



An
Coimisiún
Pleanála

Inspector's Report ABP-320100-24

Development	Permission the demolition of structures and boundary walls and construction of hotel, together with all associated site works. Natura Impact Statement (NIS) submitted with application.
Location	Corner of Lough Atalia Road and Bóthar na Long, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	24/60108
Applicant	Summix BNM Developments Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant	Summix BNM Developments Limited
Observer	An Taisce
Date of Site Inspection	3 rd December 2024

Inspector

Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site is located at the corner of Lough Atalia Road (to the south-east) and Bóthar na Long (to the south-west). The appeal site is situated c. 300 metres south-east of Eyre Square, within the docklands area of Galway City. Galway Ceannt Station is located to the north of the appeal site.
- 1.2. The appeal site, formally known as the Bord na Móna Coal Yard, comprises a long narrow site with a stated area of 0.2217 ha. Part of the appeal site, comprising the public footpath, is in the ownership of Galway City Council. There is a small structure on the site with an awning covering a storage area. The appeal site is relatively flat and is surfaced.
- 1.3. The appeal site is bound on three sides by a high stone retaining wall. Part of the northern boundary of the site is shared with Forthill Cemetery, a Protected Structure. The appeal site is situated to the immediate south of Forthill Cemetery. Levels within the cemetery are elevated, by c. 4 metres, relative to the appeal site.
- 1.4. The recently constructed Bonham Quay mixed use development, comprising 4 no. 7 - 8 storey buildings¹, is located to the east of the appeal site. To the north-west of the appeal site Queen Street Purpose Built Student Accommodation, a development comprising 2 no. 7 - 8 storey buildings is currently under construction. To the north of the appeal site the Augustine Hill/Ceannt Station permitted development includes buildings ranging from 1 no. to 21 no. storeys².
- 1.5. A 3/4 storey hotel (The Harbour Hotel) is situated to the east of the appeal site, on the opposite side of Bóthar na Long. The docks/harbour is situated to the east of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development, as described in the development description contained in the public notices, comprises;

¹ The maximum height within this development is 33.3 metres/38 metres OD.

² The maximum permitted height within this development is 77.56 metres/82.6 metres OD.

- demolition of a vacant industrial structure (115 sqm); external canopy structure (170 sqm); and boundary walls along the southern, western and north-western boundaries of the site³.
- construction of a 15 storey hotel (including part mezzanine at ground floor level) providing 189 No. bedrooms (7,514 sqm), incorporating food and beverage areas.
- provision of a single storey service building to the north-west of the site, concealed as part of a tiered landscaped proposal comprising tiered steps, public seating and public art; restricted vehicle access off Lough Atalia Road to the ESB sub-station and switch room; service access off Bóthar na Long; bicycle parking; outdoor seating; solar panels; lift overrun; green roof; lighting; plant; signage; hard and soft landscaping; localised repair and rebuilding of the shared boundary wall with Forthill Cemetery to the north; and all other associated site works above and below ground.

2.2. The planning application was accompanied by the following;

- Planning Report
- Architectural Design Statement
- Screening for Appropriate Assessment
- Natura Impact Statement (NIS)
- Ecological Impact Assessment
- Preliminary Bat Roost Assessment
- Archaeological and Architectural Heritage Impact Assessment (AAHIA)
- Traffic & Transport Assessment Report (TTA)
- Operational Waste Management Plan
- Energy and Sustainability Statement
- Engineering Service Report (inc. Flood Risk Assessment)

³ The boundary wall with Forthill Cemetery is being retained, and it is proposed to carry out localised repair works to the wall.

- Construction and Environmental Management Plan (CEMP)
- Outline Construction Management Plan
- Public Lighting Planning Report
- Structural Engineering Report
- Schedule of Accommodation
- Townscape and Visual Impact Assessment
- Inner Harbour Framework Plan⁴
- Daylight and Sunlight Analysis
- Photomontages/Computer Generated Images (CGI's)

The following reports have been submitted with the appeal submission:

- Engineer's response to refusal reasons no. 5 and 6
- Townscape and Visual Impact Assessment, inc. CGI
- Traffic Consultant's response to refusal reason no. 4, inc. 3 no. drawings
- Bat report
- Conservation and Heritage report
- Email from ecologist

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to **REFUSE** permission on the 6th of June 2024 for 7 no. reasons, summarised as follows. I draw the Commission's attention to refusal reason no.'s 2, 5 and 7 which refer to material contravention.

1. The proposed development, by reason of its excessive density, scale and height on a constrained site, would represent overdevelopment, would be contrary to the maximum permitted plot ratio standard set out under Section

⁴ This Framework Plan was prepared by the applicant to accompany planning applications in the area and represents the applicant's analysis and vision for the area. This plan has no statutory basis.

11.4 of the Galway City Development Plan 2023-2029 for development on city centre zoned lands, and would not represent an exception to the plot ratio standards provided for in Section 10.6 and Section 8.8 of the Galway City Development Plan 2023-2029.

2. The proposed building, by virtue of its excessive height, scale and massing and proximity to Forthill Cemetery, would be overbearing on the setting of a protected structure and archaeological site, would contravene materially Policy 8.1(2) and Policy 8.4(2) of the Galway City Development Plan 2023-2029, would have a detrimental impact on the character and setting of this culturally important site and would be injurious to the amenities of the area.
3. The proposed development does not adhere to the principles of good urban design, as set out in Section 8.8 and 10.6 of Galway City Development Plan 2023-2029, and in this regard is considered to lack the capacity for integration with the existing urban form, contribute positively to street enclosure, and fails to sympathetically assimilate with Galway's townscape.
4. Having regard to the Road Safety Audit submitted, in relation to set-down/collection area(s) for bus and taxis and associated potential risk of collisions, the Planning Authority are not satisfied that the proposed development would not endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of the associated traffic generated.
5. In the absence of a licence to permit the discharge of contaminated surface water to the public combined sewer during the construction stage, the Planning Authority are not satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Galway Bay Complex Special Area of Conservation and on the Inner Galway Bay Special Protection Area, in view of the site's Conservation Objectives. The proposed development would materially contravene Policy Objectives 5.2 (1), (2) and (11) of the Galway City Development Plan 2023-2029.
6. In the absence of satisfactory details regarding surface water disposal on site, the development would contravene Policy 9.2 Water Quality and Policy 9.4

Sustainable Urban Drainage Systems of the Galway City Development Plan 2023-2029.

7. The Planning Authority is not satisfied, on the basis of the Bat Survey provided, that the proposed development would not lead to disturbance or destruction of roosting sites for bats. The proposed development would contravene materially policy 5.2 (10) of the Galway City Development Plan, 2023-2029.

3.2. Planning Authority Reports

3.2.1. Planning Report

3.2.2. The report of the Planning Officer generally reflects the refusal reasons. The report also notes;

- the principle of the proposed use is acceptable.
- the applicant prepared/submitted a masterplan/framework for the area to demonstrates how development plan objectives in relation to design will be complied with in the inner harbour area.
- the area is undergoing transition with the development of Bonham Quay, and the recently permitted Augustine Hill development.
- the shape, location and context of the site represents a challenge to its redevelopment.
- the Planning Authority is satisfied that there is sufficient national and local policy and guidance in place to support the principle of increased building height, especially when considering the current proposals which relates to redevelopment on a brownfield site within a designated regeneration area.
- phase 1 of Bonham Quay is visually prominent from Forthill Cemetery, however, any sense of intrusion was ameliorated by the distance from the cemetery (c. 20 metres) and the substantially lower ground level, together with the design of the building with dark opaque windows.
- the Augustine Hill development was a split decision and was subject to conditions/mitigation measures, specifically related to the impact on the character and setting of Forthill Cemetery. The split decision ensured that

the proposal (reduced in scale and further set back from the cemetery) adequately mitigated the adverse effects and would be more respectful of the setting of the Recorded Monument and Protected Structure. The mitigation measures, removed Pins 4 and 5 and significantly reduced the scale and height of Block 8 (Pins 2 and 3) adjoining the cemetery.

- the GCDP 2023-2029 envisages the Inner Harbour Area as being developed as a new urban quarter, and that these regeneration areas are afforded the flexibility to increase building heights. Increased building heights have recently been permitted within the adjoining Bonham Quay and the Augustine Hill developments. However, by virtue of the height, scale and massing of the proposed building, which is located on a constrained site in close proximity to Forthill Cemetery, the proposed 15 storey building could be described as being excessive in height and does not respect the character and setting of the adjoining sensitive heritage asset and would provide an unacceptable visual impact on same.
- the proposed development is located in close proximity to the Protected Structure / Recorded Monuments, at its closest point the development will be 2.3 metres from the base of the cemetery wall and 3.33 metres from the top of the cemetery wall. At ground level, the proposal turns its back to the cemetery wall creating a constricted dead zone. The resulting quality of space will not enhance the setting/appreciation of the Protected Structure/Recorded Monuments.
- revisions to the design of the hotel are noted, including the revised slender design, however, more work is needed to provide a better balance on the inevitable visual impact on the Recorded Monument and this must be done in conjunction with the policies of the CDP, particularly Policy 8.8 regarding the height of developments within the historic city and Policy 5.7 to protect views and prospects of special amenity value and interest in community spaces.
- whilst it is acknowledged that the Building Heights Guidelines promote consolidation and additional height in urban centres, it also requires consideration of architectural heritage, character and setting. The proposal

in conflict with CDP policy and standards, taking account of the overall scale, height and massing of the building, the local contextual relationship and the resultant overbearing expression onto the Forthill Cemetery/ adjacent Recorded Monuments and Bóthar na Long. The Planning Authority have reviewed the Framework Plan and the Townscape and Visual Impact Assessment (TVIA) and consider that the approach in terms of the building height strategy has not been justified by the applicants. The Planning Authority are not satisfied that the proposal can assimilate within the townscape.

- the proposed development has a plot ratio of 3.39:1, significantly in excess of the prevailing plot ratio within the city centre site, which is 2:1. Whilst an increase to the prevailing plot ratio in the Inner Harbour area can be considered, it must be demonstrated that the proposed development would make a significant architectural contribution to the character of the city or where such proposals contribute to urban regeneration or make a significant contribution to urban character. Whilst the architectural design of the proposed building is considered to be of a good standard, the overall context and scale of the development gives rise to significant concerns and represents overdevelopment of the site. It is considered that the height and massing of the proposed building would have a considerable negative impact on the contextual relationship with the surrounding area. Similar to the previous proposal on this site, it is considered overwhelming in scale with very limited site capacity to give it context or streetscape assimilation. It has poor ratio of height to street width, having no relieving features, such as a direct waterfront. It does not add to the character of the city, give a good sense of enclosure and creates an overwhelming environment onto the streetscape.
- regarding the applicant's reference the scale, height and design of Augustine Hill and Bonham Quay, it is considered that the constraints of the site does not allow a favourable comparison in this case. It is acknowledged that the development site is an important city centre site, located in an area designated under the CDP for brownfield regeneration, in an area undergoing significant change, however, the development site does not

have the benefit of depth and has no capacity to provide the required setback to/from Forthill Cemetery or Bóthar na Long.

- the Bonham Quay development fronts on the docks area, where a large expanse of water exists and offers significant visual relief.
- the proposed hotel would face the Harbour Hotel building, which is a 4/5 storey building, whilst the southern elevation of the hotel building incorporates improvements to the public realm along Bóthar na Long and landscaping to the north on site, it is considered that the height of the proposed hotel building is disproportionate to the width of existing streets and generally would not provide a good contextual relationship with neighbouring buildings/structures.
- in relation to visual impact, the character of the city from strategic views is generally not impacted greatly, owing to difference in ground levels and buildings in foreground of views.
- the proposed development would negatively impact on the Long Walk Architectural Conservation Area (ACA). The proposed building will be visible to the rear of Long Walk ACA with the building rising into the skyline behind this important view, negatively impacting on same.
- the proposed building would have a significant negative visual impact on the immediate surrounding area of the Docks, Bóthar na Long and Lough Atalia Road, along with the adjacent Forthill Cemetery.
- the hotel will impact upon the setting of Forthill Cemetery, in that, presently, there are clear southerly views from the cemetery towards the city centre and over the harbour area with long distance views of the Burren Hills especially from the more elevated southern side of Forthill Cemetery. A planning gain would arise from the redevelopment of an underutilised brownfield derelict site, and from localised repairs and consolidation of the cemetery wall, however in the case of the latter they do not offset the overall negative impact of the proposed development on Protected Structure/ Recorded Monuments. Concerns of the Heritage Section are noted regarding works to the boundary wall of Forthill Cemetery, specifically the risk of destabilisation of this wall and graves which are immediately adjacent

to the wall due to foundation ground works, lowering of the site ground levels.

