



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319509-24

#### Development

Construction of 14 no. residential units in 1 no. 2.5 storey block (comprising 5 no. 1 bed ground floor own door apartments, 2 no. 2 bed ground floor own door apartments, 3 no. 2 bed own door duplex units and 4 no. 3 bed own door duplex units over); Connection to existing public mains water supply and public sewer, together with on-site surface water drainage; public and private open spaces, bin storage, bicycle parking and site landscaping and provision for pedestrian and vehicular connection onto Bog Road; car parking, site signage, boundary treatments together with all associated site works and services.

A Natura Impact Statement will be submitted to the Planning Authority with this application.

<b>Location</b>	Bog Road, Oranmore, Co. Galway
<b>Planning Authority</b>	Galway County Council
<b>Planning Authority Reg. Ref.</b>	2460081
<b>Applicant</b>	David and Sally Jordan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	David and Sally Jordan
<b>Observers</b>	1) Anne Kennedy 2) Patrick & Noreen Gillespie 3) Heather & Conor Helebert 4) Nuala Forde
<b>Date of Site Inspection</b>	14 <sup>th</sup> August 2024
<b>Inspector</b>	Ian Campbell

## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated area of 0.325 ha. and is located on the southern side of the L8103 (known as Bog Road), west of the junction with the N67, within the settlement of Oranmore, Co. Galway.
- 1.2. The appeal site is relatively level in terms of topography and broadly rectangular in shape, save for an area comprising the public road where the foul sewer is proposed. The appeal site is overgrown with temporary fencing forming the roadside boundary with Bog Road.
- 1.3. The appeal site is surrounded by existing residential development, Cois na Mona to the north and Clochóg to the west and south. The Carrowmoneash River is located to the north-west of the appeal site and flows under Bog Road.
- 1.4. The predominate building typology in the area (within Cois na Mona and Clochóg) is two storey dwellings. Some of the dwellings with Clochóg are 2.5 storey. The appeal site previously accommodated a thatched cottage however this was recently demolished.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises;
  - Construction of 14 no. residential units in a 2.5 storey block, consisting of –
    - 5 no. 1 bedroom apartments.
    - 2 no. 2 bedroom apartments.
    - 3 no. 2 bedroom duplex.
    - 4 no. 3 bedroom duplex units.
  - Connection to existing public mains water supply and public sewer, and on-site surface water drainage.
  - Public and private open space.
  - Bin storage.
  - Bicycle parking.

- Landscaping.
- Pedestrian and vehicular connection onto Bog Road.
- Car parking.
- Site signage.
- Boundary treatments.
- All associated site works and services.

2.2. The planning application/appeal was accompanied by the following reports;

- Planning & Design Statement
- Site Specific Flood Risk Assessment (SSFRA)
- Appropriate Assessment Screening Report (revised version submitted with the appeal)
- Natura Impact Statement (NIS) (revised version submitted with the appeal<sup>1</sup>)
- Preliminary Construction Environmental Waste Management Plan (revised version submitted with the appeal)
- Stage 1/2 Road Safety Audit (RSA)
- Civil Works Planning Submission
- Outdoor Lighting Report

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission on the 19<sup>th</sup> of March 2024 for 6 no. reasons, summarised as follows;

1. Having regard to the absence of satisfactory documentary evidence of unobstructed access to the relevant service infrastructure situated on lands outside the application unit which are required in order to connect to the Uisce

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<sup>1</sup> On foot of the submission of the updated NIS the public notices were readvertised.

Eireann public network, it is considered that the works proposed outside of the application site area cannot be implemented under the current planning application. The proposed development would be contrary to DM Standard 36 of the Galway County Development Plan 2022-2028 and would pose an unacceptable threat to the public health.

2. The proposed development, by reason of its location within the emerging Preferred Route for the Galway to Athlone Cycleway project, would be premature pending a determination by the Planning Authority or Road Authority of a layout for the area or any part thereof. Furthermore, the development as proposed would contravene materially a stated policy objective of the Galway County Development Plan 2022-2028 (i.e. Policy Objective GBW2 Future Development of Networks of Greenways) and Regional Policy Objective of the Regional Spatial and Economic Strategy 2020-2032 (i.e. RPO 3.6.13, which aims to support the delivery of sustainable strategic greenway/blueways projects in the county in accordance with the Strategy for Future Development of National and Regional Greenways).
3. Having regard to the nature and scale of the proposed development, the information included with the planning application, the proximity of the proposed junction to the Old Bog Road and N67 Junction at a location where the 100kph speed limit exists and the provision of lighting in close proximity to the National Road carriageway, the planning authority is not satisfied that the proposed development, in conjunction with the existing development, would cumulatively not be at variance with Policy Objectives NR1 and NR 3 of the Galway County Development Plan 2022-2028 and National Official policy in relation to control of development on/affecting national roads as outlined in the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012). In addition, there are concerns regarding the suitability of the proposed internal traffic circulation regime, including rigid movements due to potentially restricted vehicle manoeuvrability within the site. The proposed development would endanger public safety by reason of traffic hazard.
4. The proposed development by reason of density, layout, bulk and massing would negatively impact the visual and residential amenities of the local area and represent an inappropriate form of development at this location. The site

occupies a prominent location within a long-established residential setting where the proposed duplex apartment building does not relate to either its adjoining context or the surrounding development and the siting of same results in poor quality layout with insufficient and overlooked communal open space. The proposed development would contravene materially policy objectives PM 1 and PM 10, UL2 and UL5, DM1 and DM2 of the Galway County Development Plan 2022-2028.

5. In the absence of adequate documentary evidence regarding the applicant's ability to provide a connection to the public foul network, the Planning Authority consider that adverse impacts on nearby European Sites (Galway Bay Complex SAC, Inner Galway Bay SPA and Cregganna Marsh SPA) cannot be excluded. The proposed development would materially contravene Policy Objective NHB 1 and DM Standard 50 of the Galway County Development Plan 2022-2028.
6. The application proposes new residential development is close proximity to the N67, the potential impact of noise on the future occupants of the residential units has not been appropriately addressed in the submitted application in accordance with Policy objectives NP1, NP2, and NP 5 and contrary to DM standard 29 of the Galway County Development Plan 2022-2028.

Refusal reason no. 2, 4 and 5 (which I have underlined for the purpose of clarity) refer to material contravention of the Galway County Development Plan 2022 – 2028.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The report of the Planning Officer generally reflects the reasons for refusal. The report also notes –

- Noting the scale and location of the proposal, a Traffic and Transport Assessment is deemed necessary as per DM Standard 33 of Galway County Development Plan 2022 – 2028.
- 4 no. car parking spaces encroach on the preferred route for the Galway - Athlone greenway.

- A submission received highlights the requirement for a connection through third party lands at Clochóg, which the applicant does not have any consent for.
- A submission received queries the legal interest/ownership of a strip of land along the south-eastern edge of the site (parallel to the N67 carriageway) where an area of open space and new 1.8m boundary wall are to be provided.
- The open space provided is not considered adequate as it is not centrally located, adequately overlooked and no passing surveillance occurs due to the location to the area to the rear of the duplex block.
- The scale of the duplex building is dominant in relation to adjoining 2 storey properties. Associated private amenity areas to the immediate south are at risk of overlooking and overshadowing.
- The bin/bicycle storage building to the east of the duplex building encroaches within the 35m buffer required under DM Standard 29 and may also encroach into the area identified as the preferred route for the Galway - Athlone greenway.
- The emerging route for the Galway to Athlone Cycleway runs alongside the south-eastern boundary of the lands, the applicant has not referred in detail to same within the application details, the implementation of the proposed development may inhibit the introduction of the amenity walkway at this location
- The applicant should provide a quantified noise assessment to ensure noise levels at the proposed residential unit does not equal or exceed undesirable noise levels, as specified in the Local Authority's Noise Action Plan 2019-2023 due to the proximity of the site to the N67.
- Problem 3.3 in the RSA identifies the ability to provide the turning head for refuse/emergency vehicles where the proposed greenway will encroach into the paved area and turning head, leading to haphazard traffic movements within the site.

#### Other Technical Reports.

3.2.2. None on file.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland (TII) – submission notes that proposal is at variance with DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) and would adversely affect the operation and safety of the national road network, for the following reasons -

- the proposal would create an adverse impact on a national road where the maximum permitted speed limit applies, at variance with national policy in relation to control of frontage development on national roads.
- the proposal would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads, i.e. Section 2.5 of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012) which states that the policy of the planning authority will be to avoid the creation of any additional access point from new development, or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kph apply.
- the proposed development, located on a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the extra traffic generated.
- the safety implications of momentary light spill from the development to the national road where the maximum speed limit applies has not been assessed and could endanger public safety.
- the proximity of the entrance of the development to the junction of Bog Road and the N67 presents a safety hazard to vehicles exiting from the N67 onto Bog Road which may result in rear end collisions on the N67 or head on collisions on Bog Road.

### 3.4. Third Party Observations

The report of the Planning Officer summarises issues raised in observations submitted in respect of the planning application as follows;



- Traffic safety, including at the junction between Bog Road and the N67.
- Concerns regarding overlooking and overshadowing impacts from the proposed development.
- Absence of sufficient legal interest over south-eastern part of site to provide foul sewer connection.
- Concern regarding quality of public open space.
- Capacity of wastewater system to cater for proposal.

