



An  
Bord  
Pleanála

## Inspector's Report ABP-321566-25

### Development

Permission for development which consists of revisions to the apartment scheme previously permitted under Pl. Ref. No. 22/91 (An Bord Pleanála Ref. ABP-315598-23).

### Location

Ballymoneen Road, Galway City.

### Planning Authority

Galway City Council.

### Planning Authority Reg. Ref.

2460325.

### Applicant

The Crescent Company Ownership.

### Type of Application

Permission.

### Planning Authority Decision

Split Decision.

### Type of Appeal

First Party.

### Appellant

The Crescent Company Ownership.

### Observer(s)

None.

### Date of Site Inspection

27<sup>th</sup> February 2024.

**Inspector**

**Ciarán Daly**

## **1.0 Site Location and Description**

- 1.1. The subject site is located at the junction of the Ballymoneen Road and Portacarron Road. It is c.150m south of the junction with the Western Distributor Road and c.4.5km from Galway City centre.
- 1.2. The site, of area 0.21 hectares, is of rectangular form and is bounded by trees and bushes with a low stone wall forming the site boundary with Ballymoneen Road and Portacarron access road where there is also a line of trees between the site and the footpath. Previously there was a house on the site which has since been demolished. The site slopes downhill towards the south-east. There are overhead wires which partially pass over the site from south to north. While EPA mapping shows a river which passes through the site and which flows in the south-eastern direction towards the sea, this was not visible on my site visit.
- 1.3. Adjacent to the south there is a modest sized two storey terraced block of apartments. To the east the site is bounded by the rear boundaries of four no. dwellings in the Portacarron housing estate, a traditional estate of semi-detached dwellings in the vicinity. To the west across the road there is a sizeable mixed development of two storey houses including semi-detached, townhouses and duplexes as well as commercial units, a creche and four storey over undercroft apartment blocks (Gleann Na Móna). There is a bus stop located opposite the site on Ballymoneen Road.

## **2.0 Proposed Development**

- 2.1. The proposed development, in summary, consists of the following:
  - Revisions to the apartment scheme permitted under reg. ref. 22/91 (ABP-315598-23).
  - The revisions include the relocation of a smoke shaft and the sub-division of permitted apartment no. 14 from a three bedroom unit into two one-bedroom apartments. The number of apartments will increase from 14 to 15 no. units.

### 3.0 Planning Authority Decision

#### 3.1. Decision

- 3.1.1. The Planning Authority (P.A.) decided to issue a split decision whereby permission was granted for the minor alterations to provide for the relocation of the smoke shaft and permission was refused for the subdivision of apartment no. 14 (a three bed unit) to provide for two no. one bedroom units. The reason for refusing the latter part of the development was that it would contravene Development Plan Policy 3.4 that new developments should encourage a mix of housing types and sizes and it would contravene the previously permitted development. No conditions of note were attached to the grant of permission.

#### 3.2. Planning Authority Reports

3.2.1. Planning Reports

Galway City Council's Planner's Report had no issue with the relocation of the smoke shaft and noted that the three bedroom unit was considered an intrinsic part of the previous positive consideration of the development and noted its removal would run contrary to the grant of permission and to policy to encourage a mix of housing types.

3.2.2. Other Technical Reports

- Active Travel: No objection subject to condition.

#### 3.3. Third Party Observations

None.

### 4.0 Planning History

#### Subject Site

**22/91 (Parent Permission):** Permission granted by the P.A. and on appeal removing condition no. 2 (ABP-315598-23) for (a) New vehicular and pedestrian entrances onto Ballymoneen Road, (b) Construction of a 3-storey apartment building incorporating 14 no. apartment units (c) 18 no. car parking spaces, secure bicycle parking and secure single storey refuse storage structure (d) all associated surface

water and foul drainage services and connections and (e) landscaping and boundary treatments.

Removed condition no. 2 which required the omission of an outdoor terrace and screening adjustments for apartment no. 8.

**14/142:** Permission granted by the P.A. and on appeal (ABP ref. PL61.244644) for 8 No. own door apartments/townhouses, car parking including access through No. 16 Ballymoneen Road. (20/164 – Extension of duration permission granted until 22<sup>nd</sup> July 2025). Permissions not implemented.