- given the constraints of the site, it is apparent that any development above two storeys within the site would impact upon southerly views from the cemetery. Given the brownfield nature of the site, on city centre zoned lands, it is not considered suitable or appropriate to re-develop a brownfield city centre zoned site to a height of just two storeys. This type of low scale and density development would be contrary to both national and local planning policy as set out in the NPF and the CDP.
- a temporary drainage system is proposed during construction until the permanent attenuated surface water drainage system is complete. The feasibility of the proposed temporary measures need to be confirmed in writing with Irish Water and the necessary Licence from Irish Water has not been included with this planning application. The Planning Authority are not satisfied based on submissions and reports received to date including the surface water disposal proposals to discharge to the combined sewer during the construction stage can be accommodated without written confirmation via the required Discharge Licence.
- the Planning Authority have reviewed the Traffic and Transport Assessment and the Road Safety Audit submitted, in particular road safety issues relating to sit-down/collection area(s) for bus and taxis and associated potential risk of collisions due to a lack of forward visibility. The RSA has also noted that provision has not been made for a one or two way system could result in parking on the public footpath. There are a number of traffic safety concerns that have not been resolved in the Traffic and Transport Report and associated Road Safety Audit.
- the DoHLGH has indicated the recent Court of Justice of the European Union (CJEU) judgement (Hellfire Massey C166/22) regarding the requirement to for a derogation licence (if needed) prior to planning consent is considered. The DoHLGH is of the opinion that Galway City Council do not have enough information to inform their planning decision, and that further information is required. The Planning Authority is not satisfied, on the

basis of the Bat Survey provided, that the proposed development would not lead to disturbance or destruction of roosting sites for bats, which are a protected species.

The report of the Planning Officer recommends a refusal of permission consistent with the Notification of Decision which issued.

3.2.3. Other Technical Reports

Active Travel – recommends attachment of conditions requiring increase in bicycle spaces from 20 no. to 38 no., provision of covered spaces, and that provision be made for non-standard cycles.

Environment/Waste Management – report recommends standard conditions.

Heritage Officer – report notes the following;

- proposal is out of character with area, and would adversely affect the skyline and visual amenities of the area.
- proposal would overshadow Forthill cemetery.
- proposal would impinge on the ditch which enclosed the bastioned fort and is likely to destroy cultural and archaeological features, deposits and finds.
- proposal would undermine boundary walls of cemetery.
- full archaeological excavation of the entire site is required.
- the coal yard outer wall is of heritage value and should be retained.
- proposal will create a micro-environment which will impact gravestones.

Conservation Officer – report notes the following;

- the scale, massing and height of the proposal would be overbearing on the Protected Structure and Recorded Monuments, negatively impacting its amenity, and its view towards The Long Walk ACA.
- previously permitted building heights in the area formed part of a cluster, whereas the proposed development is isolated.
- at its closest point the proposal will be 2.3 metres from the base of the cemetery wall, the resulting quality of space will not enhance the setting of the cemetery.

- there is a risk destabilisation of the boundary wall and graves which are immediately adjacent to the wall due to foundation ground works, lowering of the site ground level (by approx. 1.7 metres), and proposed water / foul / storm connections immediately parallel with the cemetery retaining wall (invert levels not indicated).
- the western and southern boundary wall (part 19th century construction) of the coal yard represents a period from Galway's industrial past and it would be considered appropriate that fabric of the southern section of the coal yard wall be integrated into the design.

Prescribed Bodies/Government Departments

An Taisce – submission notes the following;

- the proposal is premature, in the absence of a decision on the harbour extension, and also a masterplan/LAP for the area.
- the previous refusal reason from PA. Ref 20/240/ABP. 310615-21 still apply, i.e. the height of the proposal is excessive height, particularly noting the adjoining Forthill Cemetery.
- no justification for a hotel/shortage of housing and student accommodation.
- concerns regarding the capacity of the foul sewer. No details from Irish Water regarding the 'Confirmation of Feasibility' with application.
- concerns re. vehicle and pedestrian safety/ no set-down area.
- inadequacy of bicycle parking on site.

Department of Housing, Local Government and Heritage (DoHLGH) – regarding archaeology the observation recommends that conditions are attached requiring the implementation of the measures contained in the applicant's Archaeological and Architectural Heritage Impact Assessment, and that the Planning Authority and the DoHLGH are provided with a final report describing the results of any archaeological/architectural excavation etc. In relation to nature conservation the observation notes that it agrees with the applicants proposal to carry out 3 no. bat emergence surveys between May and September 2024 in order to determine the presence of any roosting/breeding bats. The observation notes the Court of Justice of the European Union (CJEU) judgement (Hellfire Massey C166/22) which held that derogation licences should be applied for and granted if needed, before planning

consent is considered, and note that Galway City Council do not have enough information to inform their planning decision, and that further information is required.

Irish Aviation Authority (IAA) – submission recommends that the applicant liaise with the HSE in relation to any implications for the helipad at University Hospital Galway, and that a condition should be attached to any grant of permission requiring the HSE, IAA and University Hospital Galway to be notified in advance of crane operations on the site.

3.3. Third Party Observations

The report of the Planning Officer refers to 1 no. observation having been received in relation to the planning application. The issues in the observation are summarised as;

- the site has immense historical and archaeological importance and is an active Cemetery.
- disturbance to the wall will impact the Cemetery and the adjacent graves to the boundary wall.

4.0 Planning History

Appeal Site

PA. Ref. 20/240 & ABP-310615-21 – Permission REFUSED for demolition of vacant industrial structure and construction of 11 storey (186 bedroom) hotel. Refusal reason as follows;

It is considered that the development as proposed by reason of its proposed height, massing, volume in conjunction with its extreme proximity to Forthill cemetery, would have a detrimental impact upon the character and setting of this heritage asset. It is considered that the building as proposed would, therefore, contravene Policy 8.1 of the Galway City Development Plan 2023-2029 which seeks to ensure that new development enhances the character or setting of a protected structure and Policy 8.4 which seeks to ensure that proposed development within the designated city centre Zone of Archaeological Notification is not detrimental to the character of an archaeological site or its

setting. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

The Board Direction noted the following -

In deciding not to accept the Inspector's recommendation to grant permission, the Board considered that while elements of the proposal such as the palette of materials reflecting the maritime context and the public realm proposed addressing Bóthar na Long were acceptable, the specific form of the proposed development in respect of its massing, scale, volume and height as it addresses Forthill cemetery coupled with the extreme proximity to same would be overbearing when viewed from this culturally important site. While the Inspector referenced that increased height had been permitted in the vicinity of the cemetery by reference to Bonham Quay and within the Ceant station regeneration area, the Board noted that the development permitted on those sites would have greater separation distances from the cemetery, whereas the current site would require further consideration in respect of the most appropriate form of development consistent with its proximity to the cemetery. While the Board agreed that the redevelopment of this underutilised site would be a planning gain, such redevelopment needs to be specifically considered in respect of the impacts arising on the immediate receiving environment, in particular Forthill Cemetery, and it was not considered that the development as proposed in this instance would satisfactorily address this requirement.

Overlaps with appeal site

ABP-314597-22 – Permission GRANTED for BusConnects Galway Cross-City Link Scheme.

ABP-PA0033 – Permission sought for extension to Galway Harbour (current Strategic Infrastructure Development application).

Adjoining Area

(East of appeal site)

PA. Ref. 25/60296 (current LRD application) – Permission sought for demolition of the existing office/bus depot building and the construction of a mixed-use development. The proposed mixed-use development primarily comprises: 356 No. residential

apartments; crèche; 2 No. café/restaurant units; and 1 No. retail unit. The development is proposed in 4 No. blocks ranging in height from 6 No. to 13 No. storeys.

(North of appeal site)

PA. Ref. 22/335 & ABP. 318992-24 – Permission GRANTED for demolition of warehouse and construction of a 10-11 storey hotel extension⁵.

(North-east of appeal site)

PA. Ref. 20/47 & ABP. 310568-21 – (Augustine Hill development) – 10 year permission for a mixed use regeneration project including 376 no. apartments, retail units, cafe/restaurant/bar units, hotel, office use, childcare facility, car parking and other services and associated site works. The development comprises blocks ranging in height up to 21 no. storey.

SPLIT DECISION was issued by An Bord Pleanála –

Permission was refused for pin no's. 4, 5 and 9. The omission of pin no. 4 and 5 was on the basis of their overbearing impact on Forthill Cemetery.

Condition no. 2 of the grant of permission for the remaining development required a reduction in the height of pin no. 2, 3 and 6.

(North-west of appeal site)

PA. Ref. 17/83 & ABP. 300275-17 – (Bonham Quay development) – Permission GRANTED for a mixed use development across 4 no. 7 to 8 storey blocks.

(North of appeal site)

PA. Ref. 17/121 & ABP. 300613-18 (referred to in application as Queen Street Purpose Built Student Accommodation) – Permission GRANTED for student accommodation development comprising 345 no. bedspaces in 2 no. 7 and 8 storey blocks.

⁵ The hotel was reduced to 8/9 storey on foot of a request for Further Information by the PA.

5.0 Policy Context

5.1. National Policy

5.1.1. National Planning Framework (NPF - Project Ireland 2040⁶)

- National Policy Objective 13 - Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment and prosperity.
- National Policy Objective 22 - 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.

5.2. Regional Policy

5.2.1. Regional Spatial and Economic Strategy (RSES) for Northern and Western Regionally Assembly 2020 – 2032

- RPO 3.6.4 - The Assembly support the regeneration and development of city centre sites at Galway Harbour, Ceannt Station and Headford Road.

5.3. Ministerial Guidelines

5.3.1. 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).
- Design Manual for Urban Roads and Streets (2019).
- Urban Development and Building Height Guidelines, Guidelines for Planning Authorities (2018).

⁶ First Revision April 2025

- 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).

5.4. Development Plan

- 5.4.1. The Galway City Development Plan 2023-2029 is the relevant development plan. The appeal site is zoned 'CC' (City Centre) under the Galway City Development Plan 2023-2029, the objective for which is *'to provide for city centre activities and particularly those, which preserve the city centre as the dominant commercial area of the city'*. 'Tourist related uses' are stated in the Galway City Development Plan as being compatible with/contributing to the 'CC zoning objective. The part of the appeal site comprising the public footpath/road is not subject to a specific land use zoning.
- 5.4.2. Forthill Cemetery to the immediate north of the appeal site is zoned 'CF' (Community Culture and Institutional). The Galway City Development Plan (page 279) notes that *'in the boundary areas of adjoining zones it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zones'*.
- 5.4.3. There is a Protected Structure RPS Ref. No. 4401 (Cemetery and C19th Mortuary Chapel) to the north of the appeal site, within Forthill Cemetery. There are 3 no. Recorded Monuments within Forthill Cemetery, GA 094-099 001 – 003 refers (i.e. Graveyard, Bastioned fort and religious house). Forthill Cemetery is on the National Inventory of Architectural Heritage, 30319007 refers.
- 5.4.4. The appeal site is located within a Zone of Archaeological Notification (see Figure 8.12 of Galway City Development Plan).
- 5.4.5. The appeal site is located within the Inner Harbour Regeneration Site (see Figure 10.3).
- 5.4.6. The provisions of the Galway City Development Plan 2023-2029 relevant to this assessment are as follows;
- Policy 6.8 Tourism Sector
 - Policy 8.1 Record of Protected Structures

- Policy 8.4 Archaeology
- Urban Density and Building Height – page 218
- Regeneration and Opportunity Areas – page 219
- Policy 8.7 Urban Design and Placemaking
- Section 8.8 Urban Design and Placemaking
- Section 9.6 Control of Major Accident Hazards (Seveso III Directive)
- Section 10.6 Inner Harbour Regeneration Site
- Section 10.26 Specific Objectives (City Centre Area)
- Section 11.2.7 City Centre Land Use Zoning Objectives
- Section 11.4.2 Plot Ratio
- Section 11.10 Urban Development and Building Height
- Section 11.11.1 Parking Space Requirement
- Table 11.6 Parking Space Requirement for Different Types of Development: Maximum Standards
- 11.11.4 Cycle Parking

Supporting Documents -

- Galway City Urban Density and Building Heights Study September 2021.
 - Page 14 notes - ‘areas where major change is anticipated to occur such as at Ardaun, Murrough, Ceannt Station and the Inner Harbour may present opportunities for increased heights. As these are major development areas, there is potential for these areas to establish their own distinctive character. Such height increase will only be considered in the context of an LAP in the case of Ardaun and Murrough and in a masterplan in the context of Ceannt Station and the Inner Harbour’.
 - Page 103 notes - ‘major developments on regeneration lands at Ceannt Station, Inner Harbour and Headford Road areas have potential to create their own character and sense of place whilst ensuring good quality linkages with the city core’.

- Page 108 notes – ‘the whole of the city centre must be considered suitable for higher density development given the concentration of services and excellent access to public transport facilities. However, in light of its special character, heritage assets and the important role this character plays in sustaining its economic success, the core is also amongst the most sensitive locations to potentially adverse impacts of higher density new development’.
- Section 16.3 concerns Long Walk, Inner Harbour, Ceannt Station, and notes in relation to density that ‘it would be appropriate for densities here to be higher than those of the historic core if townscape impacts of new development are carefully considered’, and in relation to heights, ‘within Ceannt Station and the Inner Harbour regeneration areas where large sites are capable of generating their own character, there is scope for greater height if designed carefully as demonstrated in emerging development’

5.5. Natural Heritage Designations

- Lough Corrib SAC (Site Code 000297) – c. 500 m west.
- Lough Corrib SPA (Site Code 004042) – c. 4km north-west.
- Galway Bay Complex SAC (Site Code 000268) c. 145 m east.
- Galway Bay Complex pNHA (Site Code 000268) – c. 30 m east.
- Inner Galway Bay SPA (Site Code 004031) – c. c. 145 m east.