## 4.0 Planning History

### Appeal Site

**PA. Ref. 13/454** – Permission GRANTED for alterations and extension of house.

## 5.0 Policy Context

### 5.1. National Policy & Regional Policy

#### 5.1.1. National Planning Framework ‘Project Ireland 2040’

Relevant Policy Objectives include:

- **National Policy Objective 3a:** Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- **National Policy Objective 4:** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- **National Policy Objective 13:** In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated

outcomes, provided public safety is not compromised and the environment is suitably protected.

- **National Policy Objective 33:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

#### **5.1.2. Regional Spatial and Economic Strategy 2020 – 2032, Northern and Western Regional Assembly**

- **RPO 3.6.13** - The Assembly supports the delivery of a strategic Greenway Network for the GTS to include National Dublin to Galway Cycleway, Oranmore to Bearna Coastal Greenway and the Galway to Clifden Greenway (S/M).

### **5.2 Ministerial Guidelines**

5.2.1 Having regard to the nature of the proposed development and to the location of the appeal site, I consider the following Guidelines to be pertinent to the assessment of the proposal.

- Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023).
- Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021).
- Urban Development and Building Height Guidelines, Guidelines for Planning Authorities (2018).
- Appropriate Assessment of Plans and Projects in Ireland, Guidelines for Planning Authorities (2010).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- Development Management, Guidelines for Planning Authorities (2007).

#### 5.2.2. Other Guidance

- Design Manual for Urban Roads and Streets (2019).
- Guidelines on Protection of Fisheries During Construction Works in and Adjacent to Waters (Inland Fisheries Ireland, 2016)

#### 5.3. **Development Plan**

5.3.1. The relevant Development Plan is the Galway County Development Plan 2022-2028.

5.3.2. The appeal site is located within the Galway County Transportation and Planning Study Area (GCTPS) and the Metropolitan Area Strategic Plan (MASP) area.

5.3.3. The provisions of the Galway County Development Plan 2022 - 2028 relevant to this assessment are as follows:

#### **Volume 1**

##### Chapter 2 - Core Strategy, Settlement Strategy and Housing Strategy

- **Policy Objective SS1:** MASP (Level 1)

##### Chapter 3 – Placemaking, Regeneration and Urban Living

- **Policy Objective PM1:** Placemaking
- **Policy Objective PM8:** Character & Identity
- **Objective UL2:** Layout & Design
- **Objective UL5:** Open Space

##### Chapter – 6 Transport & Movement

- **Policy Objective NR1:** Protection of Strategic Roads
- **Policy Objective NR3:** Traffic and Transport Assessment (TTA) and Road Safety Audit (RSA)
- **Policy Objective NR4 :** New Accesses Directly on National Roads
- **Policy Objective GBW2:** Future Development of Network of Greenways

##### Chapter – 7 Infrastructure, Utilities and Environmental Protection

- **Policy Objective WW7:** Sustainable Drainage Systems

- **Policy Objective WW8:** Storm Water Infrastructure
- **Policy Objective WW11:** Surface Water Drainage

#### Chapter 15 – Development Management Standards

- **DM Standard 1:** Qualitative Assessment-Design Quality, Guidelines and Statements
- **DM Standard 2:** Multiple Housing Schemes (Urban Areas)
- **DM Standard 3:** Apartment Developments (Urban Areas)
- **DM Standard 29:** Building Lines
- **DM Standard 31:** Parking Standards
- **DM Standard 33:** Traffic Impact Assessment, Traffic & Transport Assessment, Road Safety Audit & Noise Assessment

5.3.4. The appeal site is located within an ‘Urban Environs Landscape’ (see Map 1, Landscape Character Assessment, Appendix 4 of Galway County Development Plan 2022 - 2028) for the purpose of landscape type, which is described as having a ‘low’ sensitivity to change. The Galway Bay Scenic Route is situated to the east and north of the appeal site.

5.3.5. The lands to the east of the appeal site are identified as an Strategic Economic Corridor.

#### 5.4. **Volume 2**

##### Metropolitan Area Strategic Plan 2022 – 2028

5.4.1. The land-uses for Oranmore are set out in the Metropolitan Area Strategic Plan (MASP) Section 1.10.2 Volume 2 of the Galway County Development Plan 2022 – 2028. The appeal site is zoned ‘Existing Residential’. The area of the appeal site accommodating comprising the public road is not subject to a specific land use zoning. The provisions of the Metropolitan Area Strategic Plan 2022 – 2028 relevant to this assessment are set out at Section 2.12, Volume 2 of the Galway County Development Plan 2022 – 2028 and are as follows:

- **OMSP 1 – Sustainable Residential Communities**
- **OMSP 11 – Recreational Facilities**

## 5.5. Natural Heritage Designations

- Galway Bay Complex SAC (Site Code: 000268) – c. 80 metres north-east (at closest point), also c. 0.3 km south and c. 0.64 km north-west.
- Galway Bay Complex pNHA (Site Code: 000268) – c. 60 metres north-east.
- Inner Galway Bay SPA (Site Code: 004031) – c. 0.9 km metres north-west.
- Cregganna Marsh NHA (Site Code 000253) – c. 1.3 km south.
- Cregganna Marsh SPA (Site Code 004142) – c. 1.3 km south.

## 5.6. EIA Screening

See Form 1 and 2 (attached). Having regard to the limited nature and scale of development, as well as the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

I consider that any issues arising from the proximity/connectivity to European Sites can be adequately dealt with under the Habitats Directive (Appropriate Assessment).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a first-party<sup>2</sup> appeal against the decision to refuse permission. The grounds for appeal may be summarised as follows.

#### Preliminary points:

- The site previously accommodated a Protected Structure however this structure was deleted from the Record of Protected Structures (RPS) and the site was deemed to be a derelict site and the house on the site was subsequently demolished. The site can thus be considered to be a brownfield site.

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<sup>2</sup> The opening paragraph (page 3) refers to a different development. This appears to be a typographical error.

- The site can be described as an Intermediate Location, being c. 400 metres from the town centre.
- The site has an area of 0.325 ha. When public areas along Bog Road are discounted the 'developable' area of the site is 0.29 ha.

Re. Refusal Reason no. 1

- It had been assumed that the sewer connection route was entirely within public lands however following a submission by a third party it was discovered that a strip of land to the south of the Bog Road is in private ownership. It is now proposed to connect to an existing manhole on the northwestern side of the Carrowmoneash River (see updated sewer layout *Drawing No. 23109-107 Rev. A*, which accompanies this appeal and the route of the proposed connection to Manhole "EX.FS.M.H.1"). The sewer extension connection route is consistent with the "Confirmation of Feasibility" received by Uisce Éireann, which stated that c. 50m of network extension will be required for the connection to the existing sewer on Bog Road. Consent has been received from Galway County Council for this revised sewer connection route (see site location map with connection route outlined in blue) together with a letter of consent from Galway County Council. Refusal reason no. 1 can therefore be dismissed.
- Following consultation with the OPW the proposed sewer connection does not require a Section 50 license application.
- The Board may permit the proposed development with reference to Section 34 (4) (a) (i) of the Planning and Development Act, 2000, as amended.

Re. Refusal Reason no. 2

- The proposal was designed following consultation with the Galway to Athlone Cycleway Project Office. Discussions confirmed that the route would not be required to turn in/indent into the site. The appellant notes that such a route would not be conducive to a cycle safety, however even if the route incorporate such an indentation the proposed development could accommodate the proposed greenway, in the worst case scenario this would result in the loss of 3-4 no. car parking spaces in the eastern corner of the site. The discussions confirmed that a 5 metre strip along the road edge to facilitate the greenway

would be required. The proposal provide a 7 metre area to facilitate flexibility for the cycleway. It was also stated during discussions that it is unlikely that the greenway would be in place for c. 10 – 15 years, and that it may not even proceed. The Galway to Athlone Cycleway project is not currently active, as the Consulting Engineers leading the project withdrew from developing the greenway, meaning that the tender for the project will need to be re-advertised, and potentially the project will have to recommence. In these circumstances, the decision to refuse permission for the proposed development on the basis of prematurity is entirely unreasonable as the determination of a detailed road layout for the greenway is likely to be years away. However, and notwithstanding this, the proposed development will not interfere with the route and has been designed to facilitate the route at this location.

#### Re. Refusal Reason no. 3

- The proposal represents an improvement to traffic safety compared to what previously existed on the site, where car parking for the house occurred along Bog Road. The proposal also entails the closure of an entrance close to the junction with the N67.
- Given that the site is the last remaining development site on Bog Road the proposal will not lead to a cumulative variance to national road policy.
- The decision is inconsistent with established planning history in the area. Permission was recently granted under PA. Ref. 21/1661 for 13 no. houses c. 165 metres north-west of the appeal site.
- The proposal does not seek permission for a direct access onto the N67 but rather a new access onto Bog Road, which is located c. 40 metres from the carriageway of the N67.
- The proposal does not generate a significant intensification of turning movements noting the modest nature of the proposal; the access available to the west; pedestrian connectivity along Bog Road to the town centre; and the planned cycleway along the N67 which will encourage a modal shift away from the private car. It is also noted that plans are underway for a reduction in the speed limit on the N67 along the eastern edge of Oranmore.

- The lighting report submitted demonstrates no light spill onto the N67.
- The proposal is consistent with regional and national policy and facilitates consolidated development of a brownfield site.
- Minor changes have been made to the bin and bicycle store and a disabled parking space to provide sufficient manoeuvrability within the site. Turning movements are shown on the submitted Autotrack Analysis.

