



An
Bord
Pleanála

Inspector's Report ABP-317602-23

Development	49 houses.
Location	Farranablake East with ancillary works in the townlands of Baunmore and Gortnahown, Athenry, Co. Galway.
Planning Authority	Galway County Council.
Planning Authority Reg. Ref.	2360421.
Applicant(s)	Laurem Construction Ltd.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party versus decision.
Appellant(s)	Laurem Construction Ltd.
Observer(s)	Warren Hurst.
Date of Site Inspection	27 March 2024.
Inspector	Stephen Rhys Thomas.

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Appendix 1 – EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The appeal site is located 1.2 kilometres south of Athenry town centre in county Galway. The site has frontage along the Baunmore Road to the north and the R347 to the east. The site is irregular in shape and backs on to detached houses and a nursing home along the country road and the Páirc na Habhainn housing estate to the west. A large cemetery is located across the road to the east of the site. An out of town retail centre is located further to the north of the site, across the R348.
- 1.2. The northern portion of the site has the remains of a storage shed and some hardstanding and earth mounds, the remainder of the site comprises agricultural fields. The appeal site includes a large area of the public road to the north of the site, there are no formal footpaths in the immediate vicinity. The character of the area can be defined as agricultural with a small suburban housing estate as an outlier to the town.

2.0 Proposed Development

- 2.1. The proposed development for 49 houses on a site of 2.33 Hectares can be summarised as follows:
 - Demolition of a shed ruin on site,
 - 18 four bed semi-detached (2 storey) houses,
 - 10 three bed semi-detached (2 storey) houses,
 - 13 three bed terraced (2 storey) houses,
 - 3 four bed detached houses,
 - 5 two bed terraced houses.
 - Public open space areas (including a playground),
 - Uncontrolled pedestrian crossing to traverse the L-31232 county road,
 - 84 Car parking spaces

Wastewater will discharge via gravity and connect to the existing Irish Water network at Páirc na Habhainn residential estate to the northwest of the site.

A Natura Impact Statement was submitted with the application.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority issued a notification to refuse permission for the following five reasons:

1. The site is located in an area not zoned for development, on the outer periphery of Athenry town. It is the policy of Galway County Council to encourage the orderly and phased development of residential lands in accordance with the principles of the sequential approach as set out in the Sustainable Residential Development in Urban Areas (Cities Towns and Villages) Guidelines 2009. This shall include a positive presumption in favour of the sequential development of suitable serviced lands in zoned towns and villages. The development as proposed does not contribute to the compact growth of Athenry and is non-sequential in its siting at this location. It is considered that the proposed development would be contrary to Policy Objectives CS 2, CS3, CGR 1 and PM1 of the Galway County Development Plan 2022- 2028, would set an undesirable precedent for similar such development and would thus be contrary to the proper planning and sustainable development of the area.

2. The proposed development, in view of the confined nature of the site, the scale and layout of residential units within the site which is lacking sufficient and appropriately configured private and communal open space would constitute overdevelopment of the subject site, would be detrimental to the character of the area and would contravene materially policy objectives PM 1 and PM 10, UL2 and UL5, as well as development management standards DM1 and DM2 contained in the Galway County Development Plan 2022-2028, it would detract from the visual and residential amenity of the area, as well as setting an undesirable precedent for similar future development, and therefore would be contrary to the proper planning and sustainable development of the area.

3. The proposed development includes for the siting of 6 no. residential units within a buffer zone associated with the existing wastewater treatment plant serving Maryfield Nursing Home to the immediate north-east of the subject site. To permit the

development as proposed would be prejudicial to public health, contrary to DM Standard 38 of the County Development Plan 2022-2028 and the provisions of EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999).

4. The eastern portion of the subject site is located within the Zone of Potential of the known and mapped extent of Recorded Monument RMP No GA084-027 (Enclosure) which is subject to statutory protection under the Record of Monuments and Places, established under Section 12 of the National Monuments (Amendment) Act 1994. Given the scale, extent and location of the proposed development and in the absence of an Archaeological Impact Assessment and having regard to Policy Objective ARC 1, Policy Objective ARC 9 and Policy Objective ARC 10 of the Galway County Development Plan 2022-2028, which seeks to protect archaeological sites and monuments and their settings listed as recorded monuments and places, and ensure that new development within areas of archaeological potential or within close proximity to recorded monuments takes account of the archaeological heritage of the area, the Planning Authority consider that the proposed development would create an adverse impact on the setting of the nearby recorded monument. Accordingly, to grant the proposed development would have a detrimental impact on recorded monuments, would interfere with the character of the landscape, would contravene materially objectives contained in the current Galway County Development Plan, and would be contrary to the proper planning and sustainable development in the area.

5. The proposed development would have a negative impact on the surrounding area given the deficiencies in the drainage of surface water from the site. In the absence of satisfactory details regarding surface water disposal on site and having regard to the infiltration test results submitted, the planning authority consider that the development would contravene Policy Objective WW7 and Policy Objective WW8 of the Galway County Development Plan 2022- 2028. Furthermore, in the absence of the aforementioned surface water disposal details, the Planning Authority cannot be satisfied that the proposal will not adversely affect the integrity a European site in view of their conservation objectives and in this regard the development has the potential to adversely affect the qualifying interests and conservation objectives of a protected European site and would materially contravene Policy Objective NHB

1 and DM Standard 50 of the Galway County Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The basis of the planning authority decision includes:

First Report

- Site location, site history and the relevant planning policies of the Galway County Development Plan 2022-2028 are set out.
- The lands have no land use zoning and no local area plan is in place for Athenry. The subject site is not considered sequentially preferable at present and to develop the lands for residential purposes would be contrary to the policy objectives contained in the development plan.
- Surface water cannot be satisfactory managed on the site.
- Further information is required with respect to traffic and transport issues.
- Concerns regarding the proposed layout which would constitute overdevelopment of the subject site which would detract from the general amenity of the area and also be contrary to the provisions of the plan, with respect to public health, residential amenity and archaeology.

Recommendation to refuse permission for the reasons outlined above.

3.2.2. Other Technical Reports

According to the planning report, the following internal reports were received:

- Roads Section GCC – further information required.
- Water Services GCC – Irish Water information confirmed.

3.2.3. Conditions – the planning authority refused permission, there are no relevant conditions to address in this section of my report.

3.3. Prescribed Bodies

Transport Infrastructure Ireland (TII) – no objections.

Uisce Éireann - Water: is feasible without upgrades. Wastewater:

A connection is feasible subject to upgrades, including the completion of the proposed Pairc na hAbhainn Waste Water Pumping Station under the Athenry Waste Water Network project. The anticipated completion of these works is early 2025 (subject to change). Approximately 200 metres of network extension will be required for the connection to the existing 225mm sewer and costs borne by the developer.

Department of Housing, Local Government and Heritage, Development

Applications Unit – Nature Conservation, no objections, all Mitigation Measures as outlined in Chapter 6 of the supplied Natura Impact Statement (NIS) to be a condition of planning.

Archaeology – it is noted that the site incorporates the location of Recorded Monument GA084-027---- (Enclosure). It is further noted that a 20m buffer zone to exclude development from the visible remains of GA084-027--- is indicated within the site layout drawing. However, further information is required and submission of an Archaeological Impact Assessment (AIA), including Archaeological Test Excavation is necessary.

3.4. Third Party Observations

- 3.4.1. Five submissions were received, and the issues can be listed as follows: residential amenity, privacy, house design, boundary treatments and stability, layout of open space, construction phase of development, traffic, surface water, further development uncertain, and damage to private property.