5.6. EIA Screening

(See Form 1 and Form 2 attached to this report) Having regard to the limited nature and scale of the development and the absence of any significant environmental sensitivity in the vicinity of the site, 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 appeal against the decision to refuse permission. The grounds for appeal can be summarised under the following headings as follows;

General:

- the use proposed accords with the applicable land-use zoning and would contribute to the vitality and vibrancy of the area.
- the development proposed under the previous application provided for a longer and lower building spread across the footprint of the site. The current proposal is for a taller slenderer building on a smaller footprint, so as to allow views to/from Forthill Cemetery.
- the site is located in an area which is undergoing significant changes with reference to recently permitted and constructed development. The appeal site is located at the core of a regeneration area. The area is transitioning from a low rise industrial area to a new urban quarter for Galway City with a number of high rise buildings and in this context Forthill Cemetery no longer sits within an area with a fully open character.
- in assessing Bonham Quay (an adjacent 7/8 storey development) the Inspector made a number of comments in relation to the appropriateness of the height of the proposal, noting the topography of the site, the remoteness of the site from established residential properties and landmark location within the inner harbour area. The appellant contends that the same approach should apply to the current proposal.
- the Galway City Development Plan 2023 – 2029 supports extra height in the vicinity of the appeal site (see Section 8.8 of CDP).

Re. Refusal Reason No. 1

- Plot ratio:

- a greater plot ratio than 2:1 can be considered on the subject site as the proposed development contributes significantly to sustainability, architectural quality, urban design, and public realm.
- the subject site is an important site/key junction, marking the current entrance/egress to Galway City at the junction of Lough Atalia Road and Bóthar na Long. As the city centre expands with the redevelopment of the harbour area, the status of this junction will increase, this is not yet reflected in the townscape however.
- in assessing the Bonham Quay development the Inspector noted that;
 - 'plot ratio is a crude instrument in terms of measuring density and the avoidance of the adverse effects of overdevelopment', and,
 - the policies in the Development Plan provides that consideration will be given to proposals on 'CC' zoned land in excess of the maximum standard. The contribution of a development to urban regeneration and urban character is also a consideration'.
- the proposed plot ratio for the proposal is 3:39 (reduced from 3:77 following a request for FI in the previously refused application). This is lower than the Bonham Quay development (i.e. 3:75).
- in the recent refusal on the subject site, the Inspector noted the location of the site on city centre zoned lands, serviced by public infrastructure, a short walking distance of the central business district area, and considered the increased plot ratio to be appropriate within the emerging Inner Harbour Area. The same points apply in the current application which has a lesser plot ratio.
- the proposal represents the highest architectural quality, and whilst the site is constrained a completely new public realm has been specifically crafted to the site's characteristics.
- a balance between the mass and height of the proposed building was required. To achieve a developable footprint the proposal entails positioning the footprint towards the eastern half of the site, with the remaining western portion providing a new public realm. This allows the

development to extend upwards to provide the viable bedspaces rather than take up the entire site area, along the wall of Forthill Cemetery. This approach also provides built frontage to both Lough Atalia Road and Bóthar na Long; uses built form to mark their junction as a place of importance; and leaves half of the boundary and southern aspect of Forthill Cemetery free of built form, retaining views and sunlight access.

- the development removes an imposing boundary wall onto Bóthar na Long and provides a new street edge via a combination of active building frontage and high-quality landscaping, opening up the site to the City, to the Augustine Hill development, and to the street. In combination with Bonham Quay, this part of Bóthar na Long will provide an active, vibrant street edge, turning the corner onto Lough Atalia Road.
- Building height:
 - the proposed development has been designed to reflect its emerging context, i.e. Bonham Quay and Augustine Hill.
 - the approach is to increase height as ones moves away from the historic city centre towards the harbour. The proposed height is below the Augustine Hill development, offering a counter-balance to this development. The height proposed in not out of context.
 - the Galway Urban Density and Building Height Study (2021) notes that the city centre, including the harbour area, is the most suitable area for significantly increased height in Galway City, and states "*suitability analysis takes no account of the constraints of an area which might make it more sensitive to potentially negative impacts of more dense forms of development. These factors, which include the proximity to heritage assets and the potential impact on identified key views, must be considered alongside an area's relative suitability*". This recognises that density/height may need to be curtailed in places to protect valued heritage. A substantial part of the area identified as suitable for higher density is covered by an Architectural Conservation Area (ACA) and substantial densification is unlikely to be permitted in these areas. The one area with potential for densification is the Inner Harbour. GCC has

however identified Forthill Cemetery as a reason to limit density and building height on the site. In designating the Ceant Quarter and Inner Harbour regeneration sites, GCC fundamentally changed the townscape context of Forthill Cemetery, and the role and value of the cemetery as a townscape resource. GCC's inclination to prevent transformational change in the area, citing the sensitivity of the cemetery, is counterintuitive. The GCC decision indicates that it believes the cemetery will be better off if the buildings around it are lower and further away. This is contrary to the idea of a high density city quarter.

- by providing a tall, slender and exceptionally high-quality design, the proposed development seeks to realise the potential of this infill, brownfield, regeneration site in a new urban quarter, while avoiding complete enclosure and allowing wide views to the east and south west of the Cemetery. An appropriate balance has been reached in terms of height, scale and plot ratio on this key site, whilst appreciating and respecting the current role of the cemetery and importantly the very key role it will play in this new urban quarter.
- the Inspector's report under the refused application noted;
 - sufficient national and local policy and guidance to support the principle of increased building height, especially when considering the current proposals relate to redevelopment on a brownfield site within a designated regeneration area;
 - the building height at ten storeys is not too dis-similar to the heights of the buildings within the adjacent Bonham Quay development, which reach up to seven and eight storeys tall;
 - the Planning Authority have permitted development of between 9 and 21 storeys within the Augustine Hill Development;
 - the proposed ten storey building could not be described as being excessive in height.
 - it is clear from the current GCDP 2023 that the Inner Harbour Area is envisaged to be developed as a new urban quarter, that these

regeneration areas are afforded flexibility to increase building heights, and that it is clear that the Planning Authority have accepted this argument, given they have already permitted increased building heights within the adjoining Bonham Quay and the Augustine Hill developments.

- satisfaction that the proposal will assimilate satisfactorily within the newly formed townscape within the Inner Harbour Area which provides for increased building heights, density, plot ratio above the Development Management standards that had been historically developed in the city.
- the same conclusion can be drawn in respect of the current proposal, with the proposed development taking a further step in designing a more appropriate built form for the site, taking on board the previous reason for refusal and crafting a tall, slender building that has a significantly reduced impact on Forthill Cemetery, when compared to the previous scheme on site.
- the proposed height is supported by the NPF (i.e. compact growth and development of brownfield sites).

Re. Refusal Reason No. 2

- the DoHLGH are satisfied with the proposal in the context of its impact on Forthill Cemetery and concur with the assessment contained in the AAHIA submitted with the application, which concludes that the proposal is well considered and appropriate to its location.
- Forthill Cemetery is surrounded on all side by 'CC' zoned land, is at the centre of a regeneration area, and must be seen in this context. Forthill Cemetery can have a significant value amidst a new urban quarter.
- Forthill Cemetery is used c. 6/7 times per year for funerals, is inaccessible for much of the time, being run by volunteers, and is not in people's mental map of the city.

- Forthill Cemetery is not a functional recreational space and is a place for a brief visit. The inclination to protect this space should not unnecessarily restrict the realisation of the Inner Harbour area.
- given the emerging development in the vicinity of Forthill Cemetery is going to change.
- the proposal, being located on the eastern part of the site, allows views in and out of the cemetery. It is unavoidable that there will be a high degree of enclosure to parts of the public realm in high density urban areas. The proposal will provide passive surveillance to the cemetery.
- there are a number of examples where pocket parks are surrounded by high density development (examples cited), including in an Irish context where there are Protected Structures within cemeteries adjoined by development.
- any development over 2/3 storeys will be visible within the cemetery. Any building will need to be above this height in order to receive light over the wall with the cemetery.
- the Inspector on Bonham Quay noted, in relation to Forthill Cemetery, that adjacent structure can maintain their character in a new context.
- the scale and bulk of the building has been reduced and the proposal is slender and elegant.
- regarding proximity to the boundary wall of Forthill Cemetery, the diamond shape footprint of the building ensures more breathing space. The separation distance between the cemetery wall and the proposed hotel, c. 2.28 metres to 5.67 metres, is appropriate noting the restrictive nature of the site. If the building were any slimmer it would be unviable. There would be no public benefits in moving the building further from the wall as the area concerned facilities back of house operations. Given the level differences concerned between the cemetery and the appeal site any building at any height would create an enclosed space outside the wall. Locating the hotel further from the cemetery would be contrary to a high-density urban quarter.
- GCC have taken an overly conservative approach to the development of a strategically important brownfield site. The GCC Development Plan (Policy

8.43) states 'have regard to the archaeological recommendations of the DoHLGH on planning applications' yet GCC have disregarded the comments of the DoHLGH.

Re. Refusal Reason No. 3

- the applicant sets out a detailed response to the criteria contained in Table 8.1/Section 8.8 of the GCC Development Plan (see pages 40 – 43 of the appeal submission), that being the principles of good urban design. The applicant contends that the proposed development will provide a positive contribution to placemaking and represents good urban design practice.
- The applicant notes the following;
 - Re. Character – the proposed development will significantly improve the character of the area by providing a high-quality designed hotel, with a public realm that provides visual amenity. The choice of materials is reflective of its coastal location.
 - Re. Legibility – the relieving features in terms of modulation, canted facades, vertical edge detailing and an open ground floor with active uses improves this urban edge location. The diamond shape plan of the building relates to the form of the Harbour Hotel (opposite). The fold on the longest elevation (southern) is similar to the twofold on one of the blocks in Bonham Quay. The scheme maintains an active frontage through a ground level bar/restaurant and the ground level façade has been pleated to create a constantly changing view as one moves along the street. These elements together with the landscape strategy create an inviting human-scale environment.
 - Re. Ease of Movement/Connectivity – the proposed hotel is located on a key artery in the city which encourages modal shift. By its height and location, active frontages and nighttime activity, the scheme will become a node along Bóthar na Long and Lough Atalia Road, attracting pedestrians to walk along the new public realm and through the future Augustine Hill development and the street level experience will offer an improvement visually and functionally.

- Quality of Public Realm - the proposed public realm will create one united space through a mix of hard and soft landscaping such as a carefully selected paving palette, co-ordinated street furniture and a blend of raised planters and planted stepped terrace. The native vegetation and seating platforms will create a welcoming and vibrant atmosphere. The seating area on the planted stepped terrace will provide people with south facing views towards the docks. The public realm co-ordinates with the permitted public space around the corner of the site to the entrance of Augustine Hill from Bóthar na Long, creating a homogenous space.
- Continuity and Enclosure – the design of the public realm ensures the connection between the Augustine Hill development and the proposed hotel development. The proposed development will continue the pedestrian route permitted in the Augustine Hill development to connect this part of the city with Ceannt Train Station and wider docklands area. By removing the existing wall that encloses the subject site, the perception of the street will be wider and will have a greater pedestrian bias.
- Diversity and Adaptability – the proposal will add to the variety and choice of uses in the immediate area.
- Environmental Responsibility and Climate Resilience – the design of the scheme uses the form and orientation to reduce the environmental impact.

Re. Refusal Reason No. 4

- the proposed development would not endanger public safety by reason of traffic hazard and obstruction of road users. Drawings submitted with the appeal demonstrate the following:
 - how a refuse truck (or a large mini-bus) can safely enter the in curtilage set-down area, in forward gear, turn and exit in forward gear again.
 - how a medium size coach can safely enter the in curtilage set-down area, in forward gear, turn and exit in forward gear again, and,

- how a large coach can fit in the set-down area, reversing into the hotel.
- coaches do not turn up to a hotel unannounced, they are scheduled and infrequent. Many hotels in Galway City, including most of the hotels in Eyre Square, operate without any in curtilage set-down areas and must be serviced from the street.
- the proposed hotel development benefits from an in-curtilage service area that is large enough to accommodate refuse vehicles and coaches. Medium sized coaches will be encouraged instead of larger ones and will need to be scheduled to avoid peak traffic times. As per the Road Safety Audit feedback form, it is anticipated that buses will also be able to set-down at the plaza area to the west of the site.
- GCC raised their traffic safety concerns having regard to the Road Safety Audit submitted in the application. However, any 'problems' of the site layout/ operations that the independent Audit Team raised were responded to and signed off as being 'acceptable' by the independent Audit Team.