#### Re. Refusal Reason no. 4

- The density of the proposal, at 48 dpha, accords with the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2022, and the Sustainable Residential Development and Compact Settlement Guidelines, 2024.
- The density of the proposal is consistent with development in the area, specifically the development permitted under PA. Ref. 02/1159, which had a density of c. 40 dpha.
- The layout of the scheme is appropriate, provides for triple frontage; complies with car parking and open space standards set out in the Apartment Guidelines; adequate manoeuvrability for refuse trucks; south facing communal open space; and southerly orientated living areas to maximise daylight for residents.
- The 2.5 storey nature of the block is appropriate to the area; the scheme provides an appropriate interface to the N67; the design and material finishes are aesthetically pleasing; and the open space is supervised and sizable (900 sqm), equating to 31% of the site.
- The proposal complies with Objective PM1, PM10, UL2, UL5, DM Standard 1, and DM Standard 2 of the Galway County Development Plan 2022 – 2028.

#### Re. Refusal Reason no. 5

- The applicant has a sufficient legal interest in the site to enable connection into the foul sewer network. A letter of consent from Galway County Council accompanies the appeal. The revised proposal entails crossing under a stream on Bog Road. A methodology for these works have been provided with the appeal. An updated Appropriate Assessment Screening report and NIS have



been submitted to reflect this. The updated NIS includes mitigation measures. The proposed sewer connection will not adversely affect the integrity of European sites.

#### Re. Refusal Reason no. 6

- Triple glazing can be provided as a noise mitigation measure should the Board consider it necessary, satisfying Objectives NP1, NP2 and NP5 of the Galway County Development Plan 2022 – 2028.
- Regarding the provision of a set-back from the N67, the imposition of a 35 metre buffer would be at odds with the consolidation of Oranmore, which has been identified to accommodate a critical mass.
- Objective DM Standard 29 allows for a degree of flexibility regarding building lines.
- The previous cottage on the site was situated closer to the N67 and the proposed building will be set behind the building line of the cottage which previously occupied the site.
- The repositioning of the bin and bicycle store will not interfere with the preferred route for the Galway to Athlone Cycleway.

#### **6.2. Planning Authority Response**

None received.

#### **6.3. Observations**

4 no. observations were received. The observations are identical and the issues raised are summarised as follows.

##### Patrick & Noreen Gillespie

- Discrepancy in description of proposal, i.e. reference to 6 storey apartment building of 24 no. apartments.

- An area of land adjacent to the N67 which is not within the applicant's ownership has been included in the proposal and also fenced off without the owner's permission.
- PA. Ref. 13/454 was for a significantly different development.
- The proposal does not provide for a sufficient quantum of car parking to allow for a reduction in the number of spaces to facilitate the greenway. The proposal would result in car parking spilling into the Clochóg estate, creating a traffic hazard.
- The proposal is more accurately described as 3 storey, not 2.5 storey, and is out of character with the area. A development which was proposed in the area (PA. Ref. 21/1661) was amended to houses. Cios Na Mona and Gleann Fearna are two storey developments and are significantly lower in height compared to the proposal.
- The proposal is not in keeping with the established building line at this location.
- The density of the proposal at c. 48 dpha exceeds that recommended density of 45 dpha set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities at Intermediate Locations.
- Reference made is observation to initial submission to Planning Authority which notes;
  - Protected Structure previous on the site was demolished without consent.
  - Oranmore treatment plant is operating to capacity. The proposal would result in the release of untreated effluent to Galway Bay SAC. The proposal is premature pending constraints being addressed.
  - Concerns regarding overlooking of property to the rear.
  - The height of the proposal is out of character with the area.
  - When permission was granted under PA. Ref. 21/1687 it was for houses.
  - Traffic safety concerns, specifically at the junction between Bog Road and the N67 and also at the junction with Main Street and the roundabout

at the Oranmore-Maree GAA Club. The proposal would increase traffic from Bog Road onto this road and the Dublin Road.

- The proposal has a car parking requirement of 21 no. spaces whereas 19 no. are provided. Parking dimensions not indicated. Proposal therefore does not accord with DM Standard 32.

Anne Kennedy

- As above.

Heather & Conor Helebert

- As above.

Nuala Forde

- As above.

## **7.0 Assessment**

7.1. Scope of Appeal – the applicant has submitted a revised proposal to the Board. Revisions include changes to the blue line boundary at the north-western part of the site to reflect revisions to the foul sewer connection on Bog Road and the repositioning of a bin store, a bicycle store and a disabled parking space to improve rigid manoeuvrability within the site. Noting the nature of the revisions made to the proposal, which in my view are minor, I submit to the Board that it is appropriate to determine the proposal as revised, and that the revisions proposed would not be prejudicial to third parties. The proposal which I intend to consider in this appeal is that as submitted to the Board on the 15<sup>th</sup> of April 2024.

7.1.1. A revised/updated Appropriate Assessment Screening report and NIS has been submitted with the appeal. Revised public notices were submitted in respect of same. The revised Appropriate Assessment Screening report and NIS reflect the changes made in relation to the foul sewer connection on Bog Road, and specially the proposal to cross under the Carrowmoneash River.

7.1.2. Having examined the application details and all other documentation on file, including the appeal, observations and 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:

- Refusal Reason 1 (consent and extent of development)
- Refusal Reason 2 (Impact on Galway to Athlone Cycleway)
- Refusal Reason 3 (Traffic Impact)
- Refusal Reason 4 (Impact on Visual and Residential Amenity)
- Refusal Reason 5 (Appropriate Assessment – see below)
- Refusal Reason 6 (Impact of Noise from N67 on proposal)
- Issues Arising
- Appropriate Assessment (Refusal Reason 5)

## **7.2. Refusal Reason 1 (consent and extent of development)**

- 7.2.1. The applicant's initial proposal entailed a connection into the existing foul sewer and water network on Bog Road. A third party submission made to the Planning Authority (the developer/owner of the common areas within Clochóg) stated that the proposal used a sewer connection adjacent to No. 3 Clochóg and that it had not been contacted or requested to provide a way leave in respect of same. The first reason for refusal cited by the Planning Authority noted that in the absence of documentary evidence of unobstructed access to the network the works proposed were outside the application site and could not therefore be implemented under the application, and as such the proposed development would be contrary to DM Standard 36<sup>3</sup> of the Galway County Development Plan 2022-2028 and would pose a threat to the public health.
- 7.2.2. The applicant has amended the proposed development in their submission to the Board. The amended proposal provides for a connection to an existing manhole on the northwestern side of the Carrowmoneash River (see updated sewer layout *Drawing No. 23109-107 Rev. A*, which accompanies this appeal and the route of the proposed connection to Manhole 'EX.FS.M.H.1'). A letter of consent from Galway County Council in relation to both the inclusion of Bog Road and the works required to

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<sup>3</sup> DM Standard 36 relates to the requirement to connect to the public water and wastewater network.

same have been submitted with the applicant's appeal submission (dated 5<sup>th</sup> April 2024). I note that this letter of consent refers to a revised site location/OS map where the blue line boundary has been extended in a north-westerly direction to facilitate the proposed foul sewer connection. From reviewing the drawings submitted with the appeal, and specifically the site location map/OS map I note that the location where the applicant proposes to connect into Manhole 'EX.FS.M.H.1' is not within the red line boundary of the site. Additionally, based on the drawings submitted the area where the crossing under the Carrowmoneash River is also outside the red line boundary of the site. Whilst I am satisfied that the applicant has demonstrated a sufficient legal interest in the lands associated with the planning application, including the location of the foul sewer connection and crossing of the Carrowmoneash River by virtue of the extent of the blue line boundary and letter of consent from Galway County Council, the later elements are not within the red line boundary of the site and the connection to the foul sewer network is therefore not provided as part of the planning application/appeal. In the absence of the location of the foul sewer connection and crossing of the Carrowmoneash River within the red line boundary of the site the proposed development would be contrary to DM Standard 36 of the Galway County Development Plan 2022 – 2028, would be prejudicial to public health, and on this basis should be refused in my view. I submit to the Board that this is a **new issue** as the issue raised in refusal reason no. 1 of the Planning Authorities notification to Refuse Permission related to an area of land which it was contended was in the ownership of a third party, whereas the location of the revised foul sewer connection and crossing of the Carrowmoneash River was not included in the initial planning application, being proposed at appeal stage. The applicant notes that the Board may permit the proposed development with reference to Section 34 (4) (a) (i)<sup>4</sup> of the Planning and Development Act, 2000, as amended. In my opinion the provision of Section 34 (4) (a) (i) would not circumvent the requirement for proposed development to be located within the red line boundary of the site. Section 34 (4) (a) (i) rather concerns the regulation of

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<sup>4</sup> Conditions under *subsection (1)* may, without prejudice to the generality of that subsection, include all or any of the following—

(a) conditions for regulating the development or use of any land which adjoins, abuts or is adjacent to the land to be developed and which is under the control of the applicant if the imposition of such conditions appears to the planning authority—

(i) to be expedient for the purposes of or in connection with the development authorised by the permission

development or the use of any land which adjoins/abuts etc. the land to be developed, whereas in this case part of the proposed development is located within the blue line, but outside the red line.