4.0 Planning History

4.1. Site:

PA ref: 14/433 – Extension of Duration for the construction of a medical health campus and residential nursing home and sheltered housing facility for elderly care adjacent to an existing Alzheimers day care and nursing home. gross floor space 11,410.2sqm. (previous planning reference 08/3542).

PA ref: 07/3687 – grant of permission for modifications to residential development previously permitted under pl. ref. 06/2348 for 50 residential units.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The **Galway County Development Plan 2022-2028** is the operative plan for the area.

The following parts of the statutory plan are relevant:

Chapter 2 Core Strategy, Settlement Strategy and Housing Strategy

Chapter 3 Placemaking Urban Regeneration and Urban Living

Chapter 7 Infrastructure, Utilities and Environmental Protection

Chapter 10 Natural Heritage, Biodiversity and Green/Blue Infrastructure

Section 10.6 Natural Heritage and Biodiversity

Chapter 12 Architectural, Archaeological and Cultural Heritage

Chapter 14 Climate Change, Energy and Renewable Resources

Chapter 15 - Development Management Standards

- 5.1.2. Policies and objectives referred to in the reasons for refusal:

CS 2 and CGR 1 - CS 2 Compact Growth

CS 3 - Population Growth

PM 1 – Placemaking

PM 10 - Design Quality

UL 2 - Layout and Design

UL5 - Open Space

ARC1 - Legislative Context (archaeology)

ARC 9 - Recorded Monuments

ARC 10 - Zones of Archaeological Potential

WW 7 – Sustainable Drainage Systems

WW 8 - Storm Water Infrastructure

NHB 1 Natural Heritage and Biodiversity of Designated Sites, Habitats and Species

5.1.3. Development Management Standards referred to in the reasons for refusal:

DM Standard 1 Qualitative Assessment-Design Quality, Guidelines and Statements

DM Standard 2 Multiple Housing Schemes (Urban Areas)

DM Standard 38 Effluent Treatment Plants

DM Standard 50 Environmental Assessments

5.2. Athenry Local Area Plan 2024-2030

5.2.1. The Minister of State at the Department of Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Planning and Development Act 2000 (No. 3000) (“the Act”), and the Housing, Local Government, and Heritage (Delegation of Ministerial Functions) Order 2024 and (S.I No. 234 of 2024) and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AP(4) of the Act, issued a Direction to Galway County Council on matters relating to the Athenry Local Area Plan 2024-2030 on 31st May 2024. Consequently, all zonings, policy objectives and additional provisions which were the subject of the Direction were amended accordingly.

5.2.2. The appeal lands are not subject to the Ministerial Direction, as a decision was made by the minister not to issue a direction with regards to Material Alterations 47 and 48 because those lands are contiguous to residential development and to zoned and serviced land.

5.2.3. With reference to the appeal site, the lands are subject to zoning objective R Residential (Phase 1) - To protect, provide and improve residential amenity areas within the lifetime of this plan. In addition, facilitate the provision of high-quality new residential developments at appropriate densities with layout and design well linked to the town centre and community facilities. To provide an appropriate mix of house sizes, types and tenures to meet household needs and promote balanced communities.

5.2.4. Relevant Objectives include:

ASP 5 Residential Development Phasing Support the development of lands designated as Residential (Phase 1) within the lifetime of the plan, subject to normal planning, access, and servicing requirements, and reserve the lands designated as Residential (Phase 2) for the longer-term growth needs of Athenry.

ASP 8 Sequential Development Endeavour to promote the orderly and phased development of residential development in accordance with the principles of the sequential approach as set out in the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines 2009 (or as updated). This shall include a positive presumption in favour of the sequential development of suitably serviced Residential Phase 1 lands emanating outwards from the town core and/or sequential extensions to the existing residential fabric of suitably serviced Residential Phase 1 lands within the LAP boundary, subject to the principles of proper planning and sustainable development and the current County Development Plan.

ASP 32 High Quality, Contextually Sensitive Design

ASP 34 Spatial Definition and Animation

ASP 35 Green Network and the Landscape

5.3. Natural Heritage Designations

- 5.3.1. The site is not located within or directly adjacent to any Natura 2000 sites. The closest designated site is located to the south Rahasane Turlough SPA/SAC at 7 kilometres. The Galway Bay Complex SAC and Inner Galway Bay SPA are located 11.3 kilometres to the west. The applicant has submitted an NIS with the application.

5.4. EIA Screening

- 5.4.1. The scale of the proposed development is well under the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10) dealing with urban developments (500 dwelling units; 400 space carpark; 2 hectares extent), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment

can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 of my report refers.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A First-Party Appeal was submitted to An Bord Pleanála on the 17th day of July 2023 by the Applicant opposing the Local Authority's decision, the grounds of appeal relate to each reason for refusal and can be summarised as follows:

- Reason 1 – the site is not zoned for development assumption is based upon the Draft LAP. This is unfair and antidemocratic as the draft plan was published without any pre-draft or prior consultation phase. A draft plan was submitted to support the zoning for this site, echoed by the NWRA call to examine the quantum of zoned land in the region.

The site has a long planning history of permitted development, and the location of the site was not considered to be peripheral or non-sequential. Under previous plans the lands have been zoned residential.

Policy objectives CS2, CS3, CGR1 and PM1 will be met by the proposed development. CS2 will deliver compact growth and deliver more homes in the footprint of Athenry. CS3 is met by a modest increase in growth. CGR1 is met by an efficient use of lands and NPF aims for compact growth. The design and layout of the scheme meets all the criteria of PM1.

- Reason 2 – the site is large and is not confined. The scale of development is less than that permitted by the planning authority for sheltered housing, PA ref 083542 refers. All dwelling plots provide more than 50% of their floorplan in private amenity space, bar one at 49%, the site is not overdeveloped. Open space arrangements exceed advice contained in the relevant guidelines. In terms of public open space, three areas in excess of 20% are provided throughout the scheme and this exceeds the development plan of a minimum of 15% of the total site area. The development would add to the character of the area. The following objectives of the plan are met:

PM1 – the development will provide a high quality residential environment, together with pedestrian improvements and a crossing point

PM10 – the layout provides for good and well supervised open spaces and the homes are of an excellent architectural quality.

UL2 – the 12 criteria of the Urban Design Manual have been applied to the design of the proposed scheme.

UL5 – private open space provision is entirely adequate.

DM1 – the planning statement that accompanied the application meets DM1.

DM2– the planning statement that accompanied the application meets DM2.

The proposed development would add to the visual character and residential amenity of the area and would not set an undesirable precedent given that the development is of a high quality layout and architectural design.

- Reason 3 – the adjoining development has agreed to connect to the public wastewater system and a confirmation of feasibility of Uisce Éireann is expected. When connected, no buffer zone will be required and dwellings can be located in this space. Note appendix 4 of the grounds of appeal for a technical engineering report and drawings.
- Reason 4 – the archaeological remains on site have been much denuded over time, but the proposed layout has been designed to avoid impacts to known and mapped extents of RMP GA084-027. Previous permissions on site required pre-development testing of the site for remains, a buffer zoned has been established and a condition to ensure archaeological monitoring will be accepted. Appendix 5 of the grounds of appeal contains a desk based Archaeological Assessment Report. All of these factors ensure that objectives ARC 1, ARC 9 and ARC 10 of the development plan are met.
- Reason 5 – appendix 3 of the grounds of appeal contain a report with regard to surface water management of the site and measures proposed are adequate. Objectives WW7 and WW8 of the plan are met, it is noted that objective NHB1 refers to natural heritage and protected sites, the AA screening report highlights no issues and none result from the proposals contained in appendix 3.