Re. Refusal Reason No. 5

- there is no requirement to obtain a licence to discharge surface water to the public combined sewer during the construction stage, however a temporary licence will be obtained by the contractor for the construction stage, prior to any works commencing on site. The temporary licence cannot be submitted to Irish Water until the planning application is granted permission. An arrangement for discharging surface water (if any) will be agreed between the Contractor and the IW/GCC representatives, as is standard practice.
- it is not proposed to discharge contaminated surface water to the public sewer during the construction stage. Silt laden surface water will not leave the site and any discharges to the existing combined sewer outfall, if required, will first pass through a suitably design silt trap as agreed with Irish Water or Galway City Council. Section 3.5 of the Outline Construction Management Plan (CMP) sets out the protection measures for adjacent waterbodies during the construction stage to prevent contaminated water leaving the site. All surface water runoff including pumping/dewatering activities for the duration of the construction shall

be carried out in accordance with relevant guidelines to protect adjacent waters during construction works.

- any surface water during the construction stage will discharge to the Mutton Island WwTP via a combined sewer catchment, and therefore no contaminated water will be discharged directly into Galway Bay and subsequently no significant effect will occur to the Galway Bay SAC and SPA. The proposal will not materially contravene Policy Objectives 5.2 (1), (2) and (11) of the Galway City Development Plan 2023-2029.

Re. Refusal Reason No. 6

- the design of the surface water disposal includes measures to protect the water quality through surface water storage and SuDS features, including green roofs, bio-retention areas via planters and soft landscaping, permeable paving, attenuation, and catch-pits/sumps. Section 2.0 of the Engineering Service Report submitted as part of the application details the surface water disposal strategy, with Section 2.8 providing information on the SuDS proposal. *Drawing No. CYG-BDP-XX-00-PL-C-980001* and *CYG-BDP-XX-00-PL-C-980001* provides details of these measures.
- confirmation on how the development meets this 'Policy 9.2 and 9.4 is provided by the applicant.
- there is no on-site car parking within the development and the pollution hazard level from hotel roofs is very low.
- surface water pollution risk has been assessed in accordance with CIRCA SUDs Manual as Low Risk and this only requires silt management in accordance with guidance. Sumps have been included with the proposed surface water management design.

Re. Refusal Reason No. 7

- the application was lodged prior to bat survey season commencing and the applicant invited the Planning Authority to issue a Further Information request on this item as they had scheduled in bat surveys for the appropriate survey period beginning in May. The applicant commenced bat surveys on site when the bat survey season started and in this regard have carried out 3 No. bat

surveys, c. 3 No. weeks apart as required on the following dates as detailed in the enclosed Bat Report prepared by Enviroguide (23rd May 2024, 13th June 2024 and 2nd July 2024).

- the Bat Report as submitted with the appeal concludes:
 - bats were observed foraging and commuting throughout the site during surveys 1 and 2, with no bats recorded utilising the site during the third survey. Foraging behaviour was mostly concentrated to within and adjacent to either the yard itself or the lean-to structure, where bats could be observed visually to be feeding and heard through the bat detector exhibiting feeding buzzes.
 - while no emergence was recorded from the potential roosts present, in line with the precautionary approach, the following recommendations will be followed:
 - a pre-demolition check will be completed by a qualified Bat Ecologist for any infrastructure to be demolished or disturbed.
 - the northern boundary wall is a protected structure (Ref: 4401) and will be retained, however minor repair works will take place; a pre-works check will be completed by a qualified Bat Ecologist.
 - the bat ecologist will assess the structures in question prior to commencement and advise on the best approach to ensure their careful demolition; to minimise the impacts upon potential roosting bats.
 - where there is any doubt whether bats may be present, a follow up inspection of the structure must be undertaken. This may require access from a hoist or other mobile elevated work platform (MEWP), and the use of high intensity lights, a thermal imager, and a fiberscope.
 - the bat ecologist will be present during demolition as Ecological Clerk of Works (ECoW), should a roost be discovered.

- should roosting bats be discovered, a derogation license will be sought from the NPWS (under guidance from bat ecologist) and appropriate guidance taken from them.
- in this regard, as the 3 No. required bat surveys have been carried out and there was no evidence of the emergence of any bats during any of the surveys permission can be granted subject to the recommendations set out in the bat report.

The appeal submission includes a number of appendices, including a response from the project ecologist; correspondence from consulting engineers (2 no.); a Bat Report; Outline CMP; Engineering Services Report; Townscape and Visual Impact Assessment response, inc. CGI's; correspondence from archaeology/heritage consultant; and correspondence from transport engineer. 6 no. drawings have also been submitted with the appeal submission and relate to traffic and drainage issues.

6.2. Planning Authority

None received.

6.3. Observations

An observation was received from An Taisce, the observation notes the following;

- the hotel has no significantly unique architectural features.
- concerns regarding visual impact of proposal, in particular on Forthill Cemetery.
- requirements for additional photomontages, i.e. from centre of Forthill Cemetery, Dock Road and from Lough Atalia Road. Photomontages do not accurately depict proposal.
- the proposal has not been considered in the context of a planned Land Development Agency (LDA) residential development on land adjoining Lough Atalia Road.
- the proposal would add little to the character to the area, as required under Section 10.6 as the plot ratio is higher than 2:1, The proposal does not represent a proportional increase in plot ratio when considered against Bonham Quay, the Harbour Hotel and Forthill Cemetery.

- the proposal would overlook Forthill Cemetery, which is in use. The Huguenot Cemetery in Dublin is not comparable as the building concerned is 5 storey.
- there is inadequate capacity in the wastewater drainage network to accommodate the proposal development, specifically within two existing siphons (pipes) that run from The Long Walk, under the River Corrib, to Claddagh Quay. These siphons carry wastewater from all the developments in the city to the east of the River Corrib, and from Oranmore, under the River for treatment in the WWTP at Mutton Island. Frequent discharges have been observed into the River Corrib from stormwater overflow SWO19 at The Long Walk due to insufficient capacity in the siphons. It was recognised in the application to the EPA by Galway City Council in 2007 that a third larger siphon was necessary. Section 1.1.4 of attached document (McBreen Environmental) refers to Long Walk SWO and recommends a third siphon, which has never been installed. A condition survey of the two existing siphons in May 2024 by McBreen Environmental found that the larger of the two existing siphons, 675mm in diameter "is at risk of collapse at any time". The capacity of the larger of the two existing siphons is 63% of the combined capacity of the two existing siphons together. A failure of the larger siphon would have catastrophic consequences. The Engineering Services Report submitted with the application notes does not identify any constraints and ignores the fact that a third larger siphon was deemed to be necessary in 2007.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, 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 No.'s 1-3 (overdevelopment, impact on Forthill Cemetery, design/visual integration)
- Refusal Reason No. 4 (traffic safety)
- Refusal Reason No. 5 (impact on European Sites)

- Refusal Reason No. 6 (surface water)
- Refusal Reason No. 7 (impact on bats)
- Issues Arising
- Appropriate Assessment

7.2. Refusal Reason No's. 1-3 (overdevelopment, impact on Forthill Cemetery, design/visual integration)

7.2.1. The first three refusal reasons relate to the contention of the Planning Authority that the proposal represents overdevelopment of the site; that the height, scale and relationship/proximity to Forthill Cemetery would adversely affect the character and setting of Forthill Cemetery; and that the proposed development fails to assimilate with the area. As refusal reasons 1 – 3 are related I intend to address the issues contained therein under a single heading.

7.2.2. The applicant has submitted a comprehensive appeal submission in response to the reasons for refusal, including a Townscape and Visual Impact Assessment, a conservation/heritage report and CGI's appended to the appeal submission. The crux of the appeal is that an increase in height at this location is supported in the Galway City Development Plan and the NPF, that the Inner Harbour area is undergoing significant changes with reference to recently permitted and constructed high rise buildings; that the design and siting of the proposed hotel responds to the constraints of the site, in particular the adjoining cemetery and will provide a positive contribution to placemaking; and the development of a strategic site within a regeneration area should not be unduly constrained by Forthill Cemetery, which no longer sits within an area with a fully open character. I will address the key issues arising under the headings below.

7.2.3. Overdevelopment - the Planning Authority contend that the scale, density and height of the proposed development on the site would represent overdevelopment, with reference to the maximum permitted plot ratio of 2:1 set out at Section 11.4 of the Galway City Development Plan 2023 – 2029 (GCDP). I note that the appeal site is constrained, particularly in terms of its width, narrow shape, and proximity to Forthill Cemetery. The first reason for refusal states that the plot ratio of the proposed

development, at 3.39:1⁷, exceeds the maximum permitted standard set out at Section 11.4. Section 11.4.2 (City Centre⁸) of the GCDP provides that *'in general for new development, the maximum plot ratio permitted will be 2:1'*. The GCDP goes on to state that *'in the CC zone on larger Regeneration Sites consideration will be given to development proposals in excess of the normally permissible plot ratio where such proposals would contribute to sustainability, architectural quality, urban design, public realm, delivery of housing and make a significant contribution to urban character. This excess will be interpreted as a proportional increase only and will be assessed on performance based outcomes and general standards'*. The applicant contends that the proposal can be considered having regard to the exemplar design of the proposal and its contribution to placemaking and public realm. I note that Section 11.4.2 is prefaced by 'in general' and therefore I consider that there is some flexibility in the application of the 2:1 plot ratio, which is stated as a maximum. I note that the relaxation provided for in the GCDP in respect of plot ratio is intended for developments on 'larger regeneration sites'. In my view the appeal site, with a stated area of 0.2217 ha, could not reasonably be considered to be a larger site as envisaged in the GCDP. Furthermore, and notwithstanding the area of the site I also note the constraints of the appeal site, specifically the shape and narrow nature of the appeal site, which in my view result in the site being unsuitable to accommodate the plot ratio proposed, which significantly exceeds that prescribed a maximum for CC zoned lands. The height of the proposed hotel, in excess of 50 metres, relative to the size and configuration of the appeal site and the absence of the site's capacity to provide a meaningful set back from Bóthar na Long is also suggestive of overdevelopment in my opinion. The appellant, with reference to other decisions in the vicinity, intimates that plot ratio is not an effective method in assessing development. In my opinion, plot ratio is a useful metric when used alongside other metrics and qualitative considerations, such as height, overshadowing, layout etc. In this instance, I consider that the plot ratio, together with the height of the proposed hotel on this site would be excessive, would represent overdevelopment of the site and would injure the amenity of the area. I recommend that permission is refused on this basis.

⁷ See Key Statistics table 5.1, page 30 of Planning Report submitted with planning application.

⁸ Referred to as the 'CC' zone – see page 305.

- 7.2.4. I do not consider that the proposed plot ratio would represent a material contravention of the GCDP given that Section 11.4.2 is prefaced with 'in general' and the circumstances where exceedance of the 2:1 plot ratio is permitted, notwithstanding that such an exception does not pertain to the proposal.
- 7.2.5. Refusal reason no. 1 states that the proposal, *'would not represent an exception to the plot ratio standards, as provided for in Section 8.8 or 10.6 of the GCDP'*. I note that Section 8.8 of the GCDP relates to 'urban density and building height' and exceptions to ranges in relation to density and height, and not plot ratio. Section 8.8 is therefore not applicable in the context of plot ratio. Section 10.6 relates to the Inner Harbour Regeneration Site, which the appeal site forms part of. Section 10.6 states that *'these lands, in addition to other adjoining brownfield lands as defined in Figure 10.3, represent the definition of the Inner Harbour Area and the lands which would benefit from the preparation of a Masterplan'*. Section 10.6 goes on to state that *'in advance of specific proposals for development, a Masterplan will be prepared for the overall site and will be required to undertake the following'.....* A list of what the Masterplan should include is provided, including actions and requirements. One of the issues which the Masterplan will address/include is stated as *'include for a maximum plot ratio for CC zones of 2:1. Consideration for a higher plot ratio will be given to development proposals in excess of the normally permissible plot ratio where such proposals would contribute to sustainability, architectural quality, urban design, public realm, delivery of housing and make a significant contribution to urban character. This excess will be interpreted as a proportional increase only and will be assessed on performance based outcomes and general standards'*. I note that the Galway Inner Harbour Master Plan was finalised on the 8th September 2025. I have reviewed the Galway City Council website and I note that the GCDP has not been subject to a variation to incorporate the Galway Inner Harbour Masterplan into the GCDP and therefore it has no statutory basis at this time. In summation, there are no exceptions contained within either Section 8.8 or 10.6 of the GCDP which provide for an exception to the maximum plot ratio of 2:1 for CC zoned lands. Therefore, Section 11.4.2 is the only relevant policy provision in the GCDP whereby plot ratios in excess of 2:1 are permissible.