### **7.3. Refusal Reason 2 (Impact on Galway to Athlone Cycleway project)**

- 7.3.1. The second refusal reasons relates to the location of the proposed development within the emerging Preferred Route for the Galway to Athlone Cycleway project. The Planning Authority contend that the proposal would be premature pending a determination by the Planning Authority or Road Authority of a layout for the area, and that the proposal would contravene materially Policy Objective GBW2 (Future Development of Networks of Greenways) of the Galway County Development Plan 2022-2028 and also a Regional Policy Objective of the Regional Spatial and Economic Strategy 2020-2032 (i.e. RPO 3.6.13, which aims to support the delivery of sustainable strategic greenway/blueways projects in the county in accordance with the Strategy for Future Development of National and Regional Greenways).
- 7.3.2. The applicant's response as set out in their appeal submission notes that proposal has been designed following consultation with the Galway to Athlone Cycleway Project Office and that a 7 metre strip to facilitate flexibility for the cycleway has been incorporated into the proposal, which is greater than the 5 metre strip suggested by the Galway to Athlone Cycleway Project Office. The applicant also contends that on foot of consultations with the Galway to Athlone Cycleway Project Office that it is unlikely that the greenway would be in place for c. 10 – 15 years, and that its delivery is in doubt noting that the Galway to Athlone Cycleway project is not currently active, as the Consulting Engineers leading the project withdrew from developing the greenway, and that in light of this the decision to refuse permission for the proposed development on the basis of prematurity is unreasonable.
- 7.3.3. I have reviewed the Galway to Athlone Cycleway Project Office website and I note that at the time of writing my report there are no maps indicating the preferred route as it relates to Oranmore. Furthermore, I note that there is no correspondence from the Galway to Athlone Cycleway Project Office or the Transportation Section of Galway County Council on the file. The Galway to Athlone Cycleway Project Office website refers to the withdrawal of the Consulting Engineers with no further update in relation

to plans or timeframes for the project. Policy Objective GBW2 of the Galway County Development Plan 2022 – 2028 and RPO 3.6.13 of the Regional Spatial and Economic Strategy 2020-2032 support the delivery of greenway/blueways projects in the county and I note that the applicant is amenable to making provision for the Galway to Athlone Cycleway Project. I have reviewed the layout of the proposed development, as revised, including the provision which the applicant has made for a 7 metre set-back from the N67, and on balance I am satisfied that the proposed development makes adequate provision for the Galway to Athlone Cycleway, the most recent route of which is indicated in the documentation submitted with the appeal, and would not hamper its delivery at a future point in time.

- 7.3.4. I note that the Planning Authority state in refusal reason that the proposed development would contravene materially Policy Objective GBW2 (of the Galway County Development Plan 2022-2028). I note that Policy Objective GBW2 states *‘support the delivery of sustainable strategic greenway/blueways projects in the county in accordance with the Strategy for Future Development of National and Regional Greenways’*. In my opinion, having regard to the provision made for the Galway to Athlone Cycleway, specifically the provision of a 7 metre set-back from the N67 I do not consider that the proposed development, if permitted, would contravene materially Policy Objective GBW2 (of the Galway County Development Plan 2022-2028), and I submit to the Board that should they grant permission for the proposed development it is not constrained by the Section 37 (2) (b) of the Planning and Development Act, 2000, as amended.

#### **7.4. Refusal Reason 3 (Traffic Impact)**

- 7.4.1. The third reason for refusal relates to traffic impact/traffic safety. Noting the proximity of the site to the junction with the N67 the Planning Authority are not satisfied that the proposed development would not be at variance with Policy Objectives NR1 and NR 3 of the Galway County Development Plan 2022-2028, and also Spatial Planning and National Roads Guidelines for Planning Authorities (2012) published by DoECLG in relation to control of development on/affecting national roads. The Planning Authority also raise concerns in relation to the suitability of the proposed internal traffic circulation regime, specifically rigid movements due to potentially restricted vehicle

manoeuvrability within the site, and the impact of lighting from the proposed development on the N67.

7.4.2. I note that TII have also raised concerns in their observation to the Planning Authority, specifically that the proposal would result in the intensification of an existing direct access to a national road, contrary to official policy in relation to control of frontage development on national roads; that the proposal would endanger public safety arising from the extra traffic generated by the proposal; and that proximity of the proposed entrance serving the proposed development to the junction of the Bog Road/N67 presents a safety hazard to vehicles exiting from the N67 onto the Bog Road. Traffic safety concerns are also raised in the observations which have been submitted in respect of the appeal, including at the junction between Bog Road and the N67.

7.4.3. The proposed development includes the provision of a vehicular access onto Bog Road c. 40 metres west of the junction between Bog Road and the N67. National policy in relation to national roads is set out at paragraph 2.5 of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012). The Guidelines state that *'in respect of lands adjoining National Roads within 50 kmh speed limits, access to national roads will be considered by planning authorities in accordance with normal road safety, traffic management and urban design criteria for built up areas'*. Paragraph 2.7 notes that Planning Authorities must exercise particular care in their assessment of development proposals at or close to interchanges where such development could generate significant additional traffic with potential to impact on the national road. The Planning Authority consider that the proposal is contrary to Policy Objective NR1 of the Galway County Development Plan 2022 – 2028. This policy objective states *'protect the strategic transport function of national roads and associated national road junctions, including motorways through the implementation of the 'Spatial Planning and National Roads Guidelines for Planning Authorities' DECLG, (2012) and the Trans-European Networks (TEN-T) Regulations'*. The appeal site is located within a settlement and I note that Circular PL17/2013 states that the Design Manual for Urban Roads and Street (DMURS) is mandatory for all Local Authorities with effect from the date of the Circular for all urban roads and streets within the 60kmph urban speed limit zone. I am therefore satisfied that Policy Objective NR1 is not applicable in this instance, with DMURS being the applicable policy.



Furthermore, noting the scale of the proposal and its location on zoned land within a settlement, I am satisfied that the proposal accords with national policy, specifically paragraph 2.7 Spatial Planning and National Roads Guidelines for Planning Authorities' DECLG, (2012) which requires the exercise of care in respect of proposals at or close to interchanges where such development could generate significant additional traffic with potential to impact on the national road.

- 7.4.4. Policy Objective NR3 requires that applications for significant development which have potential to impact the national road network be accompanied by a Traffic and Transport Assessment (TTA) and a Road Safety Audit (RSA). Noting the scale of the proposal, which is for 14 no. residential units, and the location of the appeal site on zoned lands within a settlement, I do not consider that the submission of a TTA or a RSA would be warranted.
- 7.4.5. In relation to the suitability of the proposed internal traffic circulation regime, and specifically rigid movements within the site, minor changes have been made to the bin and bicycle store and the disabled parking space to provide sufficient manoeuvrability within the site. The applicant has submitted a swept path analysis indicating HGV movements within the site. Having reviewed the swept path drawing I am satisfied that rigid movements can be adequately accommodated within the site. Observations to the appeal note that problem 3.3 of the RSA submitted with the application notes that the reservation for the Galway to Athlone Cycleway may impact the manoeuvrability of refuse vehicles. *Drawing no. 23109-111* submitted with the appeal indicates turning for refuse vehicles with the inclusion of the corridor/set-back for the Galway to Athlone Cycleway. I am therefore satisfied that the proposal provides an adequate turning area for refuse vehicles whilst taking account of/making provision for the Galway to Athlone Cycleway.
- 7.4.6. Concerns are expressed by the TII and also the Planning Authority in relation to the impact of lighting from the proposed development on the N67. I note that the applicant has submitted a lighting report with the planning application which indicates horizontal illuminance. The report indicates a LUX level of 3 at the western boundary of the appeal site adjacent to the N67. I also note that the proposed building will be located in excess of 20 metres from the N67. On balance, having regard to the nature of the

proposal and the lighting plan submitted I do not consider that the proposal would give rise to significant light spill to the N67, affecting traffic safety.

- 7.4.7. In summation, noting the scale of the proposal, the location of the appeal site within the settlement of Oranmore, the zoning of the appeal site (i.e. Existing Residential) and given that the proposal does not entail a direct access onto the N67, a refusal of permission on the grounds of impacts on the N67 or traffic safety would not be warranted in this instance.

#### **7.5. Refusal Reason 4 (Impact on Visual and Residential Amenity)**

- 7.5.1. The fourth refusal reason concerns impact of the proposal the visual and residential amenities of the area. The concerns of the Planning Authority relate to the density, layout, bulk and massing of the proposal, which the Planning Authority consider would negatively impact the visual and residential amenities of the area. The Planning Authority also contend that the apartment building is incongruous at this location and results in a poor quality layout with insufficient and overlooked communal open space.
- 7.5.2. Density - SPPR 4 of the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, provides that it is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure, inter alia, the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines. I note that the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) replaced the Sustainable Residential Development in Urban Areas (2007) and therefore are the applicable guidelines in respect of density. Regarding density/scale, the applicants contend that based on a site area/developable site of 0.29 ha (i.e. when the public area along Bog Road is discounted) the resultant density of the proposal is 48 dpha. I concur with the applicant’s position regarding the exclusion of the part of the site comprising the public road. The Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) provides guidance in respect of the density of residential development at different locations/scales. Oranmore is within the Galway

Metropolitan Area. Table 3.3 (Area and Density Ranges - Metropolitan Towns and Villages) provides three density ranges. In my opinion, the appeal site within Oranmore would fall under the category of 'Metropolitan Towns (>1,500 population) – Suburban/Urban Extension' the description of which includes '*low density car orientated residential areas constructed at the edge of the town*'. It is a policy and objective of these Guidelines that residential densities in the range 35 dph to 50 dph (net) shall generally be applied at suburban and edge locations of Metropolitan Towns. Having regard to the forgoing I consider that the proposed development accords with the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024) in respect of density, and that the scale/density of the proposal is therefore appropriate to this location.