On site treatment of surface water is feasible, text results and calculations confirm this, onsite soakaways are acceptable. SuDS proposals are included and attenuation tanks proposed.

6.1.2. Other Matters

Athenry should be considered as a larger town, the actual population of the town is over 5,000 persons, CSO figures refer. The Board are precluded from granting permission before the adoption of an LAP, which is necessary in this regard.

The proposed density of 25 units per hectare, is in line with guidelines (SRDUAs) and the development plan.

The site is in fact a brownfield site and should be considered as such in line with the guidelines.

All other technical and engineering aspects of the development are acceptable.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. An observation that objects to the proposed development has been submitted and can be summarised as follows:

- The design of the scheme allows for spaces to develop as areas of antisocial behaviour. Green spaces are not well overlooked.
- The dwelling on plot 15 will impact on the privacy and overshadow 21 Páirc na Habhainn, due to proximity and raised ground levels.
- The structural integrity of boundary walls is raised as an issue.
- The additional flow of traffic will impact an already difficult junction at the cemetery cross.
- Additional housing on the site will impact flooding problems at houses 1-24 Páirc na Habhainn.

- The planning history of the site should not be seen as a precedent for more development.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Zoning and the Athenry Local Area Plan
- Layout, Design and Density
- Residential Amenity
- Public Health
- Archaeology
- Surface Water Management
- Traffic and Transport
- Other Matters

7.2. Zoning and the Athenry Local Area Plan

7.2.1. The planning authority's first reason for refusal refers to the fact that the site is not zoned for development and that this would be contrary to Policy Objectives CS 2, CS 3, CGR 1 and PM 1 of the Galway County Development Plan 2022- 2028. The applicant explains that the site was always zoned residential but not in the draft LAP and it is unreasonable to refuse permission on the basis of a draft document. The planning history of the site is outlined, and it is explained that at no time was the site considered to be peripheral. Finally, according to the applicant all other relevant policies of the development plan are met with regard to compact growth and placemaking.

7.2.2. With reference to land use zoning, I note that the previous LAP and the current LAP identify the lands as subject to residential zoning objectives. Specifically, the recently adopted LAP identifies these lands as subject to zoning objective R Residential (Phase 1) – To protect, provide and improve residential amenity areas within the lifetime of this plan. The LAP is subject to a Ministerial Direction, but Material

Alterations 47 and 48 were rejected by the Minister because the lands are contiguous to residential development and to zoned and serviced land. It is unnecessary to outline the local area plan making process in this forum. I appreciate the hesitancy of the planning authority to permit development on lands with an uncertain zoning status at the time of their decision. However, I am completely satisfied the lands were and are still now zoned for residential development and that housing is entirely appropriate at this location. With reference to meeting the LAP objectives for high-quality new residential developments with a mix of house types, at appropriate densities with layout and design well linked to the town centre and community facilities. All of these matters are considered, where relevant in the following sections of my report.

7.3. Layout, Design and Density

- 7.3.1. The second reason for refusal issued by the planning authority relates to the layout and design of the proposed housing scheme. The planning authority were not satisfied that the proposal met a variety of policy objectives, and this was due to the constrained nature of the site and the resultant layout. The planning authority maintained that policy objectives PM 1 and PM 10, UL 2 and UL 5, as well as development management standards DM 1 and DM 2 contained in the Galway County Development Plan 2022-2028 will all be materially contravened if permitted. The applicant disagrees and states that the site is large and is capable of the quantum of development proposed. In terms of public open space, more than the minimum requirement of 15% is provided and the development would add to the character of the area. The applicant points out that no material contravention occurs because each policy objective and development management standard is met. In that context, various reports were prepared that include an architectural design statement, planning statement and DMURS report amongst others. A neighbouring observer also raises issues about the design of the scheme, poorly overlooked open spaces, antisocial behaviour and that their property will be overlooked and overshadowed by proposed houses.
- 7.3.2. I note that the planning authority's reason for refusal states that the proposed development materially contravenes policy objectives PM 1 and PM 10, UL 2 and UL 5, as well as development management standards DM 1 and DM 2 contained in the Galway County Development Plan 2022-2028. Each of these policy objectives and

development management standards are broad and are not, in my view, sufficiently specific so as to justify the use of the term “materially contravene” in terms of normal planning practice. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act. I will, however, take each policy objective and development management standard in turn and address as follows:

- 7.3.3. PM 1 Placemaking – To promote and facilitate the sustainable development of a high-quality built environment where there is a distinctive sense of place in attractive streets, spaces, and neighbourhoods that are accessible and safe places for all members of the community to meet and socialise. The applicant has prepared a planning statement to address the policy background to the development from a national and local perspective.
- 7.3.4. PM 10 Design Quality – To require that new buildings are of exceptional architectural quality, and are fit for their intended use or function, durable in terms of design and construction, respectful of setting and the environment and to require that the overall development is of high quality, with a well-considered public realm. The applicant has prepared an Architects Design Statement and landscape plan to describe how the development meets this objective.
- 7.3.5. UL 2 Layout and Design – To comply with the principles of good placemaking in delivering residential developments within the towns and villages of the county. The applicant has prepared an Architects Design Statement to describe how good placemaking will be achieved.
- 7.3.6. UL 5 Open Space – To provide well planned and considered open space that is of sufficient size and in locations that respond to the identified needs of people in accordance with best practice and the scale and function of the surrounding area. The applicant explains that in excess of the 15% minimum open space and that the site has been subject to a landscape plan.
- 7.3.7. DM Standard 1 was met by the production of an Architects Design Statement that addresses and show consistency with the 12 Urban Design Criteria.
- 7.3.8. DM Standard 2, the Architects Design Statement addresses all relevant matters set out in DM 2 with reference to layout, design and typology.

- 7.3.9. The applicant has prepared a variety of detailed material to illustrate the appropriateness of their proposal and how it meets national and local policy. I refer the Board in the first instance to the Architects Design Statement that very clearly shows how the development aligns with current best practice. The site is long and narrow in places, and this has dictated the development layout. There are archaeological constraints and this sets down the principal area of public open space. Houses, there are no apartments, are aligned along a central street and back on to neighbouring property. There are spur streets that offer future connectivity with adjacent lands and car parking is contained within the curtilage of each house. The housing layout is not especially innovative, but each dwelling has a good sized garden space and some overlook public open space.
- 7.3.10. An observer notes that the design of the scheme allows for spaces to develop as areas of antisocial behaviour and that green spaces are not well overlooked. With reference to public open space and passive supervision, all house types that overlook open spaces either front onto the space or have side elevations with windows. I am satisfied that all public open spaces are well overlooked and will provide safe amenity for future occupants, rear passageways are suitably designed and provide safe access to rear gardens. However, I note that plot 16 presents a lengthy laneway and this should be amended or omitted. In overall terms, I am satisfied that the housing scheme design approach employed by the applicant is satisfactory. Open spaces are logically situated throughout the site and the expectation that adjacent sites would be developed in the future has been planned for by the proposed street layout. I am satisfied that the urban design approach to the layout of this site is acceptable and recommend no significant changes or alterations. Finally, I am satisfied that all relevant policy objectives of the statutory plan have been accorded with and that the design of the development meets the objectives set out in the newly adopted LAP for Athenry, ASP 32 High Quality, Contextually Sensitive Design, ASP 34 Spatial Definition and Animation and ASP 35 Green Network and the Landscape all refer.
- 7.3.11. With reference to layout and how this relates to residential density and the core strategy, I note that the LAP anticipates a significant population growth level in Athenry. Specifically, Chapter 2 Core Strategy, Settlement Strategy and Housing Strategy of the county development plan provides for an increase in the population of

1,350 over the plan period of 2022 – 2028. This additional population will be accommodated with an additional 544 dwelling units and the proposal for 49 houses falls well below this ceiling.