- 7.2.6. Impact on Forthill Cemetery – refusal reason no. 2 states that the proposed development, owing to its height, scale, massing and proximity to Forthill Cemetery, would be overbearing on Forthill Cemetery, and would contravene materially Policy 8.1(2) and 8.4(2) of the GCDP 2023 – 2029. Reports from the Heritage Officer and Conservation Officer raise concerns regarding the impact of the proposal on Forthill Cemetery, specifically that the proposal is out of scale, would restrict views from the cemetery and adversely affects the setting of the cemetery. An observation to the appeal has been received from An Taisce which also raises concerns in relation to the impact of the proposed hotel on Forthill Cemetery, including as a result of overlooking.
- 7.2.7. In response the applicant states that the current proposal is for a taller slenderer building on a smaller footprint, so as to allow views from Forthill Cemetery; that the area is in transition and Forthill Cemetery no longer sits within an area with a fully open character; that the DoHLGH are satisfied with the proposal in the context of its impact on Forthill Cemetery; that Forthill Cemetery is not a functional recreational space and that there are a number of examples where graveyards are surrounded by high density development; that Forthill Cemetery should not restrict the realisation of the Inner Harbour Area and that GCC have taken an overly conservative approach to the development of a strategically important brownfield site. I note that the AAHIA concludes that the proposed development will have an ‘overall moderate impact’ on the setting of Forthill Cemetery.
- 7.2.8. Forthill Cemetery is a Protected Structure (RPS Ref. No. 4401 - Cemetery and C19th Mortuary Chapel). In addition, there are 3 no. Recorded Monuments within Forthill Cemetery, GA 094-099 001 – 003 refers (i.e. Graveyard, Bastioned fort and religious house). Forthill Cemetery is also on the National Inventory of Architectural Heritage (NIAH Ref. 30319007 refers). The proposed development comprises a 15 storey hotel with a height of 53 metres. I note that the hotel which was refused under PA. Ref. 20/240 & ABP – 310615-21 was 11 storey (max) and had a height of c. 38 metres. The design approach employed in the current proposal entails the positioning of a taller, more slender building on the eastern half of the site and the provision of a tiered landscape area to the west. The proposal is stated as being c. 20 metres taller than Bonham Quay and is intended to act as a bookend. The building has narrow gables and a vertical split and a step. This approach to developing the site and the building

design seeks to maintain south-westerly views from the cemetery. The hotel is diamond shape on plan and at its closest point will be c. 2.3 metres from the cemetery wall, and c. 5.7 metres at the furthest point. In response to concerns raised by the Planning Authority regarding the proximity of the proposed hotel to the cemetery boundary the applicant states that this is appropriate noting the restrictive nature of the site. I have reviewed the information submitted with the application and the appeal, which included GCI's of the proposed development, including from within Forthill Cemetery (view 8a and b), and the applicant's Townscape and Visual Impact Assessment. The applicant states that by developing half the appeal site the proposal allows for views to be retained from the cemetery towards Galway Bay. The applicant states that recently permitted/constructed development in the vicinity has changed to the character of the area and that the proposal must be assessed within this context. In respect of Forthill Cemetery (viewpoints 8a and b) the Townscape and Visual Impact Assessment assigns a 'significant positive' effect, noting that the harbour and industrial uses in the environs of the cemetery have reduced its sensitivity to visual change; that the enclosure of the cemetery would not be excessive; that impacts must be considered in the context of a future context (i.e. the area's designated for high density urban regeneration), and that overall the cemetery would benefit from the redevelopment of a coalyard. I note that Bonham Quay and Augustine Hill developments have an significantly different relationship to the appeal site, specifically in relation to the separation distance between these developments and the cemetery. I also note that the Augustine Hill development was modified by decision and condition to protect Forthill Cemetery. Whilst I acknowledge the emerging pattern of high rise/high density developments in the area and that both national and local policy supports an increase in height and density through compact forms of development and the redevelopment of brownfield site, I consider that the development of sites adjoining sensitive sites, and in particular heritage sites, requires careful consideration. This is reflected on page 279 of the Galway City Development Plan which notes *'in the boundary areas of adjoining zones it is necessary to avoid developments which would be detrimental to the amenities of the more environmentally sensitive zones'*. In this case the appeal site is zoned 'CC' whereas the cemetery is zoned 'CF' (Community Culture and Institutional). The requirement for development to be cognisant of adjoining heritage sites is further addressed in the

Galway Urban Density and Building Height Study (2021) which notes that while the city centre, including the harbour area, is the most suitable area for significantly increased height in Galway City, *'suitability analysis takes no account of the constraints of an area which might make it more sensitive to potentially negative impacts of more dense forms of development. These factors, which include the proximity to heritage assets⁹ and the potential impact on identified key views, must be considered alongside an area's relative suitability.* Section 2.8 of the Building Height Guidelines also notes that *'historic environments can be sensitive to large scale and tall buildings. In that context, Planning Authorities must determine if increased height buildings are an appropriate typology or not in particular settings'*. I am not satisfied that a building of the height and scale proposed can be accommodated at this specific location, notwithstanding the location of the site within a regeneration area. While I acknowledge the applicant's approach to positioning the hotel on the eastern half of the site so as to allow for some views to be maintained, the slender design of building and the palette of materials proposed, I consider that the presence of the hotel, particularly noting its height and proximity to the cemetery, would dominate the character the cemetery, would be intrusive and would significantly impact the appreciation of the heritage value of the cemetery, and the significance of this impact is indicated on CGI (View 8a). I also consider, notwithstanding the slender profile of the hotel, that views currently available from the cemetery would be obstructed, further affecting the relatively open nature of the cemetery. In my opinion the proposed development would materially contravene Policy 8.1(2) and 8.4(2) of the GCDP 2023 – 2029 which seeks to 'ensure new development enhances the character or setting of a protected structure', and to ensure that 'proposed development within the designated city centre Zone of Archaeological Notification is not detrimental to the character of an archaeological site or its setting', respectively, and I recommend that permission is refused on this basis.

- 7.2.9. The applicant notes that the observation from the DoHLGH to the Planning Authority did not raise concerns regarding the impact of the proposal on Forthill Cemetery and recommended the implementation of the measures contained in the applicant's AAHIA. I would not share the applicant's view that this necessarily infers a wider

⁹ My emphasis.

acceptability of the proposal in the context of the impact of the proposed development on the character or setting of the cemetery, the submission makes no comment in this regard. Furthermore, the observation of the DoHLGH does not negate the role of the Planning Authority in considering the impact of the proposal in a wider context, including with reference to the policies and objectives of the development plan, and the Planning Authority are in my view entitled to arrive at a different conclusion in relation to impacts on heritage.

- 7.2.10. Design/Visual Integration - the third refusal reason states that proposed development fails to integrate with the existing urban form, does not contribute positively to street enclosure, and fails to sympathetically assimilate with Galway's townscape. The Planning Authority also note that the proposal fails to adhere to the principles of good urban design, as set out in Section 8.8 and 10.6 of GCDP.
- 7.2.11. In response the applicant sets out how the proposal meets the criteria contained under Table 8.1/Section 8.8 (i.e. the principles of good urban design). The applicant contends that the proposed development will provide a positive contribution to placemaking and represents good urban design practice. The applicant further states that the proposal will significantly improve the character of the area, providing a high-quality designed hotel, with a public realm; that the proposal will become a node along Bóthar na Long and Lough Atalia Road; and that the proposal will provide a connection to the Augustine Hill development.
- 7.2.12. Reference to Section 10.6 of Galway City Development Plan 2023-2029 is unclear. This section of the GCDP provides a list of actions and requirements which the Galway Harbour Masterplan should include. I do not consider this section of the GCDP to be relevant.
- 7.2.13. Table 8.1/Section 8.8 sets out general design principles for urban design which are to be promoted in development. Having reviewed the criteria contained in Table 8.1 I consider that the proposal development meets with a number of the criteria, for example the quality of the public realm will be improved by the proposal and the proposal will provide for diversity of use when assessed against the existing situation.

In my opinion however, the more substantive issue is the assimilation of the proposal with the existing urban form and its contribution to urban placemaking.

- 7.2.14. The applicant has submitted a Townscape and Visual Impact Assessment. CGI's have been submitted showing the proposed development and permitted development in the vicinity. I am satisfied that the CGI's provide an accurate reflection of how the proposed hotel will appear in the cityscape and from the various vantage points in the vicinity. Having reviewed the CGI's and townscape assessment I note that the proposed hotel will be experienced within a wider panorama which includes tall buildings, including Bonham Quay and the permitted Augustine Hill development and in this regard I agree with the Planning Authority that the character of the city from strategic views would not be significantly impacted by the proposal owing to differences in ground levels and buildings in foreground views.
- 7.2.15. The Planning Authority consider that the proposed development would negatively impact on the Long Walk Architectural Conservation Area (ACA) noting the visibility of the proposal in the skyline behind the ACA. The Townscape and Visual Impact Assessment submitted by the applicant notes that tall buildings will protrude above the low roofline of the houses within Longwalk ACA, that this is unavoidable, but that the legibility of the historic terrace in the ACA will not be adversely affected given the contrast between the ACA and the proposal in terms of typology and scale. I have reviewed CGI viewpoint 16 to the south of Longwalk ACA. I note that the proposed hotel will be particularly prominent from this location however noting the location of the Inner Harbour area to the rear of the ACA it is inevitable that the skyline in the background of the ACA will change with the development of the Inner Harbour area, however I do not consider that the proposal would significantly affect the character of the Longwalk ACA and I agree with the conclusion in the applicant's Townscape and Visual Impact Assessment that the ACA's legibility would not be affected by the proposal.
- 7.2.16. In my opinion the most significant changes in terms of visual impact will occur at a local/ street level. The appeal site is immediately adjacent Forthill Cemetery, the impacts on which have been addressed above at paragraph 7.2.8. The proposed 15 storey hotel will in my opinion be in stark contrast to the adjacent Harbour Hotel, a 4/5

storey building and will dominate Bóthar na Long at this location. In my opinion the proposed development, by virtue of its height, scale and the restricted nature of the site would not integrate with the character of the immediate area. I note that tall buildings have been permitted/constructed in the vicinity however these buildings have occupied larger sites. Additionally, Bonham Quay fronts onto an area of water which assists with its integration. In summation, I do not consider that the proposal would have significant adverse effects on visual amenity at the wider city scale, however at a local/street level the proposed hotel would in my view have a deleterious impact on Bóthar na Long and Forthill Cemetery and therefore fails to adequately assimilate. The failure to assimilate at a local level arises as a result of the height, scale and constrained nature of the appeal site, essentially as the proposal represents overdevelopment of the site.

7.3. Refusal Reason No. 4 (traffic safety)

- 7.3.1. Refusal reason no. 4 relates to traffic safety. The Planning Authority consider that the set-down/collection area(s) for bus and taxis would give rise to a risk of collisions. It Planning Authority contends that the problems identified in the RSA have not been addressed by the applicant. In response the applicant notes that the independent Audit Team raised a number of 'problems' but that these were responded to and signed off as being 'acceptable' by the independent Audit Team. The applicant also refers to autotrack drawings submitted with the appeal which show turning movements for various vehicle types including a refuse truck, large coach and a 10 metre long coach. The applicant notes that coaches to the hotel would be scheduled and infrequent, and that it would be the norm for hotels in Galway City to operate without in curtilage set-down areas, being serviced from the street. The applicant notes that buses will also be able to set-down at the plaza area to the west of the site.
- 7.3.2. The RSA (Appendix F of the TTA) identifies 4 no problems relating to vehicular visibility at the eastern corner of the site; pedestrian/vehicular conflicts to the front of the building; set-down for buses; and pedestrian crossing on Bóthar na Long. The Safety Audit Form accepts the problems which have been identified and measures are proposed to address them, specifically, the removal of landscaping at the corner of the

site; use of contrasting paving materials to define the set-down area; the use of the area to the west of the site for coach set-downs in lieu of the front of the hotel; and discussion with GCC regarding the provision of a pedestrian crossing on Bóthar na Long. From reviewing the RSA, the autotrack drawings, and importantly noting that the problems identified in the RSA have been accepted by the applicant with measures proposed to address them, I am satisfied that the proposed development would not result in a traffic hazard and I do not consider that a refusal of permission on this basis would be warranted.

7.4. Refusal Reason No. 5 (impact on European Sites)

- 7.4.1. The Planning Authority considers that in the absence of a permit to discharge contaminated surface water to the public combined sewer during construction stage that the proposed development would materially contravene Policy Objectives 5.2 (1), (2) and (11) of the Galway City Development Plan 2023-2029, which requires the protection of European Sites, and the carrying out of Screening for Appropriate Assessment/Habitats Directive Assessment. In response the applicant notes that there is no requirement to obtain a licence to discharge surface water to the public combined sewer during the construction stage, but that a temporary licence will be obtained prior to any works commencing on site. The applicant notes that a temporary licence cannot be submitted to Irish Water until the planning application is granted permission, and that an arrangement for discharging surface water will be agreed between the Contractor and the Uisce Éireann/GCC representatives, as is standard practice. The applicant further notes that it is not proposed to discharge contaminated surface water to the public sewer during the construction stage, with any discharge being subject to measures to prevent contaminated water leaving the site, including silt traps. The applicant notes that any surface water during the construction stage will discharge to the Mutton Island WwTP via a combined sewer catchment, and therefore no contaminated water will be discharged directly into Galway Bay and subsequently there will be no significant effect on Galway Bay Complex SAC and Inner Galway Bay SPA.
- 7.4.2. I have reviewed the measures proposed in relation to the treatment of surface water during construction stage, which are set out at Section 3.5 of the outline CMP and also

at Paragraph 7.6.1 of the outline CEMP. I am satisfied that, subject to the implementation of the measures described, contaminated run-off from will not leave the site during construction stage. Furthermore, following an examination, analysis and evaluation of the NIS submitted by the applicant, as set out within Appendix 3 of this report, and all associated material submitted, I consider that in light of the mitigation measures proposed, that adverse effects on the integrity of Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 004031) can be excluded in view of the conservation objectives of the sites. I do not therefore consider that any material contravention of Policy Objectives 5.2 (1), (2) and (11) of the Galway City Development Plan 2023-2029 would occur should permission be granted for the proposed development, as contended by the Planning Authority. Should the Commission decide to permit the proposed development I submit that the Commission is not constrained by the requirements of Section 37 2 (b) of the Planning and Development Act, 2000 (as amended). I do not recommend that permission is refused on this basis.