**07/742:** Permission granted by the P.A. for the demolition of the existing house and the construction of 3 no. apartments, 4 no. townhouse/duplex units and 3 no. terraced houses. Demolition of the house implemented.

#### Sites in the Vicinity

**17/30:** Permission granted by the P.A. and on appeal (ABP-300032-17) for 91 residential units (71 no. three-bed units, 20 no. two-bed units, commercial units and a three storey corner block of commercial units and childcare facility).

**19/366:** Permission granted by the P.A. for two no. 4 storey blocks of apartments over undercroft parking containing the following mix: 20 no. 1 bed, 42 no. 2 bed and 18 no. 3 bed apartments, amounting to 64 no. units, Creche with play area.

**19/368:** Permission granted by the P.A. and on appeal (ABP-308638-20) for Two three storey blocks including a two storey restaurant with bar and 3 no. 2 bed apartments and 1 no. 1 bed apartment, (ii) Block 2 containing: A medical centre, pharmacy, convenience store and coffee shop with 11 no. duplex units over the 1st and 2nd floor. Subsequent amendments to the above schemes included changes of use to various elements.

## **5.0 Policy Context**

### **5.1. Galway City Development Plan 2023-2029 (the CDP)**

The subject site is zoned under Objective 'R' (Residential) which is *"To provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods"*.

Under this zoning 'residential' is listed as *"uses which are compatible with and contribute to the zoning objective"*.

The appeal site is located within the 'Outer Suburbs' area classification.

Chapter 3 relates to Housing and Sustainable Neighbourhoods.

Section 3.4 Sustainable Neighbourhood Concept: Outer Suburbs

Residential Densities

Housing Mix

*"Proposed residential developments will need to provide sufficient housing mix to meet the requirements of different households and demographics and in particular to reflect emerging household trends"*.

Section 3.5 Sustainable Neighbourhoods: Outer Suburbs

*"1. Facilitate consolidation of existing residential development and densification where appropriate within the outer suburbs to deliver on population targets while ensuring the reasonable protection of residential amenities...."*

*4. Encourage a mix of housing types and sizes within residential developments"*.

Chapter 10 relates to Compact Growth and Regeneration

Chapter 11 relates to Land Use Zoning Objectives and Development Standards and Guidelines

Section 11.3.1 (a) General – Residential density to accord with the 2009 guidelines except where the Apartment Guidelines apply.

Galway Urban Density and Building Height Study (2021)

In relation to Ballymoneen 'development guidance', Section 19.1 of the Galway UDBHS targets density levels of 35 to 40 dph.

## **5.2. Natural Heritage Designations**

5.2.1. In relation to designated sites, the subject site is located:

- c. 0.8km north of Galway Bay Complex Special Area of Conservation (SAC) and Proposed Natural Heritage Area (PNHA) (site code 000268).

- c. 0.9km north of Inner Galway Bay Special Protection Area (SPA) (site code 004031)
- c. 1.6km south of Moycullen Bogs NHA (site code 002364).

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. A first party appeal has been submitted on behalf of The Crescent Company Ownership. The grounds of appeal against the refusal permission can be summarised as follows:

- Another three bedroom apartment (unit 12) would remain on the second floor.
- The Development Plan provides for flexibility in relation to unit mix.
- The proposed mix will provide for a more varied mix in house types in the area as practically all residential units located to the east of Lower Ballymoneen Road consist of three and four bedroom houses except the apartment building adjacent to the south of the site.
- The proposed unit division will provide a greater opportunity for downsizing and for young professionals.
- The HNDA does not specify a mix for apartment developments and acknowledges the trend of reduced household sizes consistent with policy.
- The Apartment Guidelines cite the need for greater flexibility and removal of restrictions and SPPR 1 and 2 do not provide for any requirement for three bed units.

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal and noting no third party appeals or observations, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Unit Mix.
- Other Policy Considerations.

I do not propose to assess density changes in detail as I consider the increase in net density from 73uph to 78 uph to not be significant noting the location, the precedents in the vicinity and the Inspector's Report assessment (ABP-315598-23) in relation to density at this location which considered the density appropriate for the area.