7.3.12. Density - With reference to residential density, table 15.1 of the DM Standards of the county development plan states the appropriate density for residential developments within a town with strategic potential such as Athenry on greenfield sites is 15 – 25 (at locations adjacent to open rural countryside). Chapter 2 Core Strategy, Settlement Strategy and Housing Strategy table 2.11 Core Strategy Table sets out 25 Dwellings Per Hectare and so too does table 1 of the newly published LAP. The Residential Density (Sustainable Residential Development in Urban Areas (2009) are also referenced in the county development plan, and the same density outcome is arrived at. The applicant understands that when considering the 2009 guidelines and given the archaeological and road constricts of the site, a density of 27 units per hectare (net) is appropriate.

7.3.13. I note that under Circular Letter: NRUP 02/2024 issued by the Department of Housing, Local Government and Heritage, the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities have been revoked and are replaced by the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities. To ensure consistency planning authorities are requested to review statutory development plans currently in force and form a view as to whether the plan(s) is materially consistent with the policies and objectives (including SPPRs) of the new Guidelines. If not, then steps should be taken to vary the statutory development plan so as to remove the material inconsistency(s) concerned. What this means for residential densities in Galway in general and the appeal site in particular is that the issue of residential density must be assessed in accordance with the Compact Settlements Guidelines until a formal review has been completed. Throughout my assessment on residential density, I refer to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, as the 'Compact Settlements Guidelines'. Even though the Athenry LAP was recently adopted, and the process of ministerial direction is now complete, it does not reference the Compact Settlements Guidelines.

7.3.14. The Compact Settlements Guidelines refer to residential density in terms of settlements and area types. I note that Section 3.3.3 Key Towns and Large Towns

(5,000+ population) of the Compact Settlements Guidelines, under footnote 10 states that this category also refers to towns that are outside of the designated metropolitan area of a city and includes Key Towns with a population below 5,000 and a density range of 30 to 50 dwellings per hectare is advised. The applicant considers that the population of Athenry is greater than 5,000 persons and with reference to the 2009 guidelines should be considered under section 5 of the guidelines.

7.3.15. According to the current development plan, Athenry lies outside the Galway Metropolitan Area Strategic Plan (MASP) and is designated Strategic Potential, but it is not designated as a Key Town. The Board should note the important differentiation that the development plan makes between Strategic Potential and Key Town. In summary, Table 2.11 of the core strategy ranks Athenry (population 4,445 persons) below the Key Towns of Ballinasloe (population 6,662 persons) and Tuam (population 8,767 persons) in terms of settlement typology. Consequently, I consider that Athenry fits into the category of a Small and Medium Sized Towns (1,500 – 5,000 population), and despite the preparation and adoption of a Local Area Plan, section 3.3.4 refers. In this category, the range of 25 to 40 dwellings per hectare (net) shall generally be applied at the edge of small to medium sized towns. There is almost alignment between the Compact Settlements Guidelines and the Core Strategy of the development plan with reference to 25 dwellings per hectare. However, there is a misalignment between table 15.1 of the county development plan where 15 – 25 dwellings per hectare are sought at locations adjacent to open rural countryside in towns with strategic potential such as Athenry and table 3.6 of the Compact Settlements Guidelines that seeks 25 – 40 dwellings per hectare. The development plan sets conflicting and low residential densities at this location, for a town with Strategic Potential. I am minded to have regard to the Compact Settlements Guidelines in the first instance with reference to residential density.

7.3.16. The Compact Settlements Guidelines explain that one of the key priorities for compact growth in smaller to medium sized towns is to deliver sequential and sustainable urban extension to settlements. The appeal site is one such site and as an urban extension on greenfield lands at the edge of the built-up area, zoned for residential development, densities in the range 25 - 40 dwellings per hectare (net) shall generally be applied. The proposed density range in this appeal is 21 residential units per hectare (gross). However, the applicant explains that when the

constraints of the archaeological remains on the site and the red line boundary that extends along the public road are subtracted, the site would amount to 1.79 hectares. This being so, the applicant states that the net density for the appeal site would be 27.4 dwellings per hectare.

- 7.3.17. Appendix B of the Compact Settlements Guidelines provides assistance in determining the residential density of a site. It is explained that a net site density measure is a more refined estimate than a gross site density measure and includes only those areas that will be developed for housing and directly associated uses. Table 1 of appendix B sets out what should and should not be included for the purposes of a net density calculation. It is reasonable in this instance to exclude the linear portion of the site that includes an existing public road in order to lay a foul sewer and to conclude that the area of archaeological remains represents an environmental sensitivity that can also be excluded. I am satisfied that the net site should amount to 1.79 hectares. To use the worked example outlined in the Compact Settlements Guidelines, net density can be calculated:

Required Information

Net Site Area = 1.79 hectares

Overall GFA = 5,870 sq. metres

Residential GFA = 5,870 sq. metres

Non-residential GFA = 0 sq. metres

Number of residential units = 49

Calculation

Residential GFA as a portion of development = $5,870/5,870 = 1$

Site area for density purposes = $(1.79\text{ha} \times 1) = 1.79$ hectares

Residential density = $49/1.79 = 27$ dph (net)

The calculation reveals that the net residential for the appeal site is 27 dwellings per hectare.

- 7.3.18. Given the foregoing, I am satisfied that a net density of 27 dwellings per hectare is appropriate at this peripheral but nonetheless residentially zoned and serviced

location. In terms of a serviced location, I am aware that there are water services constraints at this site, section 7.5 of my report refers.

7.3.19. I consider that the proposed development is an acceptably efficient use of zoned and ostensibly serviced land at the edge of the town and would be in accordance with the Compact Settlements Guidelines and accord with the aim of Residential Phase 1 lands set out in the LAP that seeks the provision of high-quality new residential developments at appropriate densities with layout and design well linked to the town centre and community facilities. I do not consider residential density to be a new issue in the context of refusal reason 2, because the planning authority reference DM Standard 2: Multiple Housing Schemes (Urban Areas) and this specifically refers to Density and Typology. Moreover, the applicant specifically refers to density and suggests that the development proposed provides an acceptable level of residential density in accordance with guidelines.

7.3.20. The previous density guidelines are now superseded and until the development plan is reviewed with respect to the guidelines, the Board should consider the Compact Settlements Guidelines and what this means for the appeal site. I consider that the residential density of 27 dwellings per hectare (net) aligns with the density requirement for such a site, i.e. 25 to 40 dwellings per hectare (net) set out in section 3.3.4 of the 2024 guidelines.

7.4. Residential Amenity

7.4.1. The second reason for refusal refers to the lack of sufficient and appropriately configured private open space and this would impact upon residential amenity. According to the planning authority this would materially contravene the development plan with respect to policy objectives PM 1 and PM 10, UL 2 and UL 5, as well as development management standards DM 1 and DM 2 contained in the Galway County Development Plan 2022-2028. Section 7.3 of my report has already examined the question of material contravention, and similarly in this instance I do not consider it relevant with respect to residential amenity. The applicant prepared a variety of material to illustrate the compliance of the development with relevant standards, the Planning Statement, Housing Quality Assessment that includes a Private Garden Space table and Architectural Design Statement all refer. The

grounds of appeal simply reiterate all of the existing material already submitted with the application.

