



An  
Bord  
Pleanála

## Inspector's Report

### ABP-320582-24

<b>Development</b>	Construction of an eight storey over basement, 186 bedroom hotel.
<b>Location</b>	Site 4, Briarhill Business Park, Bothar na dTreabh in the townlands of Ballybrit and Doughiska, Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	20218
<b>Applicant(s)</b>	Parosi Developments Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	First and Third Parties
<b>Appellant(s)</b>	Parosi Developments Ltd, Nightguard Ltd and Helen Duffy Fahy.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	30 <sup>th</sup> September 2022.

**Inspector**

Barry O'Donnell

## **1.0 Introduction & Background**

- 1.1. I refer to correspondence dated the 5<sup>th</sup> September 2024 which outlines that the Board had previously made a decision on this appeal by order dated 3<sup>rd</sup> January 2024 and under appeal reference number ABP-313102-22. The correspondence confirms that this decision was quashed by Order of the High Court and the case was remitted by that Court back to the Board for a new decision. The appeal has now been reactivated under Ref: ABP-320582-24.
- 1.2. Having regard to the High Court Order in this case, the quashing of the previous Board decision and the passage of time, the Board considered that it was appropriate in the interests of justice to request relevant parties under Section 131 of the Planning and Development Act, 2000, as amended, to make any further general submissions/observations in relation to the planning application the subject of the appeal and on the Galway City Development Plan 2023-2029 (GCDP).
- 1.3. All parties were invited to make a submission in relation to the matters raised above on or before 2<sup>nd</sup> October 2024.
- 1.4. This report considers the submissions made on foot of the request and the proposed development in the context of the policy provisions of the GCDP and should be read in conjunction with my original assessment contained within the Inspectors Report dated the 25<sup>th</sup> November 2022 and subsequent Addendum Report 5<sup>th</sup> December 2023 in respect of ABP Ref: ABP-313102-22.

## **2.0 Responses to Board's Correspondence**

### **2.1. Planning Authority Response**

- 2.1.1. None received.

### **2.2. First Party Response**

- 2.2.1. A submission has been received from MKO Planning Consultants dated 2<sup>nd</sup> October 2024, on behalf of the applicant, Parosi Developments Ltd. The submission can be summarised as follows: -
  - Galway City Development Plan 2023-2029

- The site remains zoned CI: Enterprise, Light Industry and Commercial and the proposed development is consistent with the zoning objective, where a hotel development comprises commercial development.
- 5% of the site area on CI-zoned land should be allocated top open space. This standard is consistent with those contained within the 2017-2023 development plan and the proposed development accords with the requirement.
- Maximum site coverage of 0.80 and maximum plot ratio of 1.25 are allowed. These standards are consistent with those contained within the 2017-2023 development plan.
- Maximum parking standards are provided as follows:
  - 1 space per bedroom for hotels
  - 1 space per 8sqm GFA for bars and lounges (including hotel bars)
  - 1 space per 10sqm for function rooms (including hotel function rooms)

The development includes a travel plan that demonstrates alternative methods of dealing with development traffic.

- Where appropriate, a minimum of 1 cycle stand per 20 car parking spaces shall be provided, with an additional stand provided for every additional 50 car parking spaces. Each stand should accommodate minimum 5 bicycles. This standard is consistent with that contained within the 2017-2023 development plan.
- New developments are required to consider the use of innovative design features in relation to surface water drainage and thermal insulation. This standard is consistent with that contained within the 2017-2023 development plan and has been considered in the proposed design.
- Planning Policies Relating to Building Heights
  - By reference to stated provisions of Urban Development and Building Heights Guidelines for Planning Authorities, it is submitted that: -
    - Height limits, if applied inflexibly or unreasonably, can undermine wider national policy.