7.5.3. Visual Amenity/Integration – the appeal site is located within an 'Urban Environs Landscape' for the purpose of landscape type, which is described as having a 'low' sensitivity to change. Urban Environs are noted in the Landscape Character Assessment, an accompanying document to the Development Plan, as occurring around settlements, often comprising concentrations of individual dwellings, and around larger towns consisting of modern housing estates, recreation facilities, commercial, industrial and educational buildings, with a complex mix of forms and scales. Development in the vicinity comprising mainly two storey buildings. I note that SPPR 4 of the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018, provides that it is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure a greater mix of building heights and typologies in planning for the future development of suburban locations. In terms of the suitability of the site to accommodate apartment development, I note that the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) provides that Intermediate Urban Locations<sup>5</sup>, are generally suitable for smaller-scale, higher density development that may wholly comprise apartments (broadly >45 dwellings per hectare net). The proposed development comprises a single 2.5 storey block, with a maximum height of c. 10.5 metres. The proposal employs a number of design measures which assist with the integration of

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<sup>5</sup> Which includes within reasonable walking distance (i.e. up to 10 minutes or 800-1,000m), of suburban centres.

the proposal at this location. The pattern of fenestration, modulation of the block and recessing of the façade and roof/eaves allows for the massing of the building to be broken up. The building is of a traditional design idiom, and includes a palette of materials including render, stone and a dark roof which are common to the area. The design of the proposal also provides active street frontage to Bog Road which will add a degree of visual interest to the area. In my opinion the building typology proposed is cognisant of the context and character of the site, and would not be incongruous with adjacent area, or with the applicable landscape character. Furthermore, noting the scale and design of the proposed development I do not consider that the proposal would detract from the Galway Bay Scenic Route, which is adjacent to the appeal site. I note that the appeal site is zoned 'Existing Residential', is located within the MASP area, which is envisaged as supporting the strategic growth of settlements, including Oranmore, and as such a building of the scale proposed, comprising apartments would not be inappropriate in this context.

- 7.5.4. Residential Amenity – the observations to the appeal raise concerns in respect of overlooking. Noting the separation distance between the above ground windows and balconies serving the proposal and the adjacent dwellings within Clochóg, in excess of 22 metres, and the separation distance between the rear wall of the proposed apartment block and the rear site boundary, at c. 15 metres, I am satisfied that the proposed development would not result in any undue overlooking of adjacent property. Whilst not raised in refusal reason no. 4, the report of the Planning Officer notes concerns in respect of potential overshadowing. Having regard to the scale/height and orientation of the proposed block relative to adjacent property, and the separation distances concerned, I do not anticipate that the proposal would give rise to significant overshadowing of property in the vicinity.
- 7.5.5. Refusal reason no. 4 also refers to the communal open space within the scheme being insufficient and overlooked. Having reviewed the proposed layout of the development, I consider that the provision of communal open space to the rear of the proposed block is of a sufficient quantum (at 900 sqm/31% of the site area, significantly in excess of that required under the Aptment Guidelines based on the unit number/typology proposed within the scheme) and appropriately configured, and in my opinion it would serve as a high quality amenity space. The area of open space is overlooked by the

units within the scheme which in my opinion is appropriate from the perspective of security and surveillance.

- 7.5.6. The fourth refusal reason states that the proposed development, if permitted, would contravene materially policy objectives PM 1 (re. the provision of high quality built environment) and PM 10 (re. design quality), UL2 (re. layout and design) and UL5 (re. open space), DM Standard 1 (re. qualitative assessment-design quality) and DM Standard 2 (re. multiple housing schemes) of the Galway County Development Plan 2022-2028. I note that DM Standard 1 and 2 both include extensive requirements/provisions and it is not clear what specific aspects of these objectives the Planning Authority consider the proposal not to comply with. I do not consider that the proposed development, if permitted, would contravene materially the aforementioned Policy Objectives having regard to my assessment set out above, and I submit to the Board that should they grant permission for the proposed development it is not constrained by the Section 37 (2) (b) of the Planning and Development Act, 2000, as amended.

**7.6. Refusal Reason 5 (Appropriate Assessment)**

- 7.6.1. See paragraph 7.9 below.

**7.7. Refusal Reason 6 (Impact of Noise from N67 on proposal)**

- 7.7.1. Refusal reason no.6 concerns the potential noise impact from the N67 on the future residents of the proposed development. The Planning Authority state that the proposal would be contrary to Policy Objectives NP1 (which seeks the implementation of the Galway County Council Noise Action Plan 2019-2023); NP2 (which requires that where new developments are proposed within the noise limits of the noise maps for the designated sections of roads in the County, appropriate mitigation measures are undertaken so as to prevent harmful effects from environmental noise); NP5 (which requires activities likely to give rise to excessive noise to install noise mitigation measures and monitors); and DM Standard 29 (which provides that a setback of buildings is required in the interests of residential amenity, rural amenity, public safety and to allow for any future road widening or realignment. DM Standard 29 provides that in general, 'the following minimum building lines are necessary for the various

routes', and in respect of National Primary and Secondary Routes, DM Standard 29 requires a setback of 35 metres from the existing or proposed realigned carriageway surface edge).

- 7.7.2. Policy Objectives NP1 requires the implementation of the Galway County Council Noise Action Plan 2019-2023 (and any subsequent Plan). I note that the Galway County Council, as the designated Noise Authority, published a new 'Noise Action Plan 2024 – 2028' in November 2024. The N67 is included within the Noise Action Plan based on the level of traffic using the road. Section 10.3 refers to measures which can be used for the management of noise impact on future developments within the Action Planning Area, including implementing building line set-backs from National roads, and acoustical planning measures in the layout of developments such as locating access roads, green areas and landscaping between residential development and major roads. The proposed development includes bin and bicycle storage and a strip of open space between the proposed building and the N67, as advocated in the Noise Action Plan. I also note the orientation of the proposed building, and specifically that bedrooms, living accommodation and private amenity spaces are orientated on a south-west/north-east axis and do not face the N67. A 1.8 metre high block wall is proposed along the south-eastern boundary of the site which will also mitigate noise impacts from the N67.
- 7.7.3. Objective NP2 requires the incorporation of mitigation measures to address the impact from road noise on developments. The applicant's appeal submission states that should the Board consider appropriate to use triple glazing in the apartment building could be used to address potential noise impacts from the N67. In my opinion this proposal is reasonable and should the Board be minded to grant permission for the proposed development a condition requiring same may be attached.
- 7.7.4. I note that Objective NP5 requires that activities likely to give rise to excessive noise install noise mitigation measures. The Planning Authority have in my opinion erred in seeking to apply this objective to the proposal. Noting the nature of the proposed development I do not consider that this objective is applicable in the assessment of the proposed development.

7.7.5. DM Standard 29 provides that a 35 metre set-back from National Primary and Secondary Routes is required, however I note that this objective is prefaced by the words 'in general'. The proposed apartment building will be located in excess of 20 metres from the edge of the carriage of the N67. In my opinion this set-back is sufficient to address any issues which would arise in the context of residential amenity, public safety and any future road widening or realignment. I note that the issue of the established building line is raised in observations to the appeal. These concerns appear to relate to the building line along Bog Road as distinct to the set-back from the N67. The proposal generally reflects the building line established by the row of dwellings to the north-west and I am satisfied that the proposal does not breach any building line at this location.

7.7.6. Having regard to the above I consider that the proposed development accords with Policy Objectives NP1, NP2 and NP5, and DM Standard 29 of the Galway County Development Plan 2022 – 2028, and that noise from the N67 would not have a significant adverse impact on the residential amenity of the future residents of the proposed development.