- 7.4.2. With reference to private amenity space, the applicant points out that no specific spatial standard is required by Galway County Council Development Plan 2022-2028 for private open space and so a target of 50% of the proposed house floor area is aimed for and reached in nearly all cases. I note that plot 16 fails to reach this self-set target by 2.3 sqm and plot 47 by 1.7 sqm, these are very small margins and only apply to two units. Irrespective, all of the private amenity spaces exceed the minimum standards set out in SPPR 2 - Minimum Private Open Space Standards for Houses of the Compact Settlements Guidelines. I am satisfied that the private amenity spaces for each house are generously provided for in every case and a deficit in residential amenity in terms of private amenity space for future occupants is simply not an issue of concern.
- 7.4.3. An observer notes that the dwelling on plot 15 will impact on privacy and overshadow 21 Páirc na Habhainn, due to proximity and raised ground levels. During my site visit I observed level differences between the site and housing to the north, site survey drawing number 3002 refers. At the site in question, an existing level difference of between 2 and 5 metres already exists but these levels will be smoothed out to accommodate greater levels across the site. Cross sections C-C and D-D illustrate the relationship between finished levels and existing housing, drawing 3005 refers. Specifically, cross section C-C shows the relationship between plot 15 and existing housing at Páirc na Habhainn. House type D1 on plot 15 is positioned closest to existing housing at Páirc na Habhainn, at 17 metres from the rear elevation of numbers 20, 21 and 22 Páirc na Habhainn
- 7.4.4. I note that the current development plan states that in general, there should be a distance of 22 metres between opposing first floor windows. In addition, I note that SPPR 1 Separation Distances of the Compact Settlements Guidelines recommend a 16 metre rule of thumb and subject to innovative design. In this instance, plot 15 is angled away from the rear elevations of Páirc na Habhainn and so direct overlooking will not occur. It is noteworthy that SPPR 1 dismisses objectives contained in the statutory plans of planning authorities with respect to minimum separation distances that exceed 16 metres, but I am satisfied that the objective in the current plan allows for flexibility when it states that 'in general, there should be a distance of 22 metres

between opposing first floor windows', DM Standard 2 refers. With regard to the observers concerns about loss of privacy and overshadowing, I am satisfied that given the separation distances involved, the orientation between existing and proposed development, that undue impacts to residential amenity would not occur.

7.5. Public Health

- 7.5.1. The site is located adjacent to a nursing home that is currently served by a private wastewater treatment plant. Six houses are located in the buffer zone that accompanies the treatment plant and the planning authority have refused permission on the basis that this would impact public health. All of this forms the basis for the third reason for refusal.
- 7.5.2. The applicant explains that they have been in discussions with the nursing home and agreement in principle has been reached to decommission the onsite wastewater treatment plant and connect the nursing home to the municipal sewerage system in tandem with the housing development. A letter stating a willingness to connect Western Alzheimers nursing home to the mains system accompanies the appeal, appendix 4 refers. The applicant has revised their Uisce Éireann pre-connection enquiry to include the 35 person nursing home, appendix F refers. Finally, the applicant asserts that permission can be granted without omitting the six units located in the buffer zone.
- 7.5.3. The proposal for 49 houses can be facilitated by Uisce Éireann in terms of water supply. However, with reference to wastewater Uisce Éireann state connection is feasible but the completion of the proposed Pairc na hAbhainn Waste Water Pumping Station under the Athenry Waste Water Network project is required. In addition, approximately 200 metres of network extension will be required for the connection to the existing 225mm sewer and these are shown on drawings submitted with the application.
- 7.5.4. There are two significant features to the way that the appeal site is to be serviced with respect to wastewater. Firstly, there is the issue of an existing buffer zone around a private wastewater treatment system, not in the control of the applicant and that for public health reasons must be kept free from development. I note the willingness on both parties to resolve this issue by combining efforts and ultimately being serviced by the municipal system. However, it is beyond the scope of this

permission to require works to be carried out by a third party that were not part of the initial planning application process and are not included within the red line boundary of the site. A possible solution in this case is to phase the overall development, restrict the delivery of units 44-49 until such time as the nursing home's onsite treatment system is decommissioned. A suitably worded condition could address the matter and if necessary a separate consent may be pursued by the applicant at some point in the future if required.

- 7.5.5. Secondly and most importantly, Uisce Éireann have identified that in order to facilitate the development from a wastewater perspective the delivery of the proposed Pairc na hAbhainn Waste Water Pumping Station is a requirement. The pumping station is anticipated to be completed early in 2025, but this is subject to change. Uisce Éireann raise no objection to the proposed development for 49 houses and recommend conditions. I see the lack of a pumping station as a temporary obstacle to the development of this site as it is currently proposed but to permit the housing scheme would be premature pending the delivery of required infrastructure. For that reason, permission should be refused because the development would be premature pending the delivery of necessary sewer upgrades to accommodate development.

7.6. Archaeology

- 7.6.1. The fourth reason for refusal relates to the perceived adverse impact upon archaeology. This is due to the layout of the proposed development and the lack of an Archaeological Impact Assessment and other factors, all of this would materially contravene Policy Objective ARC 1, Policy Objective ARC 9 and Policy Objective ARC 10 of the Galway County Development Plan 2022-2028. The applicant points out that the archaeological remains on site have been much denuded over time, but the proposed layout has been designed to avoid impacts to known and mapped extents of RMP GA084-027. It is noted that previous permissions on site required pre-development testing of the site for remains, a buffer zoned has been established and a condition to ensure archaeological monitoring will be accepted. With regard to the potential for material contravention and Policy Objective ARC 1, Policy Objective ARC 9 and Policy Objective ARC 10. These policies all refer to a general approach to archaeological heritage protection and are not, in my view, sufficiently specific so as to justify the use of the term "materially contravene" in terms of normal planning

practice. As before, the Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act.

- 7.6.2. I have visited the site, and I observed a slightly raised bank that arcs across the area of proposed open space of the development site. This ties in with a larger portion of the circular enclosure to the east, bisected by a road and within the grounds of the New Cemetery. From my observations of the site, it is very clear that a public road and nursing home have already removed a significant portion of the enclosure (RMP GA084-027). What remains of the setting and context of this enclosure has been much altered, but the archaeology service of the NPWS point out that previously unrecorded archaeological remains could be disturbed during construction works. The NPWS recommends that an Archaeological Impact Assessment (AIA), including Archaeological Test Excavation, be carried out as Further Information. The planning authority elected not to elicit this information from the applicant during the planning application process and instead refused permission on the basis that no reports were prepared.
- 7.6.3. The applicant has now prepared a detailed 'Desk Based Archaeological Assessment Report' dated July 2023 in their grounds of appeal, appendix 5 refers. The report includes photographs taken during a site visit. The report concludes that given the highly disturbed nature of the site, the likelihood of finds concerning archaeological material in situ is low. In addition, the layout of the scheme leaves a buffer zone around what remains, and that pre-construction test trenching should take place.
- 7.6.4. I note the concerns raised by the NPWS and their request to seek further information and I am surprised that this opportunity was not availed of by the planning authority. Nevertheless, I am satisfied that the Archaeological Assessment submitted by the applicant responds for the most part to the issues raised by the NPWS. Any outstanding matters can be addressed by a suitably worded condition that requires pre-construction test trenching as appropriate.

7.7. Surface Water Management

- 7.7.1. The fifth reason for refusal refers to surface water management and the deficiencies in the drainage of surface water from the site. The lack of information regarding surface water management would contravene Policy Objective WW 7 and Policy Objective WW 8 of the Galway County Development Plan 2022- 2028. This lack of

information also means that the planning authority cannot be sure that adverse affects to the integrity of European sites would not occur and this would materially contravene Policy Objective NHB 1 and DM Standard 50 of the Galway County Development Plan 2022-2028. The applicant has submitted a report with regard to surface water management of the site and measures proposed are adequate. The applicant notes that objectives WW 7 and WW 8 of the plan are met. With respect to objective NHB1 that refers to natural heritage and protected sites, the applicant explains that the AA screening report highlights no issues and none result from the proposals contained in surface water management report. Finally, an observer is concerned that additional housing on the site will impact flooding problems at houses 1-24 Páirc na Habhainn.