## 7.2. Unit Mix

- 7.2.1. The unit mix permitted by the Council under the parent permission (reg. ref. 22/91/ABP-315598-23), following F.I. and C.F.I. design revisions, was 4 no. one bed (2 person) apartments, one no. two bed (3 person) apartments, 7 no. two bed (4 person) apartments and two no. three bed (5 person) apartments. This can be broken down as follows:

Unit Type	Percentage and Number	
One bed (2 person) units.	29%	4
Two bed (3 person) units.	7%	1
Two bed (4 person) units.	50%	7
Three bed (5 person) units.	14%	2
<b>Total</b>	<b>100%</b>	<b>14</b>

- 7.2.2. The proportion of two bed units permitted was 57% and this would reduce to 53% and the proportion of one bed units would increase to 40%.

- 7.2.3. The revised unit mix would be:

Unit Type	Percentage and Number	
One bed (2 person) units.	40%	6
Two bed (3 person) units.	7%	1
Two bed (4 person) units.	46.33%	7
Three bed (5 person) units.	6.67%	1
<b>Total</b>	<b>100%</b>	<b>15</b>



- 7.2.4. I note CDP policy, informed by the Housing Strategy, provides for no specific unit mix requirements except insofar as reference is made to the Apartment Guidelines where SPPR1 and SPPR2 are directly applicable. SPPR 1 requires no minimum level of provision for apartments with three or more bedrooms unless based on an evidence based Housing Need Demand Assessment (HNDA). Given the proposed unit mix, SPPR1 and SPPR2 are not applicable as the only restriction is for no more than 50% one bedroom units given the number of units proposed and the site size.
- 7.2.5. I note that Section 3.5 of the CDP provides for a general encouragement of a mix of housing types and sizes within residential developments. This and Section 3.4 where reference is made to a “*need to provide sufficient housing mix to meet the requirements of different households and demographics and in particular to reflect emerging household trends*” are the key relevant policy provisions in this regard. Both policies are general and non-specific.
- 7.2.6. There is no specific unit mix requirement for a residential development of this type in the CDP. I note the significant provision of three and four bedroom traditional houses in the vicinity and the predominance of same, notwithstanding the new apartment blocks opposite to the west. I note the need to provide for flexibility per the Apartment Guidelines. Given the site context and noting the trend towards smaller household sizes, I am satisfied that the proposed unit mix within the scheme would be consistent with CDP policy and I note that one no. three bed unit would be provided. I consider the approach of the applicant to be reasonable in this regard having regard to CDP policy.

### **7.3. Other Policy Considerations**

- 7.3.1. I note no significant impacts, with negligible visual impact at roof level, in relation to the relocation of the smoke shaft required to facilitate the amalgamation of the three bed unit into two no. one bed units and on the other floors in relation to apartment floors areas and I am satisfied that it would accord with CDP policy and I recommend it be granted permission.
- 7.3.2. In relation to apartment floor areas, both units would be in excess of the minimum 45 sqm with adequate storage and private open space and I am satisfied that this would accord with policy.

- 7.3.3. I note the communal open space is consistent with CDP policy which is based on a percentage of site area and it remains unchanged. I also note there would be 18 car parking spaces for the 15 units at a ratio of 1.2 spaces per dwelling and this accord with SPPR 3 (Car Parking) of the Compact Settlement Guidelines where car parking provision is based on a maximum requirement of 2 spaces per dwelling. In relation to parking and amenity space provision within the scheme, I note no significant knock-on impacts arising from the proposed development.
- 7.3.4. I note the refusal reason cited a contravention of Policy 3.4 of the CDP and referred to a material contravention of the previously permitted development. I note that this refusal this not reference a material contravention of the Development Plan such that the Board is not required to consult Section 37(2)(b) of the 2000 Act (as amended) should it decide to grant permission for the part of the development that was refused permission.
- 7.3.5. I have already concluded that the development is not considered to contravene the provisions of the CDP which do not specify a housing mix for such development. It is open to the applicant to seek planning permission to materially alter a permitted development.