## 7.8. **Issues Arising**

7.8.1. Ownership – from reviewing the submissions made to the Planning Authority in respect of the initial application I note that a third party (developer of Clochóg estate) claims that the area in question is within their ownership, and that the area serves as access to No. 14 Clochóg. An extract of a site layout plan was submitted indicating the area concerned within the red line boundary of the site associated with the Clochóg development. I note however that no Folio details etc. were submitted in respect of this. I also note that observations made in respect of the appeal refer to a strip of land adjacent to the N67 which is not within the applicant's ownership but which is included within the proposal, and the observations also refer the erection of fencing at this location without the permission of the owner. In the absence of any evidence to support the contention, set out in the submission to the Planning Authority in respect of the initial application and in the observations to the Board, that part of the site is within the ownership of a third party I am satisfied that the applicant has a sufficient legal interest in the application site. I note that paragraph 5.13 of the Development Management,

Guidelines for Planning Authorities, 2007 addresses issues relating to the title of land and provides that *‘the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not be entitled solely by reason of a permission to carry out any development.’*

- 7.8.2. Demolition – the observers to the appeal note that a dwelling, which was formally a Protected Structure, occupied the site and was demolished without permission. I note that the development description contained in the public notices associated with the current application, which is the subject of this appeal, does not include reference to the demolition of any structure on the site and as such is outside the scope of this appeal. Additionally, I note that enforcement is a function of the Planning Authority, and not An Bord Pleanála.
- 7.8.3. Waste Water Capacity – observations to the appeal note that there is insufficient capacity in the sewer network in Oranmore to cater for the proposal. Whilst I note that Table 7.10 ‘Indicative Infrastructure Capacity for Core Strategy Settlements’ in the Galway County Development Plan 2022 – 2028 notes limited capacity in Oranmore I note that Uisce Éireann have issued a confirmation of feasibility in respect of the applicant’s proposal to connect into the foul network, and whilst the proposal requires a 50 metre network extension no issues in respect of capacity were raised by Uisce Éireann. I am satisfied that that there is sufficient capacity in the foul sewer network within Oranmore to cater for the proposed development.
- 7.8.4. Car Parking – observations made in respect of the appeal raise concerns in relation to the quantum of car parking to serve the proposal, the potential overspill of car parking into adjoining areas, and the potential for the loss of car parking to cater for the Galway to Athlone Cycleway. The proposal provided 19 no. car parking spaces (inc. 1 no. disabled space). I note that DM Standard 31 of the Galway County Department Plan 2022 – 2028 provides car parking standards for houses and apartments (1-3 bedrooms) of 1.5 spaces per unit. I note that the car parking standards are maximums and not minimum requirements. Furthermore, DM Standard 31 states that, in relation to infill sites and sites adjacent to public transport corridors or civic



parking facility, a flexible application of standards will be considered. I also note paragraph 4.23 of the Apartment Guidelines which provides that *‘in suburban/urban locations served by public transport or close to town centres or employment areas and particularly for housing schemes with more than 45 dwellings per hectare net (18 per acre), planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum car parking standard’*. On the basis of the infill nature of the site, its location in proximity to the centre of Oranmore, and the car parking provided, I am satisfied that the proposal accords with DM Standard 31 of the Galway County Department Plan 2022 – 2028, and the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023). Regarding the potential for car parking from the proposal to ‘spill over’ into adjacent areas, noting the provision of car parking provided within the site and the number of units within the scheme, I do not anticipate that residents from the proposal would resort to parking outside the site.

- 7.8.5. Institutional Investment - the Section 28 Guidelines, Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities (2021), issued by the Department of Housing, Local Government and Housing, applies to developments comprising 5 or more houses or duplex units. Having regard to the Section 28 Guidelines in respect of ‘Commercial Institutional Investment in Housing’, I consider that the development, comprising/including 5 or more own-door units and falling within the definition of structure to be used as a dwelling to which these guidelines applies, should include a condition to restrict the first occupation of these units as outlined by the Guidelines. In the event that the Board are minded to grant permission for the proposed development I recommend that ‘Condition RCIIH1’ as per the wording provided in the Guidelines is used as it enables the developer to carry out any enabling or preparatory site works, unlike condition RCIIH2, and as the effect in respect of the residential component is the same.

## 7.9. Appropriate Assessment

### 7.9.1. Stage 1 Screening

- 7.9.2. 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.

7.9.3. Background. The applicant submitted an revised Appropriate Assessment Screening report and revised Natura Impact Statement (NIS) for the proposed development<sup>6</sup> with the appeal. 11 no. European sites were examined in the Stage 1 Appropriate Assessment Screening report. Following this screening exercise, 2 no. European sites were identified on the basis of there being potential for polluted run-off reaching Galway Bay Complex SAC and Inner Galway Bay SPA during both the construction and operation phase of the proposed development.

7.9.4. The applicant's Stage 1 Appropriate Assessment Screening report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. Having reviewed the document, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

7.9.5. Supplementary Reports/Studies.

A Preliminary Construction and Environmental Waste Management Plan was submitted with the application. The pCEWMP addresses environmental protection and waste management and sets out environmental control measures, including measures

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<sup>6</sup> The Appropriate Assessment Screening report and NIS submitted with the appeal relates to the revised proposal, i.e. incorporating the revised sewer route which will run under the Carrowmoneash River and connect to a manhole on Bog Road. The documentation submitted with the appeal notes that "the proposed sewer connection involves the installation of a ductile iron gravity sewer with horizontal directional drilling which is suitable for crossing under watercourses without recourse to an open trench and without disrupting the existing watercourse. The proposal for Horizontal directional drilling is also consistent with Inland Fisheries Ireland (2016) guidelines which states '*In the case of pipeline crossings under fisheries waters, the preferred method is by way of trenchless crossings using techniques such as horizontal directional drilling, auger boring or micro-tunnelling*'.

for air quality, dust and emissions; water contamination; drainage and water quality; refuelling; noise; and protection of biodiversity.

A Site Specific Flood Risk Assessment (SSFRA) was submitted with the application. The SSFRA concludes that the risk of groundwater and pluvial flooding was remote, and that the risk of fluvial flood risk to the site is low. The SSFRA noted that the risk of coastal flooding via the Cloonarkin Marsh is deemed moderate, however most of the site lies outside predicted flood extents, with most of the site above 4.56 metres (OD Malin) which is the mid-future 0.1% AEP costal flood. The SSFRA notes that the finished floor level of the proposal is 5.3 metres (OD Malin) and therefore has ample freeboard even in the event of the high-end future scenario (i.e. 5.11 metres OD Malin). At the time of writing this report I note that the flood maps for the settlement of Oranmore are under review on Floodinfo.ie. I note that flood risk was not raised in the reasons for refusal or in the observations and I am satisfied that the issue of flood risk on the site does not require further assessment.

7.9.6. 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.

7.9.7. The Proposed Development. The development comprises permission for;

- Construction of 14 no. residential units.
- Car parking.
- Public open space.
- SuDS measures.
- Connection to existing public sewer, including a 50 metre network extension (revised sewer route proposed at appeal stage will run under the Carrowmoneash River and connect to a manhole on Bog Road).
- Site development works.

The proposed development is expected to take 1-3 no. years to complete.

7.9.8. 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, generated by the proposal during the construction stage, to ground water and surface water (e.g. run-off, silt, fuel, oils, concrete etc.) and subsequent impacts on water quality sensitive habitats of Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031), including from the provision of a sewer connection under the Carrowmoneash River.
- Potential for the release of contaminated surface water, generated by the proposal at operational stage, and subsequent impacts on water quality sensitive habitats of Galway Bay Complex SAC (Site Code 000268) and Inner Galway Bay SPA (Site Code 004031).
- Potential release of foul effluent generated by the proposal on water quality sensitive habitats of Galway Bay Complex SAC (Site Code 000268) and 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).

7.9.9. Submissions and Observations. A submission made to the Planning Authority raises concerns that the proposal would result in the release of untreated effluent to Galway Bay SAC.

7.9.10. 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. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail. I note that the applicant included a

greater number of European sites in their initial screening consideration with sites within 15km of the development site considered. There is no ecological justification for such a wide consideration of sites, and I have only included those sites with any possible ecological connection or pathway in this screening determination. I am satisfied that other European sites proximate to the appeal site can be 'screened out' on the basis that significant impacts on such European sites could be ruled out, either as a result of the separation distance from the appeal site or given the absence of any direct hydrological or other pathway to the appeal site.

**Table 7.1 - Summary Table of European Sites within a possible zone of influence of the proposed development.**

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening  Y/N
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> <li>• Atlantic salt meadows (<i>Glaucopuccinellietalia maritimae</i>) [1330]</li> <li>• Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</li> <li>• Turloughs [3180]</li> <li>• <i>Juniperus communis</i> formations on heaths or calcareous grasslands [5130]</li> <li>• Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210]</li> <li>• Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</li> </ul>	At the closest point, the site of the proposed residential development is c. 80 metres south-west of Galway Bay Complex SAC.	Noting the proximity of the proposed development to Galway Bay Complex SAC, a likelihood of significant effects exists.  Additionally, noting the routing of the proposed foul sewer under the nearby Carrowmoneash River, which connects to Galway Bay Complex SAC, a likelihood of significant effects exists.	Y

	<ul style="list-style-type: none"> <li>• Alkaline fens [7230]</li> <li>• Limestone pavements [8240]</li> <li>• Lutra lutra (Otter) [1355]</li> <li>• Phoca vitulina (Harbour Seal) [1365]</li> </ul>			
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> <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>	c. 0.9 km north-west of appeal site.	Noting the proximity of the proposed development to Inner Galway Bay SPA, a likelihood of significant effects exists. Additionally, noting the routing of the proposed foul sewer under the Carrowmoneash River, which connects to Inner Galway Bay SPA, a likelihood of significant effects exists.	Y

7.9.11. Following an examination of sites within the zone of influence, and upon an examination of the connectivity between the appeal site and these sites (see Table 7.1

above), Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 004031) have been screened in having regard to the proximity of the proposal to both European sites, and the proposal to cross under Carrowmoneash River, which connects to Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 004031), in order to connect to the foul sewer network/manhole on Bog Road.

7.9.12. Conservation Objectives of European Sites 'Screened-In'. There is no Conservation Management Plan for Galway Bay Complex SAC. The Conservation Objectives for **Galway Bay Complex SAC** can be found at <https://www.npws.ie/protected-sites/sac/000268>. There is no Conservation Management Plan for Inner Galway Bay SPA. The Conservation Objectives for **Inner Galway Bay SPA** can be found at <https://www.npws.ie/protected-sites/spa/004031>.