- 7.7.2. In terms of the surface water management of the site, I note soakaway design calculations, storm drainage calculations and storm drainage long sections submitted with the grounds of the appeal, appendices B1, B2 and B3 all refer. I also note the consulting engineer's response to refusal reason 5, appendix 3 of the grounds of appeal refer. In addition, I have seen the Civil Works Design Report, and it includes a Storm Water Drainage Design that includes sustainable urban drainage systems proposals, section 3 of that report refers. Surface water design calculations and percolation test results were also included in the Civil Works Design Report, appendices B, C and E all refer. It seems to me that the applicant prepared all the material and documentation to meet the requirements of Policy Objective WW 7 and Policy Objective WW 8 of the plan with reference to surface water management. The site is located on indicative flood zone C and there is no history of flood events in the vicinity.
- 7.7.3. Flood and surface water issues were also raised by an observer, but I am satisfied that the technical reports prepared by the applicant all point towards a site that can be adequately managed with reference to surface water. Specifically, I note that technical details around infiltration design have been clarified, soakaway storage volumes are achieved through suitably designed pipes within the network and two soakaway units are located within open spaces on the site. In addition, spreader pipes and filter strips, kerbside rain gardens, permeable paving and tree pits all form part of the SuDS approach to this site, drawing 11590-2107 P02 refers. I am

satisfied that an appropriately worded condition to ensure that all of these features are designed and installed to the technical requirements of the planning authority.

7.7.4. The second part of the fifth reason for refusal refers to designated sites and surface water management. The applicant points out that the AA Screening Report and NIS raised no issues with regard to the operational phase of the development and impacts to designated sites. I examine appropriate assessment matters under section eight of my report, however, with reference to refusal reason 5 and nature conservation, no further examination is warranted.

7.7.5. I note that the planning authority's reason for refusal states that the proposed development materially contravenes policy objective NHB 1 Natural Heritage and Biodiversity of Designated Sites, Habitats and Species and DM Standard 50 Environmental Assessments of the development plan. The policy refers to protection, conservation and enhancement of natural heritage and promotion of green networks and the development management standard refers to the need to carry out environmental assessments, they are not, in my view, sufficiently specific so as to justify the use of the term "materially contravene" in terms of normal planning practice. The Board should not, therefore, consider itself constrained by Section 37(2) of the Planning and Development Act. In addition, the applicant has carried out assessments and included public open spaces in their housing scheme and I do not consider that any contravention, material or otherwise has occurred.

7.8. Traffic and Transport

7.8.1. An observer is concerned that the additional flow of traffic from the development of this site will impact an already difficult junction at the cemetery cross. Observations to the planning application all raised similar concerns about traffic and pedestrian facilities in the area. The planning authority have no similar concerns about the traffic impacts from the proposal and none of the five reasons for refusal refer to traffic or transport issues. Transport Infrastructure Ireland raised no issues with respect to traffic and roads. However, I note that the Roads & Transportation Department of the Council did raise some technical issues to do with uncontrolled/controlled pedestrian crossings, tie-ins and surface water drainage.

7.8.2. The proposed development is for 49 houses on a large site. I note the contents and findings presented in the Traffic and Transportation Assessment prepared by the

applicant. From my observations of traffic flows on an ordinary weekday, volumes were very low and there were no issues at relevant junctions nearby that occurred to me and this is borne out by the TTA analysis. At present there are no pedestrian facilities (footpaths) along the Baunmore local road L 31232. This minor country lane provides access to Páirc na Habhainn and a footpath onwards to shopping facilities and the town centre beyond. This is a logical route for pedestrians to access schools, shops and employment opportunities close by in Athenry.

- 7.8.3. Drawings submitted with the application indicate an improvement to the public realm in the vicinity of the site, principally junction alignment and footpaths east of the site, drawing 11590-2103 P02 refers. This eastward connection would permit safe pedestrian flows northwards via the Baunmore roundabout to the town centre along the R348. The application site boundary includes for an elongated portion along the public road westwards, but this is only to allow the course of a new 225mm diameter foul sewer. It is unfortunate that footpaths are not proposed along the Baunmore local road (L 31232) westwards along the old and now closed off Baunmore Road to the town centre, this is a more convenient and pleasant route with shops close by. However, I am satisfied that sufficient pedestrian facilities form part of this application and can be delivered by the developer, a suitably worded condition should be attached if development is permitted.

7.9. Other Matters

- 7.9.1. Boundary walls - The structural integrity of boundary walls is raised as an issue of concern. Whether this is the case or not, a suitably worded condition can ensure that detailed drawings with reference to boundary treatments be prepared for approval and that ensures structural integrity of existing walls is not compromised, prior to the commencement of development.
- 7.9.2. Planning history – An observer points out that the planning history of the site should not be seen as a precedent for this development. I have considered all relevant factors to do with this appeal and they include matters to do with the planning history of the site. I note that 50 units were granted permission on these lands in the past. However, I am also aware of the current LAP and development plan for the area and the policy objectives set out for the sustainable growth of settlements in the county. In that context, though the planning history is noteworthy, it is just that and I have

assessed this appeal against a variety of factors, and I am satisfied that a housing development can be accommodated in some form or other on this site.

8.0 Appropriate Assessment

Introduction

- 8.1.1. The applicant prepared a Natura Impact Statement (NIS). The applicant states that with the implementation of best practice and mitigation measures, it is not expected that the proposed development will give rise to any direct, indirect or secondary impacts on the Galway Bay Complex SAC or Inner Galway Bay SPA. No impacts/effects are expected in on any of the Site-Specific Conservation Objectives (SSCO) associated with the Galway Bay Complex SAC or Inner Galway Bay SPA.
- 8.1.2. This section of my report considers the likely significant effects of the proposal on European sites with each of the potential significant effects assessed in respect of each of the Natura 2000 sites considered to be at risk and the significance of same. The assessment is based on the Natura Impact Statement (NIS) submitted and prepared by Colette Casey (B.SC) in partnership with James O' Donnell (BA, MRUP, Dip APM). I have had regard to the submissions of observers in relation to the potential impacts on Natura 2000 sites. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section.

The Project and Its Characteristics

- 8.1.3. The detailed description of the proposed development can be found in section 2.0 above.

Submissions and Observations

- 8.1.4. The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 3 and 6 above. Observers have not raised any specific issues with regard to appropriate assessment. The planning application was referred to a number of statutory consultees, including Uisce Éireann and the Minister for Housing, Local Government and Heritage (NPWS).

- 8.1.5. The planning authority refused permission because the absence of surface water disposal details, means the Planning Authority cannot be satisfied that the proposal will not adversely affect the integrity a European site and the development has the potential to adversely affect the qualifying interests and conservation objectives of a protected European site and this would materially contravene Policy Objective NHB 1 and DM Standard 50 of the Galway County Development Plan 2022-2028. Policy objective NHB 1 seeks to support the protection, conservation and enhancement of natural heritage and biodiversity, including designated sites and DM Standard 50 seeks Environmental Assessments, I have already considered this matter to have been addressed by the applicant and their submission of an AA Screening Report and NIS, section 7.7 of my report refers.
- 8.1.6. Uisce Éireann have raised issues about how the development can be serviced regarding wastewater and this matter is addressed in section 7.5 of my report refers.
- 8.1.7. The NPWS have stated that the development area has possible hydrological connections with European Sites via a tributary of the Clarin River system. In this instance, should permission be granted, all Mitigation Measures outlined in Chapter 6 of the NIS should be required by condition.