## **8.0 EIA Screening**

- 8.1. See Forms 1 and 2 appended to this report. The proposed development is located within an urban area on serviced land that is zoned for residential development. Having regard to the nature and scale of the proposed development, to the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended) and the absence of any connectivity to any sensitive location, 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.

## **9.0 Appropriate Assessment Screening**

### **Appropriate Assessment Screening Determination**

- 9.1. I have considered the proposed development in light of the requirements of Section 177S and 177U of the Planning and Development Act 2000 as amended. The

subject site is located c. 0.8km north of Galway Bay Complex SAC and c. 0.9km north of Inner Galway Bay SPA.

- 9.2. I conclude that the proposed development (alone) would not result in likely significant effects on the Galway Bay Complex Special Area of Conservation (SAC) and the Inner Galway Bay Special Protection Area (SPA).
- 9.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The absence of any significant external impacts.
  - The distance to European sites.
  - Taking into account the screening determination by the P.A..
- 9.4. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

## **10.0 Recommendation**

I recommend that planning permission be granted for the proposed development for the reasons and considerations set out below.

## **11.0 Reasons and Considerations**

- 11.1. Having regard to the location of the subject site within an urban area, the provisions of the Galway City Development Plan 2023 – 2029, the nature, scale and form of the revisions to the proposed development, and pattern of development in the surrounding area, it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable, would result in an appropriate housing mix, would not result in an excessive increase in residential density, and would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would constitute an appropriate use of this urban location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 11th day of October 2024, 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.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission Register Reference 22/91 (ABP-315598-23) unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

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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Ciarán Daly

Planning Inspector

13<sup>th</sup> March 2025

## Appendix 1 – Form 1

### EIA Pre-Screening

<b>An Bord Pleanála</b>	ABP-321566-25		
<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Revisions to the apartment scheme permitted under reg. ref. 22/91 (ABP-315598-23).		
<b>Development Address</b>	Ballymoneen Road, Galway City.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	X	Part 2, Class 10(b)(i).	Proceed to Q3.
<b>No</b>			
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X	Threshold: Construction of more than 500 dwelling units and Urban development which would involve	Proceed to Q4

		an area greater than 10 hectares in the case of other parts of a built-up area.	
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	X	Apartment block of 15 units on a site area of 0.21ha.	Preliminary examination required (Form 2)

<b>5. Has Schedule 7A information been submitted?</b>		
<b>No</b>	X	<b>Pre-screening determination conclusion remains as above (Q1 to Q4)</b>
<b>Yes</b>		<b>Screening Determination required</b>

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

## Appendix 2 – Form 2

### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	<b>ABP-321566-25</b>
<b>Proposed Development Summary</b>	Revisions to the apartment scheme permitted under reg. ref. 22/91 (ABP-315598-23).
<b>Development Address</b>	Ballymoneen Road, Galway City.
<p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b></p> <p>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>Three storey dwelling apartment block of 15 no. apartments within an urban area, vehicular and pedestrian entrances, 18 no. car parking spaces, bicycle parking, refuse store, landscaping and connection to public water and wastewater network.</p> <p>The proposed development will not give rise to the production of significant waste, emissions or pollutants.</p>
<p><b>Location of development</b></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 urban location of the development is located at a significant remove from sensitive environmental receptors such as the Galway Bay Complex Special Area of Conservation (SAC) and the Inner Galway Bay Special Protection Area (SPA).</p>

<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		<p>Impacts will be contained within the partly walled site with any water based run-off following completion to the local waste water treatment network. In the absence of mitigation, any silt or pollutants that may enter the local wastewater network will flow to the local wastewater treatment plant. However, it is also possible that silt or pollutants during construction may enter the river and flow towards the designated sites. Given the distance to these sites and that any such pollutants would diffuse/disperse in the river and the sea, I have no significant concerns in this regard.</p> <p>The site is not suitable for wintering birds.</p>
<b>Conclusion</b>		
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>	<b>Yes or No</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.	<b>Yes</b>



There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	<b>No</b>
There is a real likelihood of significant effects on the environment.	EIAR required.	<b>No</b>

**Inspector:**

**Date:**

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

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

(only where Schedule 7A information or EIAR required)