7.9.13. Identification of Likely Effects. In light of 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 - during the construction phase, there is potential for surface water run-off from site works to temporarily discharge into the SAC via the surface water and ground water. Construction works associated with crossing under the Carrowmoneash River could also potentially result in the discharge of contaminants into the Carrowmoneash River, which in turn connects to the SAC. There is the potential for the water quality pertinent to this European Site 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 Galway Bay Complex SAC - during the operational phase the applicant proposes to discharge effluent to the public sewer. Sustainable Urban Drainage (SuDs) measures are incorporated into the proposed development. Surface water from impermeable areas within the proposed development will discharge to an attenuation area via a petrol/oil interceptor. No impacts are anticipated in this regard. The Appropriate Assessment Screening report notes that in the absence of best practice measures to support the performance of the foul sewer connection, significant impacts on the SAC cannot be ruled out.

In the absence of mitigation, the proposed development has the potential to result in negative impacts on Galway Bay Complex SAC. I consider that such impacts could be significant in terms of the stated conservation objectives of Galway Bay Complex SAC.

Construction Phase Impacts on Inner Galway Bay SPA - during the construction phase, there is potential for surface water run-off from site works to temporarily discharge to groundwater and surface water and flow into the Carrowmoneash River, which in turn connects to Inner Galway Bay SPA. The proposal will entail construction works, specifically crossing under the Carrowmoneash River, to facilitate the connection into the existing foul sewer network. There is the potential for the water quality pertinent to this European Site to be negatively affected by any contaminants, such as silt and construction activities and also from the release of hydrocarbons. The grassland habitat within the site may represent suitable supporting habitat for bird species associated with Inner Galway Bay SPA and the potential for ex-situ effects (disturbance/displacement) therefore exists.

Operational Phase Impacts on Inner Galway Bay SPA - during the operational phase the applicant proposes to discharge effluent to the public sewer. Sustainable Urban Drainage (SuDs) measures are incorporated into the proposed development. Surface water from impermeable areas within the proposed development will discharge to an attenuation area via a petrol/oil interceptor. No impacts are anticipated in this regard. The Appropriate Assessment Screening report notes that in the absence of best practice measures to support the performance of the foul sewer connection, significant impacts on the SPA cannot be ruled out. The grassland habitat within the site may represent suitable supporting habitat for bird species associated with Inner Galway Bay SPA and the potential for ex-situ effects (disturbance/displacement) therefore exists.

In the absence of mitigation, the proposed development has the potential to result in negative impacts on Inner Galway Bay SPA. I consider that such impacts could be significant in terms of the stated conservation objectives of Inner Galway Bay SPA.

In-combination Impacts. Recent planning applications where permission has been granted and plans have been examined in the applicant's Appropriate Assessment Screening.



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))	At the closest point, the site of the proposed residential development is c. 80 metres south-west of Galway Bay Complex SAC.	<p>During the construction phase there is potential for surface water runoff from site works to temporarily discharge to ground and surface water and reach the SAC. Additionally, construction works associated with connecting into the existing foul sewer network, specifically crossing under the Carrowmoneash River, gives rise to the potential for silt and contaminants to enter the Carrowmoneash River which in turn connects to the SAC.</p> <p>The Appropriate Assessment Screening report notes that, at operational phase, in the absence of best practice measures to support the performance of the foul sewer connection, significant impacts on the SAC cannot be ruled out.</p>	No effect	Screened in for AA

Inner Galway Bay SPA (Site Code: 004031)	c. 0.9 km north-west of appeal site.	<p>During the construction phase there is potential for surface water runoff from site works to temporarily discharge to ground and surface water and reach the SPA via the Carrowmoneash River which connects to the SPA. Additionally, construction works associated with connecting into the existing foul sewer network, specifically crossing under the Carrowmoneash River, gives rise to the potential for silt and contaminants to enter the stream which in turn connects to the SPA.</p> <p>The Appropriate Assessment Screening report notes that, at operational phase, in the absence of best practice measures to support the performance of the foul sewer connection, significant impacts on the SPA cannot be ruled out.</p> <p>The grassland habitat within the site may represent suitable supporting habitat for bird species associated with Inner Galway Bay SPA, with the potential for ex-situ effects (disturbance/displacement) during construction and</p>	No effect.	Screened <b>in</b> for AA.
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		operational phases of the proposed development.		
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7.9.14. 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.

7.9.15. Screening Determination. 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 **could have a significant effect** on Galway Bay Complex SAC<sup>7</sup> and Inner Galway Bay SPA<sup>8</sup> in view of the Conservation Objectives of the site, and Appropriate Assessment is therefore required.

#### 7.9.16. **Stage 2 – Appropriate Assessment**

7.9.17. Article 6(3). The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act, 2000, as amended, are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for appropriate assessment.
- The Natura Impact Statement and associated documents.

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<sup>7</sup> The Appropriate Assessment Screening report submitted by the applicant notes that the proposed development will have no direct or indirect impacts on the following QI of Galway Bay Complex SAC;

- Turloughs [3180]
- Juniperus communis formations on heaths or calcareous grasslands [5130]
- Semi-natural dry grasslands and scrubland facies on calcareous substrates (Fastuco Brometalia) important orchid sites [6210]
- Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]
- Alkaline fens [7230]

<sup>8</sup> The Appropriate Assessment Screening report notes that indirect impacts cannot be ruled out for all SCI of Inner Galway Bay SPA.

- Appropriate assessment of implications of the proposed development on the integrity each European site.

7.9.18 Compliance with Article 6(3) of the EU Habitats Directive. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

7.9.19 Screening The Need for Appropriate Assessment. Following the screening process, it has been determined that Appropriate Assessment is required as it cannot be excluded on the basis of objective information that the proposed development, individually or in-combination with other plans or projects, will not have a significant effect on the following European Site:

- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031)

The possibility of significant effects on other European sites has been excluded on the basis of objective information and noting that there is no possible ecological connection or pathway between the appeal site and other Natura 2000 sites surrounding the proposed development. Measures intended to reduce or avoid significant effects have not been considered in the screening process.

7.9.20. The Natura Impact Statement. A NIS, prepared by Enviroplan Consulting Limited, examines and assesses potential adverse effects of the proposed development on Galway Bay Complex SAC and Inner Galway Bay SPA. A walkover survey of the site was undertaken by an ecologist on the 3<sup>rd</sup> of October 2023. No QI of Galway Bay Complex SAC or Inner Galway Bay SPA were recorded on the site. Habitats on the site were identified as comprising *Stone Walls* (BL1), *Amenity Grassland* (GA2) and *Scrub* (WS1). The Carrowmoneash River is situated c. 75 metres north-west of the

appeal site. The NIS notes that there are no direct identifiable hydrological/ecological connections/receptors between the application site and Galway Bay Complex SAC. The NIS identifies the main potential impact from the proposed development as being the potential for polluted/contaminated run-off from the site to enter Galway Bay Complex SAC and Inner Galway Bay SPA (via the Carrowmoneash River) during the construction and operational phase of the proposed development, affecting aquatic dependent QI and SCI. The NIS notes that disturbance to QI bird species associated with Inner Galway Bay SPA is not predicted during the construction or operational phase of the proposal due to the distance to Inner Galway Bay SPA and also notes the lack of suitable habitat on the site.

7.9.21. The NIS refers to mitigation measures which will be adhered to. Measures for the construction and operational phase of the proposed development and are set out in Section 6 of the NIS and include;

#### Construction Phase –

##### Site Set Up

- Erection of a solid fence around the perimeter of the site prior to the commencement of construction works. All works shall be located within the confines of the fence.
- Erection of a silt fence prior to any construction or groundworks on site, along the north/north-east boundary (along Bog Road) of the site. The silt fence will remain in place for the construction phase. The existing solid stone wall around the remainder of the site will act as a boundary between the rest of the site and the Natura 2000 sites.
- Installation of a wheel wash at the entrance/exit of the site for the entirety of the construction phase.

##### Earthworks

- Soil excavations, soil depositing or soil stripping shall not take place immediately following periods of heavy or prolonged rainfall.
- Storage of stockpile on level terrain and covering during heavy rainfall periods.

- Ensure infill is free of invasive species.
- Removal of any invasive species identified by specialist.

#### Air Quality Dust and Emissions

- Dust and mal odours shall be kept to a minimum.
- Dampening down of site to minimise windblown dust.
- Use of dust suppression equipment.

#### Refueling, fuel and hazardous materials storage

- All machinery maintenance and re-fueling shall be carried out off-site. Re-fueling of machinery and/or storage of fuel will be away from riverside. Fuel shall be stored in a secure bunded location. Use of spill kits for contaminants.
- Bunding of all petroleum products.

#### Groundwater Contamination

- Prohibition of direct discharges of pollutants into groundwater.
- Use of drip trays for all machinery and monitoring to ensure no risk of overflowing.
- Site storage will be on an impervious base within a secondary containment system such as a bund.
- No concrete or cleaning water should enter soil or the adjacent waterway.

#### Drainage and Water Quality

- Wash water from on-site mixers or lorries shall be disposed of appropriately off site.
- Contractor should ensure that operations do not give rise to the discharge of large quantities of dirty water into the watercourses. Measures must be in place to ensure that silt will not be allowed to enter the water system.
- Water from excavations shall be pumped to land and allowed to settle, or passed through silt traps, before returning into the watercourse.
- Good site management will ensure that surface water and groundwater will be protected from accidental contamination.