- Development plans should not set overly restrictive maximum height limits without proper consideration of the wider planning potential of development sites.
- Planning authorities and their height strategies should support increased building height and density in locations with good public transport accessibility, particularly town/city centres and shall not provide for blanket numerical limitations on building height.
- Galway City Urban Density and Building Height Strategy (UDBHS)
  - Galway City is divided into 4 No. character areas: City Centre, Inner Residential Area, Established Suburbs and Outer Suburbs and the UDBHS provides a context and guidance for each character area.
  - The subject site is not located within the extent of the Eastern Suburbs, but the Board's Direction appears to characterise the site on this basis, based on the reference to a prevailing height of 2-3 storeys.
  - There is no prescriptive guidance in relation to non-residential development in the Eastern suburbs, or the location of the proposed development. In the absence of specific guidance for commercial development, a more general assessment of relevant policies and objectives is required.
- The submission includes an assessment of the development in the context of development management criteria contained at Section 20.5 of the UDBHS, including the submission of a Tall Building Statement and Visual Impact Assessment, and the proposed development meets all of the requirements contained within it. The applicant also submits that the provisions of Section 20.5 are applicable in circumstances where proposals significantly exceed the prevailing benchmark height and there are no such circumstances in this instance.
- Proposed Height, Scale and Density
  - The reference to prevailing heights within the Board's previous refusal, which appears to be grounded in the UDBHS, does not constitute a reasonable baseline from which to assess the proposal. The locality is characterised by a

major approach road and road interchange at the gateway to Galway City and a range of taller commercial developments.

- The purpose of GCDP policy 8.7(9) is to assess buildings which are taller than the prevailing benchmark heights, rather than to assess greater height in areas outside those identified in the UDBHS. Further, the UDBHS does not provide a prescriptive framework for locations where greater height should be located, it merely identifies heights that are open for consideration within the various character areas. There is no basis on which to refuse permission based on this policy.
- An approach that sets a blanket numerical limit on building heights is inconsistent with policy SPPR1 of the Building Height Guidelines.
- The benchmark for non-residential development in this location is established by the height, scale and massing of existing buildings at Briarhill Business Park, Briarhill District Centre and the Clayton Hotel and the proposal does not represent a significantly taller building than the benchmark, which includes 6 storeys and a grant of permission for 7-storey development.
- The site and its surrounds comprise an area where national planning policy provides very clear guidance that more compact forms of urban development, increased height and increased density should be encouraged.
- The character of the locality is not consistent with a suburban residential area where the prevailing heights are 2-3 storey and this assumption should not have formed the basis of the Board's assessment.
- Policy 8(9) of the GCDP states that buildings taller than prevailing benchmark will only be considered where the proposal does not result in an adverse impact on the context of historic buildings, architectural conservation areas, residential amenity or impinge upon strategic views. The proposal will have no such impacts.
- Architectural Design Quality and Urban Design
  - In direct response to the Board's stated concerns regarding design quality, the applicant restates that the test for exceptional design quality may not be applicable where there is no significant increase in building height proposed.

- Notwithstanding, the applicant submits that the proposed design represents exceptional design. The submission includes an individual response to each of the criteria contained in GCDP policy, which can be summarised as follows:-
  - The proposal is distinctive and in view of its design, scale and location, strengthens the character of Briarhill as a mixed-use urban district centre.
  - Certain characteristics of the area suggest that a development of urban scale and architecture is most appropriate to the site. The applicant provides a detailed justification of the proposed 'H' design and its suitability to the site context.
  - The proposal represents a positive evolution of Briarhill Business Park, initiating the bridging of the N6 by urban-quality development.
  - The hotel has been designed as a landmark building, at an important nodal point in the city. Briarhill warrants a marker, in view of its location and emerging function.
  - There is no element or aspect of the receiving environment that demands protection from sustainable, tall development.
- The submission also contains a summary of relevant sections of the Galway Transportation Strategy, together with further assessment of supports within the National Planning Framework, the Design Manual for Urban Roads and Streets, Section 28 Ministerial Guidelines (Urban Development and Building Heights Guidelines for Planning Authorities, Guidelines for Planning Authorities on The Planning System and Flood Risk Management) and the Regional Spatial and Economic Strategy for the Northern and Western Region 2020-2032.
- The development accords with relevant planning policy and accords with the principles of proper planning and sustainable development and the Board is requested to grant permission.
- The submission is also accompanied by a Supplementary Appeal Document, prepared by BDP Architects.

