential hydrological connectivity. According to the EPA mapping the site and surrounding lands have a groundwater vulnerability classed as high, the groundwater is therefore at risk from mobilisation of contaminants from the site. Owing to the proximity to the SAC and SPA an assumed hydrological link between the groundwater and SAC and SPA exists. There are potentially contaminated soils on site as indicated in submitted contaminated Land Risk Assessment Report. Having regard to the groundwater vulnerability and the location of the site in close proximity to the Galway Bay SAC and SPA, whose habitats and species are vulnerable to changes in the water quality, I consider it appropriate to “screen in” the Galway Bay Complex SAC and Inner Galway Bay SPA.

All other Natura 2000 sites surrounding the proposed development have been ‘screened out’ due to a lack of connectivity. In relation to ex-situ effects, the appeal site is primarily comprised of vacant/ derelict structures in a brownfield site and has low habitat value. The appeal site would not represent favourable habitat for birds associated with Inner Galway Bay SPA, or other SPA’s.

7.8.2 Conservation Objectives of European Sites ‘Screened-In’. The generic Conservation Objective for Galway Bay Complex SAC is;

*‘to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II habitats for which the SAC has been selected’.*



7.8.3. Identification of Likely Effects. Considering the above Conservation Objectives, the main elements of the proposal which may give rise to impacts on the European sites listed above are as follows:

Construction Phase Impacts on Galway Bay Complex SAC - There is the potential for the water quality pertinent to this European Site to be negatively affected by existing onsite contaminants, such as silt from the site clearance and other construction activities and also from the release of hydrocarbons. During the construction phase, there is potential for pollutant from site works to temporarily discharge to groundwater and flow into the SAC. The Contaminated Land Risk assessment submitted as part of the development, identifies a potential risk to surface water from contaminated soils on site. I note that the Eglington Canal is approximately 170m from the site to the northeast and the Claddagh Basin is located approximately 240m from the site to the east. The site is also at risk of flooding and no flood risk assessment has been submitted. Given the potential for flooding there is a potential that a flood event could lead to mobilisation of contaminants on site. Having reviewed the EPA mapping, I note that these water bodies are within the same groundwater aquifer as the subject site, therefore, there is a potential connectivity from the site to these waterbodies that flow into the Galway Bay Complex SAC.

Operational Phase Impacts on Galway Bay Complex SAC - During the operational phase, effluent from the proposed development will be discharged into the public sewer. Surface water run-off from above ground/the roof of the building will be discharged to urban drainage systems. There is therefore no potential for the water quality pertinent to this European Site to be significantly negatively affected by the proposed development during the operational phase.

Construction Phase Impacts on Inner Galway Bay SPA – During the construction phase, there is potential for surface water runoff from site works to temporarily discharge to groundwater and surface water and flow into the SPA, with consequent potential for water sensitive habitat/habitat supportive of SCI associated with Inner Galway Bay SPA to be negatively affected by any contaminants, such as silt from site clearance and other construction activities and also from the release of hydrocarbons.

Operational Phase Impacts on Inner Galway Bay SPA –The appeal site is has a low habitat value and as such there is therefore no potential for SCI associated with this

European Site to be negatively affected by the proposed development during the operational phase in terms of disturbance. Additionally, the drainage regime on the site as described above under ‘operational phase impacts on Galway Bay Complex SAC’, result in there being no potential for the water quality pertinent to this European Site to be negatively affected by the proposed development during the operational phase.

In the absence of mitigation, the proposed development has the potential to result in negative impacts on Galway Bay Complex SAC and Inner Galway Bay SPA. I consider that such impacts could be significant in terms of the stated conservation objectives of Galway Bay Complex SAC and Inner Galway Bay SPA when considered on their own in relation to the discharge of polluted run-off to groundwater which could flow into the Galway Bay Complex SAC and Inner Galway Bay SPA, with consequent potential for water sensitive habitat/habitat supportive of QI/SCI associated with Galway Bay Complex SAC and Inner Galway Bay SPA.

In-combination Impacts. There are no recent planning applications for the surrounding area that share a direct link with the subject site.

A summary of the outcomes of the screening process is provided in the screening matrix Table 7.2.

Table 7.2 - Summary Screening Matrix				
European Site	Distance to proposed development/ Source, pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Galway Bay Complex SAC (Site Code 000268)	c. 260 metres	During the construction phase there is potential for surface water runoff from site works to temporarily discharge to groundwater and reach the SAC. There is the potential for the water quality pertinent to this European Site to be negatively affected by	No effect	Screened <b>in</b> for AA

		contaminants, from site clearance and other construction activities and also from the release of hydrocarbons. Flood Risk for this site is also an issue, there is a risk of mobilisation of contaminants from the site that may impact water quality within the SAC		
Inner Galway Bay SPA (Site Code 004031)	c. 260 metres south of appeal site.	During the construction phase there is potential for surface water runoff from site works to temporarily discharge to groundwater and reach the SAC. There is the potential for the water quality pertinent to this European Site to be negatively affected by contaminants, from site clearance and other construction activities and also from the release of hydrocarbons. Flood Risk for this site is also an issue, there is a risk of mobilisation of contaminants from the site that may impact water quality within the SAC	No effect	Screened in for AA

7.8.4. Mitigation Measures. No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

7.8.5 Screening Determination.

Based on the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on European site Galway Bay Complex SAC/European Site Code 000268 and Inner Galway Bay SPA (Site Code 004031) or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting permission.