7.5. Refusal Reason No. 6 (surface water)

- 7.5.1. Refusal reason no. 6 relates to surface water. The Planning Authority are not satisfied with the information submitted regarding surface water disposal on site and contend that the proposed development would contravene Policy 9.2 Water Quality and Policy 9.4 Sustainable Urban Drainage Systems of the Galway City Development Plan 2023-2029. Based on the report of the Planning Officer the concerns of the Planning Authority appear to be based on the temporary drainage measures which the applicant proposed during construction stage. The Planning Authority contend that the feasibility of such measures, and also a license from Uisce Éireann in respect of same, is required in advance. Refusal reason 6 appears to overlap with refusal reason no. 5 to a degree. As addressed above, the applicant notes that there is no requirement to obtain a licence to discharge surface water to the public combined sewer during the construction stage, and that it is not proposed to discharge contaminated surface water from the site during construction stage.
- 7.5.2. Policy 9.2 (Water Quality) consists of 6 no. elements concerning River Basin Management Plan 2018-2021; bathing water; groundwater; and discharges to inland

surface water bodies, and it is unclear what particular aspect of this policy the proposal is considered to contravene. Policy 9.4 (Sustainable Urban Drainage Systems) requires the incorporation of SuDS into developments, and seeks to promote the use of green infrastructure.

7.5.3. In response, the applicant in their appeal submission notes that the proposed development includes measures to protect the water quality through surface water storage and SuDS features, including green roofs, bio-retention areas and permeable paving. The applicant notes that these SuDS measures are indicated on *Drawing No. CYG-BDP-XX-00-PL-C-980001* and *CYG-BDP-XX-00-PL-C-980001*. The applicant has also set out in detail how the development meets this Policy 9.2 and 9.4.

7.5.4. As addressed above under paragraph 7.4.2., I am satisfied that, subject to the implementation of the measures described in the outline CMP and CEMP, contaminated run-off from the site will not leave the site during construction stage, and in my view the proposal accords with Policy 9.2 Water Quality. Additionally, having reviewed the proposed surface water drainage, which includes SuDS measures, I am satisfied that the proposed development accords with Policy 9.4 Sustainable Urban Drainage Systems of the Galway City Development Plan 2023-2029. I do not consider that a refusal of permission would be warranted on this basis.

7.6. Refusal Reason No. 7 (impact on bats)

7.6.1. Refusal reason no. 7 concerns the potential impact of the proposed development on roosting bats. A bat roost assessment report was submitted with the planning application which noted that there were features within the site which rendered the site as having a 'low-moderate' and 'moderate' potential for bat roosts. One of the recommendations of this report was that a minimum of 3 no. bat emergence surveys should be undertaken between May and September. The Planning Authority received a submission from the DoHLGH stating that it concurred with this particular recommendation in relation to the carrying out of bat emergence surveys in order to determine the presence of any roosting/breeding bats, but noted that in the context of the Court of Justice of the European Union (CJEU) judgement (Hellfire Massey C166/22) which held that derogation licences should be applied for and granted if needed, before planning consent is considered, the Planning Authority did not have

enough information to inform its planning decision. The Planning Authority stated in its refusal reason that it was not satisfied, on the basis of the Bat Survey provided, that the proposed development would not lead to disturbance or destruction of roosting sites for bats, and contend that the proposed development would contravene materially policy 5.2 (10) of the Galway City Development Plan, 2023-2029.

7.6.2. In response the applicant notes that the application was lodged prior to bat survey season commencing and the applicant invited the Planning Authority to issue a Further Information Request. The applicant has carried out the bat surveys as per the recommendation in the bat roost assessment report submitted with the planning application and an updated Bat Report has been submitted with the appeal. The report concludes that bats were observed foraging and commuting throughout the site but no emergence was recorded from potential roosts. The report makes a number of recommendations including that a pre-demolition check is completed prior to demolition works, or disturbed; that the northern boundary wall is retained; that a bat ecologist assess the structures prior to commencement to minimise the impacts upon potential roosting bats; and that should roosting bats be discovered, a derogation license will be sought from the NPWS.

7.6.3. I have reviewed the updated bat report which follows the survey methodology recommended by the initial bat roost report and which was also recommended by the DoHLGH. No evidence of bat roosts have been identified within the site. The applicant has adopted a precautionary approach in relation to measures proposed, this is presumably to cater for a situation where in the intervening period between the carrying out of the surveys and commencement of development on the site bats were to roost within the site. I am satisfied that the applicant has undertaken all necessary measures to ensure that there are no bat roosts present within the site. I note that the requirement to obtain a derogation licence in advance of planning consent in the context of the particular court case referred applies in situations where there is evidence of bat roosts within the site. In this case the applicant has demonstrated that there are no bat roosts within the site. I do not recommend therefore that refusal reason no. 7 is upheld. I do not consider that the proposed development if permitted would contravene materially policy 5.2 (10) of the Galway City Development Plan, 2023-2029. Should the Commission decide to permit the proposed development I

submit to the Commission that it is not constrained by the requirements of Section 37 2 (b) of the Planning and Development Act, 2000 (as amended).

7.7. Issues Arising

- 7.7.1. Capacity of waste water network – an observation from An Taisce raises concerns in relation to the capacity in the wastewater drainage network to accommodate the proposal development, specifically two existing siphons (pipes) that run from The Long Walk (south-west of the appeal site), under the River Corrib, to Claddagh Quay. These siphons carry wastewater from all the developments in the city for treatment in the WWTP at Mutton Island. The observation notes frequently observed discharges into the River Corrib from a specific stormwater overflow (i.e. SWO19) at The Long Walk due to insufficient capacity in the siphons. The observation notes that this situation was recognised in the application to the EPA by Galway City Council in 2007 and it was deemed that a third larger siphon was necessary, however this siphon was never provided. Furthermore, the observation refers to a condition survey of the two existing siphons undertaken in May 2024 which found that one of the siphons was at risk of collapse. The observation notes that the application documentation ignores these constraints. The applicant proposes to reuse the existing combined site outfall connection to an existing 225 mm public foul sewer on Bóthar na Long and to provide a new 150 mm (dia) connection to the public sewer. The applicant notes that a Confirmation of Feasibility (CoF) was issued by Irish Water in September 2020 (for a 200 bedroom hotel), that a new CoF was submitted to Uisce Éireann in respect of the current proposal however a CoF has not been issued.

I note that the Uisce Éireann (UE) wastewater capacity register states there is available capacity available at the (Mutton Island). I note the wastewater drainage licence (no. D0050-01) issued to Uisce Éireann and that compliance with this licence comes under the remit of the EPA. I note that the most recent UE Annual Environmental Report (AER) 2024, available from the EPA, for the Galway Wastewater Treatment Plant indicates that the WWTP is compliant with the Emissions Limit Values (ELVs) set in the Wastewater Discharge Licence. The AER referenced above also provides an assessment of SWO performance which is covered by the

licence. It states that the discharge from the wastewater treatment plant does not have an observable impact on the water quality and does not have an observable negative impact on the Water Framework Directive status of receiving waters. I note that in this report it is stated that the upgrading of SWO19 is 'programmed to be completed in 2025'. The issue of capacity and overflows is acknowledged however these relate to the wider public wastewater network for which Uisce Éireann, as the national regulated water utility, are responsible for. I further note that the proposed development will be contingent on receiving a CoF in order to proceed. Having regard to the foregoing I do not consider that the proposed development should be refused on this basis of infrastructural capacity issues in the foul sewer network.

7.7.2. Water Framework Directive - I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive, which seek to protect and, where necessary, restore surface and ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- The nature and extent of the proposed development.
- The absence of any surface water features in the vicinity of the site.
- The provision of measures during the construction phase of the proposed development to prevent the release of contaminated run-off from the site, and the provision of SuDS measures for the completed development.
- The location of the site outside of an area indicated as being susceptible to flooding.

I conclude that on the basis of objective information, that the proposed development would not have resulted in a risk of deterioration on any water body (rivers, lakes,

groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

- 7.7.3. Seveso - from reviewing the GCC's GIS system I note that the easternmost part of the appeal site overlaps with the 400 metre Seveso consultation zone associated with Topaz Energy Galway Terminal located in New Docks, Galway Harbour Board Enterprise Park, which is classified as an Upper Tier Establishment. From reviewing the file it is unclear whether GCC referred the application to the Health and Safety Authority (HSA). Should the Commission be minded to grant permission for the proposed development I recommend that the views of the HSA are sought in relation to the appeal in advance of such a decision, so as to comply with the requirements of Art. 141 (1) (c) of the Planning and Development Regulations, 2001, as amended.
- 7.7.4. Impact on helipad at University Hospital Galway – a submission was submitted to GCC by the IAA which recommends that the applicant liaise with the HSE in relation to any implications for the helipad at University Hospital Galway, and that a condition should be attached to any grant of permission requiring the HSE, IAA and University Hospital Galway to be notified in advance of crane operations on the site. In the event of a grant of permission I recommend that a suitably worded condition requiring same is attached.
- 7.7.5. Structural impact on boundary wall of Forthill Cemetery – concerns are raised in relation to the impact of the proposal on the structural integrity of the retaining boundary wall (a Protected Structure) with the cemetery in an observation submitted to the Planning Authority and also in the reports of both the Heritage and Conservation Officer. Repair works are proposed to this boundary wall and the proposed development will also entail development in close proximity to the wall. The applicant has submitted a Structural Engineering Report which outlines that investigations have been carried out at locations along the wall, and that a structural solution is proposed to protect the wall (see Section 2.4 of Structural Engineering Report). Details of the condition and proposed repair works to this wall are also provided at page 22 of the AAHIA) and it is proposed that these works will be supervised by a conservation consultant. Having regard to the measures proposed to address the stability of the wall

and the overseeing of the repair work I am satisfied that the proposed development will not adversely affect the boundary wall. In relation to potential damage to graves within the graveyard itself arising from construction works within the appeal site, similar to any construction project, the onus is on the applicant to ensure that no damage to structures outside the development site occur, and I consider this issue to be a civil issue.

7.7.6. Cycle parking – the report from the Active Travel Section of GCC recommends an increase in bicycle spaces from 20 no. to 38 no., the provision of covered spaces, and that provision be made for non-standard cycles. Section 11.11. 4 of the GCDP 2023 – 2029 requires that for commercial developments, the number of cycle stands shall be equivalent to 25% of the number of car parking spaces, and that the amount of spaces at a minimum shall meet the cycle parking space requirements in accordance with Section 5.5.7 of the National Cycle Manual 2011, or any forthcoming replacement to these standards, unless otherwise agreed in writing with the Planning Authority. The proposal provides no car parking and therefore cycle parking is determined with reference to the National Cycle Manual 2023, which replaces the National Cycle Manual 2011. I have reviewed the National Cycle Manual 2023 and note that there is no applicable quantitative standard which would apply to the proposed development. In the event of a grant of permission I recommend that a condition is attached requiring details of cycle parking, including the number of spaces and location and design of storage to be agreed with the Planning Authority.

7.8. **Stage 1 - Appropriate Assessment Screening**

7.8.1. In accordance with Section 177U of the Planning and Development Act, 2000, as amended, and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 004031) in view of the conservation objectives of a number of qualifying features of these sites. It is therefore determined that Appropriate Assessment (Stage 2) [under Section 177V of the Planning and Development Act, 2000] of the proposed development is required.

7.9. **Stage 2 – Appropriate Assessment**

7.9.1. Following screening for the need for Appropriate Assessment it was determined that the proposed development could result in significant effects on Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 004031) in view of the conservation objectives of these sites, and Appropriate Assessment was deemed to be required. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects on site integrity are examined and evaluated for effectiveness. Possible in-combination effects are also considered. A full description of the proposed development, including construction methodology, is set out on pages 4-7 of the NIS submitted by the applicant and the potential impacts from the construction and operational phases are set out on pages 8 – 11 of the NIS.

7.9.2. Following an examination, analysis and evaluation of the NIS, as set out within Appendix 3 of this report, and all associated material submitted, I consider that in light of the mitigation measures proposed, that adverse effects on the integrity of Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 004031) can be excluded in view of the conservation objectives of the sites and that no reasonable scientific doubt remains as to the absence of such effects. My conclusion is based on the following:

- Detailed assessment of construction and operational impacts.
- Effectiveness of mitigation measures proposed.
- Application of planning conditions to ensure application of these measures.