## **2.3. Third Party Appellant Responses**

2.3.1. Separate submissions have been received from BPS Planning Consultants dated 18<sup>th</sup> September 2024, on behalf of each of the third-party appellants, Helen Duffy Fahy and Nightguard Limited. The submissions raise very similar issues, which can be summarised together as follows:-

- The proposal is too tall, too heavily massed, over-scaled and is visually discordant in this location. Further, the architectural design does not meet the test of exceptional design quality and, thus, the proposal is contrary to the proper planning and sustainable development of the area. This position is supported by the following sections of the GCDP: -
  - The Core Strategy, Section 1.5.3, refers to the need to ensure building heights are sited in correct locations. The subject site is not such a location.
  - The development is contrary to Sections 1.8.5 and 8.8 and policy 8.7(8), which require adherence to the UDBHS. The UDBHS makes no provision for the subject development at the subject site.
  - The UDBHS post-dates the Urban Development and Building Height Guidelines (2018) and thus cannot be contravened based on contradictory objectives within the GCDP.
- The proposal is at odds with Section 2.4 of the GCDP, with reference to compact growth and regeneration, and the site location is not accessible and would cause excessive travel.
- The hotel proposal is not part of any masterplan or framework plan, as required by Section 1.11 of the GCDP.
- GCDP Policy 8.7 'Urban Design and Placemaking'
  - A tall over-scaled hotel building is wholly out of context and would detract from and not contribute to its urban design context. The proposal is not innovative, it is poorly located and over-scaled.
  - The proposal is designed to be a large-scale motel where there is no quality public transport or design connectivity with the area context.



- The proposal is at odds with climate change and represents another suburban hotel in a city that needs city centre investment.
- The business park location is not suitable to offer a starting point for any claimed high-quality architecture.
- There is no local area plan, masterplan or other design framework that supports a very tall hotel at this location.
- A grant of permission for the proposal would contravene the UDBHS and promote inappropriate development.
- The UDBHS outlines relevant factors that will be used as part of specific contextual assessment of proposals for increased density and height. The appellant notes the following:-
  - Design Quality: The height, massing, proportion, materials, detailing, site layout and relationship with the surrounding area are poorly considered. The hotel appears to be designed for a different location.
  - Townscape Rationale: The site is not at a key location or node and is not responding to public transport accessibility and activity.
  - Impact Assessment: The development will cause adverse impacts regarding daylight and sunlight, overlooking, overshadowing and impact on the skyline. There are no significant sustainability and climate action benefits.
  - Public Realm: The proposal would detract from the public realm. The site location is not associated with a public realm that is suitable for a hotel and the proposal will be a standalone hotel within a business park.
  - The proposal has not been adequately justified.
- The appellant considers the development is wholly at odds with and a contravention of the GCDP.
- Briarhill Business Park
  - The Business Park is changing, with reference to the entrance from Parkmore Road that is currently being altered in order to facilitate the Parkmore Priority Scheme. Traffic levels have increased since submission of the application and

it is now highly congested. These changes may warrant the submission of updated reports and drawings.

- The Business Park is reliant on vehicles to provide access and the new Parkmore Bus Priority Scheme is unsuitable to serve a largescale hotel such as this. The hotel may therefore operate as a motel, adding traffic to the Business Park and negating any benefit arising from improved public transport.
- Permission should be refused for the proposed development, in line with refusal reasons outlined by the Board in the previously quashed decision on Ref. ABP-313102-22.
- Submissions include resubmission of the original grounds of appeal.

### **3.0 Assessment**

3.1. I have reviewed the points raised within the submissions from each of the first and third parties, as summarised in Section 2 above. The points raised are summarised under the following headings: -

- Galway City Development Plan 2023-2029 Policy Context, and
- Other Matters.

#### **3.2. Galway City Development Plan 2023-2029 Policy Context**

- 3.2.1. My Addendum Report dated 5<sup>th</sup> December 2023 discussed the GCDP at length and should be read in conjunction with this additional Inspector's Report. In summary, the site remains zoned for Enterprise, Light Industry and Commercial (CI) and I am satisfied that the proposed hotel development is consistent with this zoning objective.
- 3.2.2. The submissions by both third-party appellants raise multiple concerns regarding the proposed hotel's height and design. In summary, the appellants question whether the site location is accessible and, regarding the proposed design, they express the view that the proposal is too tall, too heavily massed, is visually discordant in this location and, further, that the architectural design does not meet the test of exceptional design quality that is required by the GCDP. The submissions reference non-compliance with the GCDP in a number of areas, including Sections 1.8.5, 2.4,

8.8 and policy 8.7 of the GCDP, and further reference non-compliance with the UDBHS, in relation to the development management assessment criteria contained at Section 20.5. It is contended that the development is wholly at odds with and a contravention of the GCDP.