- Washing out of concrete trucks should not be permitted within the site and should be conducted in hard standing areas.
- Concrete pours shall occur in contained areas.

Protection of buried services and existing watercourse (Carrowmoneash River)

- During the entirety of the construction phase of development care shall be taken to protect the proposed and existing foul sewer network.
- Pipe protection covers shall be placed around the proposed foul sewer pipe to ensure no damage is caused from construction work activities.
- No construction works on the proposed or existing foul sewer shall take place during yellow, orange, or red rain weather warnings.
- To protect the existing stream (Carrowmoneash River), a ductile iron gravity sewer shall be installed with horizontal directional drilling which is suitable for crossing under watercourses without recourse to an open trench and without disrupting the existing watercourse. Horizontal directional drilling also helps to protect the integrity of the existing watercourse as it reduces soil disturbance, significant vibrations, and contamination of water due to no excavation works.
- There will be no construction works taking place on the riverbank to avoid disturbance on the Carrowmoneash River.
- Suitable mitigation should be installed along the riverbank, e.g. a silt trap (slightly set back from bank and associated vegetation) to prevent surface water run-off/sedimentation entering the river.
- There will be no direct discharges to the Carrowmoneash River.

Operational Phase -

Protection of buried services and existing watercourse (Carrowmoneash River)

- The sewer pipe shall have watertight joints to prevent infiltration of flood waters. Solvent welded joints and waterproof gaskets/seals are recommended
- All pipe connections shall be tested after installation to verify integrity.

- The sewer trench shall be backfilled with compacted cohesive fill to prevent preferential flows along the pipe.
- Non-return valves or shall be installed on connections from the development to prevent surcharging.
- Manhole covers shall be watertight.
- To protect the Carrowmoneash River, a ductile iron gravity sewer shall be installed with horizontal directional drilling which is suitable for crossing under watercourses without recourse to an open trench and without disrupting the watercourse.

7.9.22 The NIS concludes that with the implementation of the mitigation measures, it is not expected that the proposed development will give rise to any direct, indirect, or secondary impacts on Galway Bay Complex SAC or Inner Galway Bay SPA.

7.9.23 Having reviewed the documents, submissions and consultations, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation objectives of the following European sites alone, or in combination with other plans and projects:

- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031)

The applicant's NIS was prepared in line with current best practice guidance and provides an assessment of the potential impacts on Galway Bay Complex SAC and Inner Galway Bay SPA.

7.9.24 Appropriate Assessment of implications of the proposed development. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. 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.

7.9.25 The following sites are subject to Appropriate Assessment:

- Galway Bay Complex SAC (Site Code: 000268)
- Inner Galway Bay SPA (Site Code: 004031)



A description of the sites and their Conservation and Special Conservation Interests are set out in Table 7.1 of this report. I have also examined the Natura 2000 data forms as relevant and the Conservation Objectives supporting documents for these sites available through the NPWS website ([www.npws.ie](http://www.npws.ie)).

7.9.26 The main aspects of the proposed development that could adversely affect the conservation objectives of the European sites include;

- The potential for the water quality pertinent to Galway Bay Complex SAC and Inner Galway Bay SPA to be negatively affected during the construction phase of the proposed development, including from works associated with the crossing under the the Carrowmoneash River to facilitate the connection into the existing foul sewer network, from contaminants arising from site clearance and construction activities, including silt and hydrocarbons.
- The potential for the water quality pertinent to Galway Bay Complex SAC and Inner Galway Bay SPA to be negatively affected by contaminants including silt and hydrocarbons, during the operational phase of the proposed development.

7.9.27. Assessment of proposed Mitigation Measures.

The NIS outlines a number of mitigation measures. For the most part the mitigation measures are intended to avoid the release of contaminated run-off from the site, and to the Carrowmoneash River. I am satisfied that the measures are sufficient to address potential impacts from pollution during construction and operation phases of the proposed development and that the potential for deterioration of habitats and species identified within the European sites (Galway Bay Complex SAC and Inner Galway Bay SPA) are not likely. As address above at paragraph 7.2.2., the location where it is proposed to cross under the Carrowmoneash River and where silt fencing is to be erected is not within the red line boundary of the application site. However, this area is within the blue line boundary of the site, consent has been given by Galway County Council for the carrying out of the proposed works, and aside from the procedural issue in relation to the red line boundary and I note that the mitigation measures proposed at this location would be adequate to prevent contaminated run-off from entering the Carrowmoneash River. In respect of the treatment of effluent from the proposed development, as the location of the connection into the foul network is outside the red line boundary the development cannot be implemented as proposed and therefore no

potential for impacts exist from effluent given that the proposed development is contingent on connecting into the foul sewer network. Regards ex-situ effects, I am satisfied that the proposed development would not result in ex-situ effects on birds species associated with Inner Galway Bay SPA noting the unsuitability of the nature of the habitats within the appeal site, which do not represent favourable habitat for SCI of Inner Galway Bay SPA.

7.9.28.Integrity test. Following the appropriate assessment and the consideration of mitigation measures, I am able to ascertain with confidence that the project would not adversely affect the integrity of Galway Bay Complex SAC or Inner Galway Bay SPA in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

7.9.29.Appropriate Assessment Conclusion. The proposed development has been considered in light of the assessment requirements of Sections [177U and 177V] of the Planning and Development Act, 2000, as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Galway Bay Complex SAC and Inner Galway Bay SPA. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of these sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Galway Bay Complex SAC or Inner Galway Bay SPA, in view of the Conservation Objectives of these sites. 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 Galway Bay Complex SAC and Inner Galway Bay SPA.
- 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 Galway Bay Complex SAC.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of Inner Galway Bay SPA.

Refusal reason no. 5 of the Planning Authorities refusal states that the proposed development materially contravene Policy Objective NHB 1 (Natural Heritage and Biodiversity of Designated Sites, Habitats and Species) and DM Standard 50 (Environmental Assessments) of the Galway County Development Plan 2022-2028. Having regard to the Appropriate Assessment conclusion (above), specifically that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of Galway Bay Complex SAC or Inner Galway Bay SPA, in view of the Conservation Objectives of these sites, I do not consider that any material contravention of Policy Objective NHB 1 or DM Standard 50 of the Galway County Development Plan 2022-2028 would occur should permission be granted for the proposed development, as contended by the Planning Authority. Should the Board decide to permit the proposed development I submit to the Board that it is not constrained by the requirements of Section 37 2 (b).

## **8.0 Recommendation**

- 8.1. Having regard to the above it is recommended that permission should be refused for the reason set out below.

## **9.0 Reasons and Considerations**

1. Having regard to the location of the proposed connection into the foul sewer network on Bog Road (i.e. Manhole 'EX.FS.M.H.1') and the location where it is proposed to cross under the Carrowmoneash River, outside the red line boundary of the application site, the applicant has failed to demonstrate that the proposed development can connect into the existing foul sewer network. Furthermore, it is considered that the proposed development would be contrary to DM Standard 36 of the Galway County Development Plan 2022 – 2028, which requires that all new developments connect to the wastewater network, and would be prejudicial to public health. Accordingly, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought

to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Ian Campbell  
Senior Planning Inspector

26<sup>th</sup> March 2025

## Appendix 1 - Form 1

### EIA Pre-Screening

<b>An Bord Pleanála</b>	ABP-319509-24		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Construction of 14 units and all associated site works.		
<b>Development Address</b>	Bog Road, Oranmore, Co. Galway		
<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>	X
		<b>No</b>	
<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)?</b>			
<b>Yes</b>	X	Class 10, (b), (i) (threshold is 500 dwelling units) Class 10, (b), (iv) (threshold is 10 Ha.)	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			
<b>No</b>	X		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10, (b), (i) (threshold is 500 dwelling units) – proposal is for 14 no. dwelling units.  Class 10, (b), (iv) (threshold is 10 Ha.) – site area is 0.325 ha.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: Ian Campbell

Date: 26<sup>th</sup> March 2025

## Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	ABP-319509-24
<b>Proposed Development Summary</b>	Construction of 14 units and all associated site works.
<b>Development Address</b>	Bog Road, Oranmore, Co. Galway
<p><b>The Board carried 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.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The proposed development comprises the construction of 14 no. duplex and apartment units. The site is located on a brownfield site within an urban area.</p> <p>The proposed development will not give rise to the production of significant waste, emissions or pollutants.</p>
<b>Location of development</b>	The development is located in an urban area on a brownfield site.

<p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The site is c. 80 metres from a European site. Following an Appropriate Assessment, it has been ascertained that the proposed development would not adversely affect the integrity of Galway Bay Complex SAC or Inner Galway Bay SPA, or any other European site, in view of the Conservation Objectives of these sites.</p> <p>The area is not of historic or cultural significance.</p> <p>The site is not at risk of flooding.</p> <p>Given the scale and nature of development there will be no significant environmental effects arising.</p>
<p><b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>During the construction phase noise, dust and vibration emissions are likely. However, any impacts would be local and temporary in nature and the implementation of standard construction practice measures would satisfactorily mitigate potential impacts.</p> <p>The pCEWMP contains measures to address accidental</p>



		discharge of pollutants to ground and surface waters.
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	<b>Yes</b>
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	<b>No</b>
There is a real likelihood of significant effects on the environment.	EIAR required.	<b>No</b>

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

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

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

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

(only where Schedule 7A information or EIAR required)