8.0 Recommendation

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

9.0. Reasons and Considerations

1. The proposed development has a stated plot ratio of 3.39:1 significantly in excess of the maximum permitted plot ratio of 2:1 for the CC zone set out at Section 11.4.2 of the Galway City Development Plan 2023 – 2029. The plot ratio proposed would be contrary to Section 11.4.2 of the Galway City Development Plan 2023 – 2029 and would represent overdevelopment of the site. It is considered that the proposed development, by reason of its excessive plot ratio, together with its height and scale at this restricted site, would constitute overdevelopment of the site and would seriously injure the amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development by reason of its height, scale and its proximity to Forthill Cemetery, would have a detrimental impact upon the character and setting of Forthill Cemetery. It is considered that the proposed development would, therefore, contravene Policy 8.1 (2) of the Galway City Development Plan 2023-2029, which seeks to ensure that new development enhances the character or setting of a protected structure, and Policy 8.4 (2) of the Galway City Development Plan 2023-2029, which seeks to ensure that proposed development within the designated city centre Zone of Archaeological Notification is not detrimental to the character of an archaeological site or its setting. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Ian Campbell
Senior Planning Inspector

28th January 2026

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála	ABP-320100-24		
Case Reference			
Proposed Development Summary	Permission for demolition of structures and boundary walls and construction of hotel, together with all associated site works.		
Development Address	Corner of Lough Atalia Road and Bóthar na Long, Galway		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Part 2, Sch. 5, Class 10, (b), (iv)	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	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), (iv) (threshold is 2 Ha.) – site area is 0.2217 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: 28th January 2026

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-320100-24
Proposed Development Summary	Permission for demolition of structures and boundary walls and construction of hotel, together with all associated site works.
Development Address	Corner of Lough Atalia Road and Bóthar na Long, Galway
<p>The Commission 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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
<p>Characteristics of proposed development (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 demolition of structures on the site and the construction of a 15 storey hotel. 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>

<p>Location of development</p> <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 development is located in an urban area on a brownfield site. The site is c. 145 metres from two European Sites. Following an Appropriate Assessment, it has been ascertained that the proposed development would not adversely affect the integrity of these, or any other European Site, in view of the Conservation Objectives of these sites.</p> <p>Forthill Cemetery is a Protected Structure and there are a number of Recorded Monuments within the cemetery. No archaeological features were identified during archaeological testing of the site and mitigation measures and monitoring are proposed to address the potential for impacts on heritage in the area.</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>Types and characteristics of potential impacts (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>
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Conclusion

Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
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.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 2 - Appropriate Assessment Screening Determination

Screening for Appropriate Assessment Test for likely significant effects

Step 1: Description of the project and local site characteristics

Case file: ABP-320100-24

<p>Brief description of project</p>	<p>Permission the demolition of structures and boundary walls and construction of hotel, together with all associated site works. Detail set out in section 2.0 of the Inspector's report. See also page 4 of the NIS for details of the proposed development.</p>
<p>Brief description of development site characteristics and potential impact mechanisms</p>	<p>A detailed description of the development site is provided in Section 1.0 of the Inspector's report and detailed specifications of the proposal are provided in the Appropriate Assessment Screening Report, the NIS and other planning documents provided by the applicant.</p> <p>The site is located c. 145 metres west of Galway Bay Complex SAC (Site Code 000268), and Inner Galway Bay SPA (Site Code 004031), and c, 500 metres east of Lough Corrib SAC (Site Code 000297). Impact mechanisms include - the release of polluted run-off (inc. silt, concrete,</p>

	<p>hydrocarbons etc.) to surface during the construction phase of the proposed development.</p> <p>The site is comprised entirely of hard standing and there is no attenuation storage in place. The proposed development will provide for new attenuation storage. SUDS measures, including green roofs, bio-retention areas and permeable paving are proposed.</p>	
Screening report	Yes (prepared by Open Field)	
Natura Impact Statement	Yes (prepared by Open Field)	
Relevant submissions	<p><u>An Taisce</u> – submission raises concerns regarding the capacity of the foul sewer and notes absence of ‘Confirmation of Feasibility’.</p> <p><u>Department of Housing, Local Government and Heritage (DoHLGH)</u> – in relation to nature conservation the observation notes that it agrees with the applicant’s proposal to carry out three bat emergence surveys between May and September 2024 in order to determine the presence of any roosting/breeding bats. The observation notes the Court of Justice of the European Union (CJEU) judgement (Hellfire Massey C166/22) which held that derogation licences should be applied for and granted if needed, before planning consent is considered, and note that Galway City Council</p>	

do not have enough information to inform their planning decision, and that further information is required.

Step 2. Identification of relevant European sites using the Source-pathway-receptor model

4 no. European sites were identified as being within a potential zone of influence of the proposed development as detailed in Table 1 below.

European Site (code)	Qualifying interests (summary) Link to conservation objectives (NPWS, date)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
Galway Bay Complex SAC (Site Code: 000268)	<ul style="list-style-type: none"> - Mudflats and sandflats not covered by seawater at low tide [1140] - Coastal lagoons [1150] - Large shallow inlets and bays [1160] - Reefs [1170] - Perennial vegetation of stony banks [1220] - Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] - Salicornia and other annuals colonising mud and sand [1310] 	c. 145 metres east of appeal site	Given the proximity between the site and the SAC a potential hydrological connection exists.	Y

	<ul style="list-style-type: none"> - Atlantic salt meadows (Glaucopuccinellietalia maritimae) [1330] - Mediterranean salt meadows (Juncetalia maritimi) [1410] - Turloughs [3180] - Juniperus communis formations on heaths or calcareous grasslands [5130] - Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] - Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] - Alkaline fens [7230] - Limestone pavements [8240] - Lutra lutra (Otter) [1355] - Phoca vitulina (Harbour Seal) [1365] <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000268.pdf -</p> <p>16th April 2013.</p>			
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<p>Inner Galway Bay SPA (Site Code: 004031)</p>	<ul style="list-style-type: none"> - Black-throated Diver (<i>Gavia arctica</i>) [A002] - Great Northern Diver (<i>Gavia immer</i>) [A003] - Cormorant (<i>Phalacrocorax carbo</i>) [A017] - Grey Heron (<i>Ardea cinerea</i>) [A028] - Light-bellied Brent Goose (<i>Branta bernicla hrota</i>) [A046] - Teal (<i>Anas crecca</i>) [A052] - Red-breasted Merganser (<i>Mergus serrator</i>) [A069] - Ringed Plover (<i>Charadrius hiaticula</i>) [A137] - Golden Plover (<i>Pluvialis apricaria</i>) [A140] - Lapwing (<i>Vanellus vanellus</i>) [A142] - Dunlin (<i>Calidris alpina</i>) [A149] - Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] - Curlew (<i>Numenius arquata</i>) [A160] - Redshank (<i>Tringa totanus</i>) [A162] - Turnstone (<i>Arenaria interpres</i>) [A169] - Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] - Common Gull (<i>Larus canus</i>) [A182] - Common Tern (<i>Sterna hirundo</i>) [A193] 	<p>c. 145 metres east of appeal site</p>	<p>Given the proximity between the site and the SPA a potential hydrological connection exists.</p>	<p>Y</p>
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	<ul style="list-style-type: none"> - Wigeon (<i>Mareca penelope</i>) [A855] - Sandwich Tern (<i>Thalasseus sandvicensis</i>) [A863] - Wetland and Waterbirds [A999] <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004031.pdf -</p> <p>1st May 2013</p>			
Lough Corrib SAC (Site Code: 000297)	<ul style="list-style-type: none"> - Oligotrophic waters containing very few minerals of sandy plains (<i>Littorelletalia uniflorae</i>) [3110] - Oligotrophic to mesotrophic standing waters with vegetation of the <i>Littorelletea uniflorae</i> and/or <i>Isoeto-Nanojuncetea</i> [3130] - Hard oligo-mesotrophic waters with benthic vegetation of <i>Chara</i> spp. [3140] - Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260] - Semi-natural dry grasslands and scrubland facies on calcareous substrates (<i>Festuco-Brometalia</i>) (* important orchid sites) [6210] 	c. 500 metres west of appeal site	Lough Corrib SAC is located within a different hydrological catchment. Given the absence/weakness of a pathway between the site and the SAC there is no likely significant impact from the proposed	N

	<ul style="list-style-type: none"> - Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] - Active raised bogs [7110] - Degraded raised bogs still capable of natural regeneration [7120] - Depressions on peat substrates of the Rhynchosporion [7150] - Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210] - Petrifying springs with tufa formation (Cratoneurion) [7220] - Alkaline fens [7230] - Limestone pavements [8240] - Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0] - Bog woodland [91D0] - Margaritifera margaritifera (Freshwater Pearl Mussel) [1029] - Austropotamobius pallipes (White-clawed Crayfish) [1092] 		works on the QI of this SAC.	
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	<ul style="list-style-type: none"> - Petromyzon marinus (Sea Lamprey) [1095] - Lampetra planeri (Brook Lamprey) [1096] - Salmo salar (Salmon) [1106] - Rhinolophus hipposideros (Lesser Horseshoe Bat) [1303] - Lutra lutra (Otter) [1355] - Najas flexilis (Slender Naiad) [1833] - Hamatocaulis vernicosus (Slender Green Feather-moss) [6216] <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000297.pdf -</p> <p>28th April 2017</p>			
Lough Corrib SPA (Site Code: 004042)	<ul style="list-style-type: none"> - Pochard (Aythya ferina) [A059] - Tufted Duck (Aythya fuligula) [A061] - Common Scoter (Melanitta nigra) [A065] - Hen Harrier (Circus cyaneus) [A082] - Coot (Fulica atra) [A125] - Golden Plover (Pluvialis apricaria) [A140] - Black-headed Gull (Chroicocephalus ridibundus) [A179] - Common Gull (Larus canus) [A182] 	c. 500 metres west of appeal site	Lough Corrib SPA is located within a different hydrological catchment. Given the absence/weakness of a pathway between the site	N

	<ul style="list-style-type: none"> - Common Tern (<i>Sterna hirundo</i>) [A193] - Arctic Tern (<i>Sterna paradisaea</i>) [A194] - Greenland White-fronted Goose (<i>Anser albifrons flavirostris</i>) [A395] - Shoveler (<i>Spatula clypeata</i>) [A857] - Gadwall (<i>Mareca strepera</i>) [A889] - Wetland and Waterbirds [A999] <p>https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004042.pdf - 27th January 2023</p>		<p>and the SPA, and the distance to the SPA, there is no likely significant impact from the proposed works on the SCI of this SPA.</p>	
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Ecological walkover surveys of the site were carried out on the 30th March 2019, and more recently on the 22nd March 2024. Habitats were classified in accordance with The Heritage Council's 'A Guide to Habitats in Ireland' (Fossitt, 2000). Habitats on the site are described on page 6 of the AASR. The main habitat type on the site is buildings and artificial surfaces – BL3. There are no Annex I habitats or rare or protected plants on the development site. There are no species listed as alien invasive as per SI 477 of 2011 or as 'most unwanted' by Invasive Species Ireland.

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

The proposed development could result in direct and indirect effects on the above SAC and SPA. Sources of impact and likely significant effects are detailed in the Table below.

Screening matrix

Site name	Possibility of significant effects (alone) in view of the conservation objectives of the site	
	Impacts	Effects
Galway Bay Complex SAC (Site Code: 000268)	The site is c. 145 metres west of the SAC. Water pollution arising from the uncontrolled release of pollutants to surface water (e.g. run-off, silt, fuel, oils, sediment etc.) during construction stage.	Subsequent impacts on water quality sensitive species/habitats.

<p>Inner Galway Bay SPA (Site Code: 004031)</p>	<p>The site is c. 145 metres west of the SPA.</p> <p>Water pollution arising from the uncontrolled release of pollutants to surface water (e.g. run-off, silt, fuel, oils, sediment etc.) during construction stage.</p>	<p>Any effects to invertebrate communities could have effects on wading shore birds that feed on them, including SCI of Inner Galway Bay SPA.</p>
<p>Likelihood of significant effects from proposed development (alone): Yes</p>		

Step 4 Conclude if the proposed development could result in likely significant effects on a European Site

Based on the information provided in the screening report, site visit, review of the conservation objectives and supporting documents, I consider that in the absence of mitigation measures beyond best practice construction methods, the proposed development has the potential to result significant effects on the following European Sites;

- Galway Bay Complex SAC (Site Code: 000268)

- Inner Galway Bay SPA (Site Code: 004031)

I concur with the applicant's findings that such impacts could be significant in terms of the stated conservation objectives of the SAC and SPA when considered on their own in relation to pollution related pressures and disturbance on qualifying interest habitats and species.

Having regard to the distance of the development site to Lough Corrib SAC and SPA, the developed nature of the lands between, and given that Lough Corrib SAC and SPA are within a separate hydrological catchment to the development site, I do not consider that there is a potential likelihood of significant effects on Lough Corrib SAC and SPA. The applicant notes in the NIS that water to serve Galway City, and ultimately the proposed development, will be abstracted from Lough Corrib, however it is noted that the increase in water demand from the proposal is well within existing provisional capacity and is not likely to result in significant effects.

Screening Determination

Finding of likely significant effects

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development could result in significant effects on Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 004031) in view of the conservation objectives of a number of qualifying interest features of these site.

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] of the proposed development **is required.**

Appendix 3 - Appropriate Assessment – AA Determination

Appropriate Assessment

The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177V [or S 177AE] of the Planning and Development Act 2000 (as amended) are considered fully in this section.

Taking account of the preceding screening determination at Appendix 2 of the Inspector's report (above), the following is an Appropriate Assessment of the implications of the proposed development in view of the relevant conservation objectives of Galway Bay Complex SAC (Site Code: 000268) and Inner Galway Bay SPA (Site Code: 004031) based on the scientific information provided by the applicant.