- 3.2.3. The applicant's submission provides a detailed justification for the proposal, in the context of the GCDP, and includes additional supporting reports in the form of a Tall Building Statement and Visual Impact Appraisal, prepared by Model Works, and a Supplementary Appeal Document, prepared by BDP Architects. In summary, it is contended that the development complies with the requirements of both the GCDP and UDBHS.
- 3.2.4. Regarding the issue of the site location, whilst I have considered the third parties' detailed submission on the issue, I do not agree that the site location is inaccessible. As has been outlined in both of my previous reports on this application, the site lies within the Metropolitan Area for Galway City, it is located within an established Business Park that contains a mix of commercial and business uses and it is located on a public transport corridor. Section 1.5.3 of the GCDP outlines that there is a focus on aligning employment and housing growth along existing and planned transport corridors, with specific reference to increased usage of public transport. Consideration should also be given to NPO11 of the National Planning Framework which outlines that there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages. I am satisfied that the site location is accessible.
- 3.2.5. Regarding building height, the primary control over building heights in Galway City is the UDBHS and the parties disagree over how it should be implemented. The third parties argue that the UDBHS makes no provision for the subject development at this site, whereas the first party argues that the UDBHS does not provide prescriptive guidance regarding non-residential development in the area of the subject site and that a more general assessment of relevant policies and objectives is thus required.
- 3.2.6. As I outlined in my Addendum Report, the UDBHS identifies 4 broad neighbourhoods within Galway City: The City Centre; Inner Residential Areas; Established Suburbs; and Outer Suburbs. The Board will be aware that the identified neighbourhoods do not encompass all of the administrative boundary of Galway City,

as can be seen in Figure 29 of the Study, and the subject site falls outside of these designated neighbourhoods. It is most closely aligned to the Outer Suburbs designation, which encroaches to the south side of Bothar na dTreabh.

- 3.2.7. The third parties' essential point regarding the application of the UDBHS is that as it does not expressly provide for the subject development at this site, the subject development is at odds with it. I do not agree with this proposition. Section 8.8 of the GCDP states that densities and ranges that are outlined within the UDBHS are 'suggested ranges of scale and intensity...and are not absolute measures to be pursued or achieved and each site should be considered on its merits. Densities and heights lower or higher than those outlined in the study may be appropriate when assessed against other relevant policy and guidance.' It is clear to me, based on the above, that the GCDP requires a site-by-site assessment of proposals for tall buildings, having regard to the provisions of the UDBHS and other relevant policies.
- 3.2.8. My Inspector's Report dated 25<sup>th</sup> November 2022 contains a criteria-based assessment, in the context of development management criteria outlined at Section 3.2 of the Urban Development and Building Heights Guidelines for Planning Authorities (2018) and my Addendum Report contains a further criteria-based assessment, in the context of the development management criteria contained at Section 20.5 of the UDBHS. Both of these assessments should be read in conjunction with this report, where it can be seen that I consider the site is a suitable location for the provision of a taller building.
- 3.2.9. The issue of exceptional design quality was identified in the Board's Order on Ref. ABP-313102-22 and is raised in each of the submissions, as I have outlined above.
- 3.2.10. The proposed architectural design is addressed in detail in both my original Inspector's Report and my Addendum Report, where it can be seen that I consider the proposed design incorporates sufficient architectural and visual interest to make a positive contribution to the urban neighbourhood and streetscape.
- 3.2.11. As I have outlined, the first party submission includes a Tall Building Statement and Visual Impact Appraisal and a Supplementary Appeal Document. With particular reference to the Visual Impact Appraisal, I note and would concur with the categorisation of viewpoint sensitivity at each of the chosen viewpoint locations as being low to medium and would also concur, as has been set out in the previous

reports, that the development will be a significant intervention in a number of the available views. I also agree with the submission that there is no sensitive aspect of the receiving environment that requires protection from the development of a tall building.

- 3.2.12. To conclude, having examined the additional submissions received, I consider that no significant new information or comment has been made that would result in a different recommendation to that originally made in the Inspector's Report dated 25<sup>th</sup> November 2022 and Addendum Report dated 5<sup>th</sup> December 2023 on Ref. ABP-313102-22.