The European Sites Likely to be Affected (Stage I Screening)

- 8.1.8. All Natura 2000 sites within 15kms are set out in table 3.1 and figure 3.2 of the applicants AA Screening Report. The development site is not within or directly adjacent to any Natura 2000 site. The site is located in an area surrounded by existing low to medium density residential development and open countryside beyond. The site comprises agricultural lands with a small area of disturbed ground and former outbuildings.
- 8.1.9. I note that the applicant concludes that there is potential for contamination of groundwater during the construction phase, due to the shared catchment to the Galway Bay SAC and Inner Galway Bay SPA. Potential impacts arising during the construction phase, in the form of groundwater contamination cannot be ruled out. In the absence of mitigation there is potential for contamination of the groundwater body during the construction phase. Therefore, the Galway Bay Complex SAC & Inner Galway Bay SPA have been screened in. All other sites listed in table 3.1 have been screened out due to a lack of hydrological connectors (flood plain, waterways

etc.) and ecological corridors, no connector-receptor pathways were identified. In addition, the AA screening section of the document outlines through figure 3.3, the geographical spread of designated sites and figure 3.2 shows nearby sites and the Clarin River.

- 8.1.10. Based on the documentation submitted by the applicant with the grounds of appeal, I concur with the identification of sources-pathway-receptor chain conclusions of the applicant's screening for AA, in that the only Natura 2000 sites where there is potential for likely significant effects are the Galway Bay Complex SAC and the Inner Galway Bay SPA as a result of being in the same groundwater catchment, and possible downstream linkages via a tributary to the Clarin River.
- 8.1.11. The specific qualifying interests and conservation objectives of the above sites are described below. In carrying out my assessment I have had regard to the nature and scale of the project, the distance from the site to Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site, aided in part by the EPA Appropriate Assessment Tool (www.epa.ie), as well as by the information on file, including observations on the application made by prescribed bodies and other observers, and I have also visited the site.
- 8.1.12. Significant impacts on the remaining SAC and SPA sites are considered unlikely, due to the distance, dilution factor and the lack of hydrological connectivity or any other connectivity with the application site in all cases having consideration of those site's conservation objectives. As such, it is reasonable to conclude that on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the remaining sites listed at 3.1 of the applicant's AA screening Report.
- 8.1.13. The qualifying interests of the two Natura 2000 Sites considered are listed below:

Table of European Sites/Location and Qualifying Interests

Table 1

European Site and COs	Qualifying Interests	Distance from	Potential Connections (source-	Further Consideration in Screening

		Appeal Site	pathway-receptor)	
<p>Galway Bay Complex SAC 000268</p> <p>To maintain or restore the favourable conservation condition those features set out on pages 10-25 of the National Parks and Wildlife Service, Conservation Objectives Series dated 16 April 2013.</p>	<p>Qualifying Interests:</p> <p>Mudflats and sandflats not covered by seawater at low tide.</p> <p>Coastal lagoons.</p> <p>Large shallow inlets and bays.</p> <p>Reefs.</p> <p>Perennial vegetation of stony banks.</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts.</p> <p>Salicornia and other annuals colonising mud and sand.</p> <p>Atlantic salt meadows.</p> <p>Mediterranean salt meadows.</p> <p>Turloughs.</p> <p>Formations on heaths or calcareous grasslands.</p>	<p>10.4 kilometres to the west of the appeal site.</p>	<p>Yes. Potential to cause deterioration in water quality during construction and operation arising from surface water, ground water and outfall of sewage and hydrocarbons from the proposed development and to potentially adversely impact upon habitats/species within Galway Bay.</p>	<p>Yes.</p>

	<p>Semi-natural dry grasslands and scrubland facies on calcareous substrates.</p> <p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i>.</p> <p>Alkaline fens.</p> <p>Limestone pavements.</p> <p>Otter</p> <p>Harbour Seal</p>			
<p>Inner Galway Bay SPA 004031</p> <p>To maintain or restore the favourable conservation condition of the species listed across, in Inner Galway Bay SPA, which is defined by the list of attributes and targets, set out on pages 6-26 of the National Parks and Wildlife</p>	<p>Black-throated Diver</p> <p>Great Northern Diver</p> <p>Cormorant.</p> <p>Grey Heron.</p> <p>Light-bellied Brent Goose.</p> <p>Wigeon.</p> <p>Teal.</p> <p>Red-breasted Merganser.</p> <p>Ringed Plover.</p> <p>Golden Plover.</p> <p>Lapwing.</p>	<p>12.7 kilometres to the west of the appeal site.</p>	<p>Yes. Potential to cause deterioration in water quality during construction and operation arising from surface water, ground water and outfall of sewage and hydrocarbons from the proposed development and to potentially adversely impact on species within Galway Bay.</p>	<p>Yes.</p>

Service, Conservation Objectives Series dated 1 May 2013.	Dunlin. Bar-tailed Godwit. Curlew. Redshank. Turnstone. Black-headed Gull. Common Gull. Sandwich Tern. Common Tern. Wetland and Waterbirds.			
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Identification of Likely Significant Effects

- 8.1.14. The Galway Bay Complex SAC and the Inner Galway Bay SPA are the two European sites being considered as part of this assessment due to the possibility of habitat degradation due to a risk of potential construction impacts in the form of release of hydrocarbons and/or sediment during groundwork excavations and the potential for adverse impacts to arise with the surface water drainage discharging to Galway Bay resulting in potential adverse impacts upon water quality, alone or in combination, with other pressures on transitional water quality.
- 8.1.15. Given the agricultural lands and disturbed ground status of the appeal site, it does not provide for suitable foraging/feeding grounds for the winter birds associated with the SPA sites.
- 8.1.16. No water quality objectives have been set out for the Inner Galway Bay SPA. Catchments.ie have classified the water quality in Galway Bay as good, which would indicate that the Galway Bay Complex SAC and the Inner Galway Bay SPA have not been impacted upon by either wastewater or surface water outfalls from development within the city area to date. I am also satisfied that there is adequate

capacity within the foul sewer network to cater for the foul effluent arising from the development.

- 8.1.17. The AA screening report submitted as part of the planning documentation sets out that there are no habitats/species listed as Qualifying Interests (QI; s) associated with any European site within the appeal site boundary. For these reasons, I am satisfied that it is unlikely that habitat loss or disturbance of habitat or species listed as Qualifying interests would arise in this instance. Therefore, likely direct significant effects on the Galway Bay SPA and the Galway Bay Complex SAC can be ruled out.
- 8.1.18. The Ballygarraun South stream is located 40 meters to the north of the site and flows to the west into the Clarin River, which in turn flows into the Galway Bay SAC and Inner Galway Bay SPA 13.87km downstream of the application site. The NPWS have noted the location of the stream and the potential for impacts downstream. I consider that there is potential for indirect significant effects in the form of outfall of sediment and/or hydrocarbons to the surface water network during the construction period on water quality within Galway Bay. I acknowledge that these factors are temporary in nature, however, in line with the precautionary principle, the threshold for AA screening is low and therefore, further consideration of these matters will be undertaken.
- 8.1.19. The surface water management proposals that comprise industry standard SuDS, proposed for the operational phase are considered adequate to serve the development and would not result in likely significant effects upon the European sites. Therefore, I am satisfied that these particular potential impacts do not require further assessment in the context of Appropriate Assessment.
- 8.1.20. In combination effects have also been considered as part of this assessment. I have considered the effects of the development on adjacent sites within the settlement boundary of Athenry, which have been granted planning permission and are referenced in table 6.1 of the applicant's screening report. However, through the implementation of best practice construction methods and the fact that all of these sites have been subjected to Strategic Environmental Assessment and also have been subjected to an Appropriate Assessment determination under the preparation of the Galway County Development Plans of 2016 and 2022, the cumulative

environmental impact of all of the zoned lands being developed was considered and deemed acceptable.