The information relied upon includes the following:

- Planning Report
- Screening for Appropriate Assessment
- Natura Impact Statement
- Ecological Impact Assessment
- Preliminary Bat Roost Assessment

- Engineering Service Report (inc. Flood Risk Assessment)
- Construction and Environmental Management Plan
- Outline Construction Management Plan
- Drawings
- Documentation submitted with appeal

I am satisfied that the information provided is adequate to allow for Appropriate Assessment. I am satisfied that all aspects of the project which could result in significant effects are considered and assessed in the NIS and mitigation measures designed to avoid or reduce any adverse effects on site integrity are included and assessed for effectiveness.

Submissions/observations

An Taisce – submission raises concerns regarding the capacity of the foul sewer and notes the absence of a ‘Confirmation of Feasibility’.

Department of Housing, Local Government and Heritage (DoHLGH) – in relation to nature conservation the observation notes that it agrees with the applicants proposal to carry out three bat emergence surveys between May and September 2024 in order to determine the presence of any roosting/breeding bats. The observation notes the Court of Justice of the European Union (CJEU) judgement (Hellfire Massey C166/22) which held that derogation licences should be applied for and granted if needed, before planning consent is considered, and note that Galway City Council do not have enough information to inform their planning decision, and that further information is required.

Galway Bay Complex SAC (Site Code: 000268)			
Summary of Key issues that could give rise to adverse effects (from screening stage):			
(i) Water Quality Degradation (construction phase)			
Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)
Mudflats and sandflats not covered by seawater at low tide [1140]	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in Galway Bay Complex SAC.	Release of sediment laden waters, wastes, or other pollutants during construction phase of the proposed development impacting surface water quality, resulting in water quality	<p>NIS pages 21 – 22 (see summary below)</p> <ul style="list-style-type: none"> - Construction will follow guidance from Inland Fisheries Ireland (IFI, 2016) for the protection of fish habitat. - Surface run off from the site will only be discharged to local drains via a settlement pond. - During construction, all run-off water from the site will drain to the combined sewer and will be treated at the Galway wastewater treatment plant prior to discharge to Galway Bay.

		degradation and/or alteration of habitat quality would undermine conservation objectives.	<ul style="list-style-type: none"> - Dangerous substances, such as oils, fuels etc., will be stored in a bunded zone. - Site personnel will be trained in the pollution control. - The site manager oversee the implementation of the mitigation measures. - Mitigation measures will be assessed on a daily basis. - Mitigation measures will be incorporated into a PCMP. 	
Large shallow inlets and bays [1160]	To maintain the favourable conservation condition of Large shallow inlets and bays in Galway Bay Complex SAC.	As above	As above	
Reefs [1170]	To maintain the favourable conservation condition of Reefs in Galway Bay Complex SAC.	As above	As above	

The above table is based on the documentation and information provided on the file, and publicly available at https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO000268.pdf.

The NIS does not include 2 no. QI of Galway Bay Complex SAC i.e. Vegetated sea cliffs of the Atlantic and Baltic coasts [1230] and Limestone pavements [8240]. I note that there is no pathway between the development site and the locations of these QI. The Limestone pavement within the SAC is located at Ballyconry, Gleninagh North and Newquay (according to site synopsis for the SAC). With the exception of the 2 no. QI identified above, which have no connectivity to the development site, I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.

The NIS submitted by the applicant notes that the proposed development will have no potential for adverse effects on the following QI of Galway Bay Complex SAC on the basis of the absence of Source-Pathway-Receptor –

- Coastal lagoons [1150]
- Turloughs [3180]
- Juniperus communis formations on heaths or calcareous grasslands [5130]
- Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]
- Alkaline fens [7230]
- Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210]
- Perennial vegetation of stony banks [1220]
- Salicornia and other annuals colonising mud and sand [1310]
- Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]

- Mediterranean salt meadows (*Juncetalia maritimi*) [1410]
- *Lutra lutra* (Otter) [1355]
- *Phoca vitulina* (Harbour Seal) [1365] (I that the species code for this QI is incorrect on page 19 of the NIS, referred to as 0781, the correct code is referred to on page 13 however. This is a typographical error and I am satisfied that it has no bearing on the assessment).

Assessment of issues that could give rise to adverse effects view of conservation objectives

Regarding Loss of Habitat, there are no Annex I habitats within or adjacent to the proposed works boundary.

(i) Water quality degradation

Deterioration of water quality and substrates in the designated site, resulting in adverse impacts to qualifying interests that the SAC has been designated for.

Mitigation measures and conditions

- Standard and Best Practice Construction Procedures and specific mitigation measures set-out on pages 21 - 22 of NIS.

I am satisfied that the preventative measures which are aimed at interrupting the source-pathway-receptor are targeted at the key threats to the qualifying interests of the SAC by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented.

In-combination effects

I am satisfied that in-combination effects have been assessed adequately in the NIS. The proposed development was considered in-combination with other plans and projects in the area that could result in cumulative impacts on designated sites. No other

<p>plans and projects could combine to generate significant effects when mitigation measures are considered. I am satisfied that the applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures.</p>	
<p>Findings and conclusions</p> <p>The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European Site. Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded for Galway Bay Complex SAC (Site Code: 000268). No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water and other construction related pollutants and minimise disturbance to aquatic species. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.</p> <p>Reasonable scientific doubt</p> <p>I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.</p> <p>Site Integrity</p> <p>The proposed development will not affect the attainment Conservation objectives of Galway Bay Complex SAC (Site Code: 000268). Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.</p>	

Inner Galway Bay SPA (Site Code: 004031)			
Summary of Key issues that could give rise to adverse effects (from screening stage):			
(ii) Water Quality Degradation (construction phase)			
Qualifying Interest features likely to be affected	Conservation Objectives	Potential adverse effects	Mitigation measures (summary)
			NIS pages 21 – 22 (see summary below)
Black-throated Diver (Gavia arctica) [A002]	No Conservation Objective set. It is considered reasonable to adopt the same Conservation Objective and attributes and targets as Great-northern diver as they are related species and have similar ecology.	Release of sediment laden waters, wastes, or other pollutants during construction phase of the proposed development impacting surface water quality, resulting in water quality degradation and/or alteration of habitat quality	<ul style="list-style-type: none"> - Construction will follow guidance from Inland Fisheries Ireland (IFI, 2016) for the protection of fish habitat. - Surface run off from the site will only be discharged to local drains via a settlement pond. - During construction, all run-off water from the site will drain to the combined sewer and will be treated at the Galway wastewater treatment plant prior to discharge to Galway Bay. - Dangerous substances, such as oils, fuels etc., will be stored in a bunded zone.

		within Galway Bay. Any effects to invertebrate communities could have effects on wading shore birds that feed on them, including SCI of Inner Galway Bay SPA.	<ul style="list-style-type: none"> - Site personnel will be trained in the pollution control. - The site manager oversee the implementation of the mitigation measures. - Mitigation measures will be assessed on a daily basis. - Mitigation measures will be incorporated into a PCMP.
Great Northern Diver (Gavia immer) [A003]	To maintain the favourable conservation condition of Great Northern Diver in Inner Galway Bay SPA.	As above	As above
Cormorant (Phalacrocorax carbo) [A017]	To maintain the favourable conservation condition of Cormorant in Inner Galway Bay SPA.	As above	As above
Grey Heron (Ardea cinerea) [A028]	To maintain the favourable conservation	As above	As above

	condition of Grey Heron in Inner Galway Bay SPA.		
Light-bellied Brent Goose (Branta bernicla hrota) [A046]	To maintain the favourable conservation condition of Light-bellied Brent Goose in Inner Galway Bay SPA.	As above	As above
Teal (Anas crecca) [A052]	To maintain the favourable conservation condition of Teal in Inner Galway Bay SPA.	As above	As above
Red-breasted Merganser (Mergus serrator) [A069]	To maintain the favourable conservation condition of Red-breasted Merganser in Inner Galway Bay SPA.	As above	As above
Ringed Plover (Charadrius hiaticula) [A137]	To maintain the favourable conservation condition of Ringed Plover in Inner Galway Bay SPA.	As above	As above

Golden Plover (<i>Pluvialis apricaria</i>) [A140]	To maintain the favourable conservation condition of Golden Plover in Inner Galway Bay SPA.	As above	As above
Lapwing (<i>Vanellus vanellus</i>) [A142]	To maintain the favourable conservation condition of Lapwing in Inner Galway Bay SPA.	As above	As above
Dunlin (<i>Calidris alpina</i>) [A149]	To maintain the favourable conservation condition of Dunlin in Inner Galway Bay SPA.	As above	As above
Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]	To maintain the favourable conservation condition of Bar-tailed Godwit in Inner Galway Bay SPA.	As above	As above
Curlew (<i>Numenius arquata</i>) [A160]	To maintain the favourable conservation	As above	As above

	condition of Curlew in Inner Galway Bay SPA.		
Redshank (<i>Tringa totanus</i>) [A162]	To maintain the favourable conservation condition of Redshank in Inner Galway Bay SPA.	As above	As above
Turnstone (<i>Arenaria interpres</i>) [A169]	To maintain the favourable conservation condition of Turnstone in Inner Galway Bay SPA.	As above	As above
Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]	To maintain the favourable conservation condition of Black-headed Gull in Inner Galway Bay SPA.	As above	As above
Common Gull (<i>Larus canus</i>) [A182]	To maintain the favourable conservation condition of Common Gull in Inner Galway Bay SPA.	As above	As above
Common Tern (<i>Sterna hirundo</i>) [A193]	To maintain the favourable conservation	As above	As above

	condition of Common Tern in Inner Galway Bay SPA.		
Wigeon (<i>Mareca penelope</i>) [A855]	To maintain the favourable conservation condition of Wigeon in Inner Galway Bay SPA.	As above	As above
Sandwich Tern (<i>Thalasseus sandvicensis</i>) [A863]	To maintain the favourable conservation condition of Sandwich Tern in Inner Galway Bay SPA.	As above	As above
Wetland and Waterbirds [A999]	To maintain the favourable conservation condition of wetland habitat in Inner Galway Bay SPA as a resource for the regularly occurring migratory waterbirds that utilise it.	As above	As above

The above table is based on the documentation and information provided on the file, and publicly available at https://www.npws.ie/sites/default/files/protected-sites/conservation_objectives/CO004031.pdf. The NIS does not include 1 no. SCI of Inner Galway Bay SPA i.e. Black-throated Diver (*Gavia arctica*) [A002]. I note that this SCI was added in 2019, and currently there is no Conservation Objective set for this SCI. Black-throated Diver (*Gavia arctica*) [A002] are a related species of Great-northern diver with similar ecology and therefore can be considered in the context of the same Conservation Objective. Similar to other marine birds in the SPA the key issue in terms of impacts is water quality and ensuring that sufficient mitigation measures are put in place to prevent emissions to Galway Bay. With the exception of Black-throated Diver (*Gavia arctica*) [A002], which is possible assess impacts on in the same manner as Great-northern diver, I am satisfied that the submitted NIS has identified the relevant attributes and targets of the Qualifying Interests.

Assessment of issues that could give rise to adverse effects view of conservation objectives

(i) Water quality degradation

The release of pollutants during the construction phase of the proposed development resulting in water quality degradation and/or alteration of habitat quality within Galway Bay could effect invertebrate communities which could in turn have effects on wading shore birds that feed on them, including SCI of Inner Galway Bay SPA.

Mitigation measures and conditions

- Standard and Best Practice Construction Procedures and specific mitigation measures set-out on pages 21 - 22 of NIS.

I am satisfied that the preventative measures which are aimed at interrupting the source-pathway-receptor are targeted at the key threats to the qualifying interests of the SAC, and by extension the SPA, by arresting these pathways or reducing possible effects to a non-significant level, adverse effects can be prevented.

In-combination effects

I am satisfied that in-combination effects have been assessed adequately in the NIS. The proposed development was considered in-combination with other plans and projects in the area that could result in cumulative impacts on designated sites. No other plans and projects could combine to generate significant effects when mitigation measures are considered. I am satisfied that the applicant has demonstrated that no significant residual effects will remain post the application of mitigation measures.

Findings and conclusions

The applicant determined that following the implementation of mitigation measures the construction and operation of the proposed development alone, or in combination with other plans and projects, will not adversely affect the integrity of this European Site. Based on the information provided, I am satisfied that adverse effects arising from the proposed development can be excluded for Inner Galway Bay SPA (Site Code: 004031). No direct impacts are predicted. Indirect impacts would be temporary in nature and mitigation measures are described to prevent ingress of silt laden surface water and other construction related pollutants and minimise disturbance to aquatic species. I am satisfied that the mitigation measures proposed to prevent such effects have been assessed as effective and can be implemented and conditioned if permission is granted.

Reasonable scientific doubt

I am satisfied that no reasonable scientific doubt remains as to the absence of adverse effects.

Site Integrity

The proposed development will not affect the attainment Conservation objectives of Inner Galway Bay SPA (Site Code: 004031). Adverse effects on site integrity can be excluded and no reasonable scientific doubt remains as to the absence of such effects.