### **3.3. Other Matters**

- 3.3.1. The third parties' submissions express the view that baseline conditions at the site have changed, with reference to the entrance from Parkmore Road that they say is currently being altered in order to facilitate the Parkmore Priority Scheme. Both parties suggest that these changes may warrant the submission of updated reports and drawings.
- 3.3.2. For the avoidance of any doubt, I have not taken these submissions into consideration in this report, which is solely concerned with the GCDP as outlined in the Board's letter to the appeal parties dated 5<sup>th</sup> September 2024.

## **4.0 Recommendation**

- 4.1. Taking into account my assessment as set out in this Report, in conjunction with my Inspector's report dated 25<sup>th</sup> November 2022 and Addendum Report dated 5<sup>th</sup> December 2023 on Ref. ABP-313102-22, my recommendation to the Board regarding the application before it remains broadly the same. I recommend that planning permission should be granted for the development in accordance with the following reasons and considerations:

## **5.0 Reasons and Considerations**

Having regard to the Enterprise, Light Industry and Commercial zoning that applies to the site under the Galway City Development Plan 2023-2029 and having regard to the suburban location proximate to Galway City and the character and pattern of

commercial development in the vicinity of the site, it is considered that, subject to compliance with the conditions below, the proposed development would not seriously injure the visual amenities of the area, would not unduly impact on commercial property in the vicinity and would not result in the creation of a traffic hazard and would, therefore, be in accordance with proper planning and sustainable development

## 6.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by additional information submitted on 21<sup>st</sup> July 2021 and 30<sup>th</sup> November 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Prior to the commencement of development, the applicant shall submit and agree proposals for the provision of a shuttle bus service, which shall connect the proposed development, the city centre and the surrounding area.</p> <p><b>Reason:</b> In the interests of sustainable development and to facilitate access to the site by alternative means to the private car.</p>
3.	<p>Prior to opening of the development, a mobility management strategy shall be submitted to and agreed with the Planning Authority. This shall provide incentives and encouragement for use public transport, cycling, walking and car pooling by staff employed by the development and to reduce and regulate the extent of staff car parking.</p> <p><b>Reason:</b> In the interests of promoting the use of sustainable transport modes.</p>

4.	<p>The design and layout of the access to the site, including visibility splays, shall comply with the requirements of the planning authority and shall incorporate <i>Design Manual for Urban Roads and Streets</i> (2019) place-making principles, details of which shall be agreed in writing prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of road safety.</p>
5.	<p>A hard and soft landscaping strategy and boundary treatment plan shall be submitted to and agreed in writing with the planning authority, prior to commencement of the development. The development shall thereafter be carried out in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interests of visual amenity.</p>
6.	<p>The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of this development.</p> <p><b>Reason:</b> In the interest of public health and orderly development.</p>
7.	<p>External lighting shall be provided in accordance with a lighting scheme which shall be submitted to and agreed in writing with the planning authority prior to commencement of the development.</p> <p><b>Reason:</b> In the interests of amenity and public safety.</p>
8.	<p>The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the proposed development shall be provided with electrical connections, to allow for the future provision of future charging points and in the case of 10% of each of these spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of the design of, and signage for, the electrical charging points (where they are not in the areas to be taken in charge) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of suitable transportation.</p>

9.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall include details of intended construction practice, noise and dust management measures, traffic management, parking proposals for construction workers on the site, storage of materials and storage and disposal of waste within the site.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
10.	<p>Prior to the commencement of development, the applicant shall engage with the Irish Aviation Authority regarding the use of cranes as part of the construction phase, to agree an obstacle lighting scheme as necessary. A copy of any such agreement shall be provided to the Planning Authority.</p> <p><b>Reason:</b> In the interests of public safety.</p>
11.	<p>During the construction phase the proposed development shall comply with British Standard 5228 Noise Control on Construction and open sites Part 1, Code of practice for basic information and procedures for noise control.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
12.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
13.	<p>All service cables etc. associated with the proposed development shall be run underground within the site.</p> <p><b>Reason:</b> In the interests of orderly development and the visual amenities of the area.</p>



14.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Barry O'Donnell  
Senior Planning Inspector

5<sup>th</sup> November 2024.