- 8.1.21. Therefore, taking the precautionary approach, I consider that there is an ecological rationale for proceeding to a Stage 2 AA in relation to further assessing any potential significant effects that may arise in relation to a number of the nearest European sites, namely, the Galway Bay Complex SAC and the Inner Galway Bay SPA. This conclusion is consistent with that of the applicant's documentation.

Screening Determination

- 8.1.22. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects could have likely significant effects on the Galway Bay Complex SAC and the Inner Galway Bay SPA, and Appropriate Assessment is, therefore, required. The potential for significant effects on other European sites can be excluded.

Stage 2 Appropriate Assessment

Natura Impact Statement

- 8.1.23. The Natura Impact Statement (NIS) examines and assesses potential for adverse effects of the proposed development on the Galway Bay Complex SAC and the Inner Galway Bay SPA. Table 7.1 of the NIS sets out the potential adverse impacts arising from the construction and operational phases of the development on each of the European sites and refers to the mitigation measures that would be incorporated as part of a Preliminary Construction Environmental Management Plan (CEMP).
- 8.1.24. The NIS concludes that with the implementation of the pollution control mitigation measures included in the design of the development and the implementation of preventative measures during the construction phase, adverse effects on the site integrity of the European sites alone, or in combination with other plans and projects can be excluded.

Appropriate Assessment of implications of the proposed development on the European Site

8.1.25. The following tables (2-3) set out my assessment of the implications of the project on the qualifying interest features of the Galway Bay Complex SAC and the Inner Galway Bay SPA using the best scientific knowledge in the field as provided in the NIS as updated and revised. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed. Ecological surveys conducted on site indicate that: The appeal site and the areas immediately adjacent to it do not provide significant habitat for the qualifying interest fauna species of the nearby SPAs and SAC.

Table 2

Site 1

Name of European Site, Designation, site code: Galway Bay Complex SAC 000268 Summary of Key issues that could give rise to adverse effects. <ul style="list-style-type: none"> • Adverse impact upon Water Quality and water dependant habitats/species • Habitat/species Loss • Disturbance of QI species/habitats Conservation Objectives: To maintain or restore the favourable conservation condition of the protected habitats and species within Galway Bay.					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Mudflats and sandflats not covered by water at low tide.	To restore the favourable conservation condition of the protected Mudflats and Sandflats not covered by seawater at	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater	Silt fencing adjacent to land drains. The use of silt traps prior to discharge of silt traps to attenuation tank and	No significant in-combination adverse effects	Yes

	low tide in Galway Bay.	arising from construction and operational activities on site and potentially adversely impacting upon protected habitat/species	hydrocarbon interceptors within the surface water systems		
Large shallow inlets and bays		Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely impacting upon protected habitat	Silt fencing adjacent to land drains. The use of silt traps prior to discharge of silt traps to attenuation tank and hydrocarbon interceptors within the surface water systems	No significant in-combination adverse effects	Yes
Reefs		Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water channels and/or groundwater arising from construction activities on site and potentially adversely	Silt fencing adjacent to land drains. The use of silt traps prior to discharge of silt traps to attenuation tank and hydrocarbon interceptors within the surface	No significant in-combination adverse effects	Yes

		impacting upon protected habitat	water systems		
Overall conclusion: Integrity test Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.					

Table 3

Site 2:

Name of European Site, Designation, site code: Inner Galway Bay SPA 004031 Summary of Key issues that could give rise to adverse effects. <ul style="list-style-type: none"> • Water Quality and water dependant habitats • Loss of foraging ground • Disturbance of QI species Conservation Objectives: To maintain the favourable conservation condition of wetland habitat in Inner Galway Bay as a resource for the regularly occurring and visiting migratory winter birds.					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives Targets and attributes	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Wetlands and Winter birds	To maintain or restore the favourable conservation condition of the wetland Habitat of Galway Bay as a resource for the regularly	Deterioration in water quality arising from sedimentation and release of hydrocarbons to surface water and/or groundwater	Major groundworks and excavations to take place outside of the winter season. Silt fencing adjacent to land drains.	No significant in-combination adverse effects	Yes

	occurring migratory waterbirds that visit the bay.	arising from construction and or operational activities on site and potentially adversely impacting upon the Marsh which acts as a feeding area for this particular protected wintering geese species	The use of silt traps prior to discharge of silt traps to attenuation tank and hydrocarbon interceptors within the surface water systems		
<p>Overall conclusion: Integrity test</p> <p>Following the implementation of mitigation, the construction and operation of this proposed development will not adversely affect the integrity of this European site and no reasonable doubt remains as to the absence of such effects.</p>					

8.1.26. In combination effects have also been considered as part of this assessment. I have considered the effects of the development on adjacent sites, existing, permitted and those under construction. With the incorporation of best practice construction methods and the fact that many/all of these sites would have been subjected to their own individual Appropriate Assessments, Strategic Environmental Assessment and an Appropriate Assessment determination under the preparation of the Galway County Development Plans of 2022 and 2028, the cumulative environmental impact of development within the appeal site and within the adjacent lands has been considered and deemed acceptable.

8.1.27. Following the Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the integrity of the Galway Bay Complex SAC, and the Inner Galway Bay SPA, in view of the Conservation Objectives of this site. This conclusion has been based on a

complete assessment of the implications of the project alone, and in combination with plans and projects.

Appropriate Assessment Conclusion

- 8.1.28. Having carried out screening for Appropriate Assessment, it was concluded that, in the absence of mitigation measures to prevent construction related pollutants reaching Galway Bay, the proposed development might have a significant effect on two European Sites, the Galway Bay Complex SAC and the Inner Galway Bay SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the European sites in light of their conservation objectives.
- 8.1.29. Following an Appropriate Assessment and the consideration of mitigation measures, I can ascertain with confidence that the project would not adversely affect the integrity of the Galway Bay Complex SAC nor the Inner Galway Bay SPA, or any other European site, in view of the site's Conservation Objectives. This conclusion has been based on a complete assessment of all implications of the project alone, and in combination with plans and projects.

This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of the aforementioned designated sites.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Galway Bay Complex SAC and the Inner Galway Bay SPA.

9.0 Recommendation

- 9.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. The proposed development would be premature pending the completion of the proposed Pairc na hAbhainn Waste Water Pumping Station under the Athenry Waste Water Network project. The proposed development would, therefore, 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.

Stephen Rhys Thomas
Senior Planning Inspector

27 June 2024

Appendix 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317602-23			
Proposed Development Summary	49 houses.			
Development Address	Farranablake East with ancillary works in the townlands of Baunmore and Gortnahown, Athenry, Co. Galway			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes	✓
			No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes			EIA Mandatory EIAR required	
No	✓		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No	✓	10. Infrastructure projects, (b) (i) Construction of more than 500 dwelling units.	Scale of development is considerably less than 500 dwelling units, on a site of 2.33 Hectares.	No EIAR or Preliminary Examination required
Yes				Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	N/A	Preliminary Examination required
Yes	N/A	Screening Determination required

Inspector: _____ **Date:** _____