## **8.0 Conclusion**

### **8.1 Material Contravention**

The Galway City Development Plan Section 11.4.2, sets out suitable plot ratio standards for city centre development. I note that the planning authorities' reason for refusal states that the proposed development "materially contravenes" Section 11.4.2 of the Development Plan standards.

Having regard to Section 37 (2) of the Planning and Development Act:

The Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.

- i. the proposed development is of strategic or national importance,
- ii. there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- iii. permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28 , policy directives under section 29 , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- iv. permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

The proposed plot ratio was 2.22: 1. The Development Plan states that in general the maximum permitted plot ratio for new developments shall be 2:1, this in my view is not sufficiently specific to justify the use of the term “materially contravene” in terms of planning practice. (The revised development proposal as submitted under the appeal has a Plot ratio of 1.85:1)

Having regard to the above provisions I do not agree that the original development proposal “materially contravened” the Galway City Development Plan. The Board should not, consider itself constrained by Section 37 (2) of the Planning and Development Act.

## 8.2 Original Proposal v Revised Detail

In evaluating the original proposal versus the revised details, I find the initial four-story structure with proposed fenestration and finishes to be generally acceptable, considering the city center zoning and policy support for increased development density on brownfield sites. Despite objections regarding the height, there is precedent in the immediate vicinity with Parkhead House to the north of the site.

The revised details entail the removal of the uppermost fourth floor, resulting in a reduced plot ratio from 2.22:1 to 1.85:1. The final design mirrors the original application, featuring vertical emphasis fenestration on the front elevation, utilising a combination of dark limestone cladding, metal trim/cladding, and painted render. This adjustment aims to address concerns raised by the planning authority and residents regarding height and scale.

Upon reviewing the revised proposal and associated planning appeal, I am satisfied that the updated design is preferable. The reduction in height, along with the updated sunlight and daylight analysis, demonstrates a proactive response to reasons for refusal and objections on file. The revised development aligns more closely with the street profile of Munster Avenue and adheres largely to the design principles outlined in Policy 8.7 of the Galway City Development Plan.

Notwithstanding the above, a refusal is recommended based on the following:

- The site is close proximity to Galway Bay Complex SAC/European Site Code 000268 and potential connectivity has been identified via groundwater and surface water pathways. The submitted Contaminated Land Risk Assessment

indicates the potential presence of contaminated land/soil and risk to groundwater and surface water receptors as a result of past site uses.

- The development site is located within Flood Zone A & B as set out under Galway City Development Plan Strategic Flood Risk Assessment 2023 -2029 and in the absence of a site specific flood risk assessment the applicant has not addressed the possibility of the site flooding or displacement effects arising as a result of the new development.

## 9.0 Recommendation

I recommend that planning permission be refused for the following reasons:

## 10.0 Reasons and Considerations

1. The submitted Contaminated Land Risk Assessment indicates the potential presence of contaminated land/soil and a risk to groundwater and surface water receptors (as a result of past site uses). The site is located on lands where the groundwater is categorised as high risk ([www.gsi.ie](http://www.gsi.ie)) and it is located c. 260m from the edge of the Galway Bay Complex SAC (European Sie Code 000268) and Inner Galway Bay SPA (Site Code 004031). The site is also within Flood Zone A & B.

On the basis of the information submitted on file and the potential hydrological pathway to the SAC and SPA, the Board therefore cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would be likely to have a significant effect on Galway Bay Complex SAC (European Sie Code 000268) and Inner Galway Bay SPA (European Sie Code Site Code 004031), in view of the site's Conservation Objectives. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development is within flood Zone A & B, as identified by Galway City Development Plan Strategic Flood Risk Assessment 2023 -2029 and the documentation on file. Having regard to the provisions of the

Development Plan in relation to development proposals in areas at risk of flooding, it is considered that, in the absence of adequate information relating to the risk of flooding, analysis of such risk, and appropriate mitigating measures to address any risk, the proposed development would be contrary to the proper planning and sustainable development of the area.

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Darragh Ryan  
Planning Inspector

25<sup>th</sup> of January 2024





## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	317525 -23		
<b>Proposed Development Summary</b>	Demolition of the existing buildings and the construction of a four-storey mixed use building.		
<b>Development Address</b>	Munster Avenue, Galway City		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	
		<b>No</b>	No further action required
<b>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?</b>			
<b>Yes</b>		Class.....	EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>	X	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>		Class/Threshold.....	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Form 2

### EIA Preliminary Examination

An Bord Pleanála Case Reference	317525 -23	
Proposed Development Summary	Demolition of the existing buildings and the construction of a four-storey mixed use building.	
Development Address	Munster Avenue, Galway City	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The site is located in a brownfield site, with a number of vacant/ underutilised buildings. The proposed development is not exceptional in the context of existing environment.</p> <p>The proposal will result in demolition of existing structures on site. A construction and demolition plan should be sought. The development is not exceptional in the context of its urban environment.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>No the red line boundary of the site remains the same. There is no extension to boundary as a result of proposed development. The site area is .32ha.</p> <p>There are no other developments under construction in proximity to the site. All other development are established uses.</p>	No
Location of the Development	The proposed development is located 260m north	No

<p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>Galway Bay complex SAC. There is potential for impact on Special Area of Conservation.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>	
<b>Conclusion</b>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_

**Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)