

Strategic Housing Development - Statement of Material Contravention

Rosshill, Galway





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1. INTRODUCTION

This Statement of Material Contravention (“SoMC”) has been prepared by MKO on behalf of Alber Developments Limited (“the applicant”) in support of an application for permission made to An Bord Pleanála (“the Board”) for a Strategic Housing Development (SHD) on land at Rosshill, Galway. The application is made under the provisions of section 4 of the Planning and Development (Housing) and Residential Tenancies Act, 2016.

Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states:

“(2)(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph h(a) where it considers that—

- i) the proposed development is of strategic or national importance,*
- ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*
- iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*
- iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.”*

This Statement is submitted to the Board pursuant to the provisions of subsection 5(6) of the 2016 Act, expressly referencing the provisions of section 37(2)(b) of the 2000 Act and responds directly to Question 13 of the Board’s SHD Application Form which addresses a proposed Material Contravention of a Development Plan/Local Area Plan, in the following terms:

“Where the proposed strategic housing development materially contravenes the relevant development plan or local area plan other than in relation to the zoning of land, is a statement included with the application indicating the plan objective concerned and why permission should, nonetheless, be granted, having regard to a consideration specified in section 37(2)(b) of the Act of 2000?”

The application site forms part of a previous Strategic Housing Development planning application to An Bord Pleanála (ref: ABP-306413-20) which was refused planning permission on the 6th May 2020. Over the course of that application Galway City Council (“the planning authority”) submitted to the Board that the plot ratio of the proposed development was a material contravention of the Galway City Development Plan 2017–2023 (“the Development Plan”). With that in mind, it is considered that the planning authority will again reaffirm this position in their consideration of the current development proposals which occupy a portion of the previous wider site. The current development relates to a smaller development of 102 units, childcare facility and retail/commercial unit. The plot ratio of this application is 0.40:1.

The applicant accepts that there is a contravention of the plot ratio of the Development Plan. In addition, the applicant considers that the number of car parking spaces provided within the proposed development could be considered a contravention of the standards of the Development Plan. As such, pursuant to the provisions of subsection 5(6) of the 2016 Act, this statement is submitted to the Board setting out the reasons why, in the applicant’s opinion, permission should nonetheless be granted, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act, 2000.

In addition, there is a requirement to provide 220 no. car parking spaces within the site, in line with the provisions of the Galway City Council Development Plan 2017-2023. The current development proposals provide for 183 car parking spaces, representing a shortfall of 37no. spaces. The applicant submits that as the shortfall is a conscious decision to ensure a better quality of environment for the development and embraces the Development Plan which encourages the consideration of dual use parking where peak demand periods do not coincide, and a focus on innovative layout solutions to create areas of high quality and amenity. The dual use exists between the retail, apartment and creche on site. It is submitted that “*relevant policy of the Government, the Minister or any Minister of the Government*” and “*guidelines under section 28*” provide a justification for the approach to car parking provision.

It is respectfully requested that An Bord Pleanála, should they determine the development proposal materially contravenes the Galway City Development Plan 2017 – 2023, have regard to the justification for the proposed development provided in this Statement of Material Contravention.

2. SITE CONTEXT

2.1 Site Location

The site area is comprised of 4.704ha of land located at Rosshill, to the east of Galway City and within the functional area of Galway City Council. The application site is located approximately 400m south of the Old Dublin Road which connects Galway City to the N67 and beyond. The site is approximately 5km east of Eyre Square, the perceived centre of Galway City and approximately 4.1km west of Main Street, Oranmore. The development site is accessed from the Rosshill Road and Rosshill Stud Farm Road just south of the existing railway bridge. Rosshill Road itself is accessed from the Old Dublin Road (R338) to the north.

In terms of neighbouring housing development in the immediate area surrounding the site, there are several one-off residential dwellings scattered to the east and to the south of the proposed development site. The dwellings vary in type, form, design and size with the majority being single dwellings located on large plots. Further north, north of the railway line, a residential development comprising 16 no. units has been granted planning permission (ref: 16/228) and is under construction.

2.2 Site Description

The proposed development site is greenfield in nature, comprising agricultural land in rough grazing. The site forms part of the previous par 3 golf course, which ceased operation in the early 2000's and the old greens and fairways are now fallow and overgrown. A mixture of hedgerows and stone walls feature in the site along with several mature and semi-mature trees and tree groupings. The site is undulating, falling to the west.

There are no watercourses on site. There are no ecological or environmental designations on site.

The site boundaries are comprised in the main, by agricultural hedgerows and stone walls. To the north, the site is bound by the Old Dublin Road and the railway line beyond. To the south lies further agricultural lands, beyond which one-off private residences and associated operations including a stud farm exist.

The western boundary is at a level change in the site and is defined by existing trees, tree groups and includes an old stone wall.

To the east, Rosshill Stud Farm Road runs in a north-south fashion. The eastern site boundary has extensive broadleaf trees and a low stone wall exists in places.

The typology of the site is generally flat except for the western boundary at which point the site falls in level forming a ridge generally running north to south.

A single point of access currently exists into the site from Rosshill Stud Farm Road to the east.

There are no archaeological records or protected structures located on the site however a folly which is a Recorded Monument and protected structure (RMP No. GA094-070/RPS 8803) is located to the south of the site. The Rosshill Railway Bridge (protected structure) (RPS 8806, NIAH 30409423) is located to the north of the site.

3.

PROPOSED DEVELOPMENT

Planning permission is sought by Alber Developments Ltd for development on a site extending to 4.704 hectares on lands to the south of Rosshill Road, west of Rosshill Stud Farm Road.

The development will consist of:

1. Construction of 102no. residential units comprising of 35 apartments and 67 houses:
 - 4no. Apartment Type '1A' - 1 bed 2 person (1 Storey)
 - 4no. Apartment Type '1B' - 1 bed 2 person (1 Storey)
 - 3no. Apartment Type '1C' - 1 bed 2 person (1 Storey)
 - 11no. Apartment Type '2A' - 2 bed 4 person (1 Storey)
 - 4no. Apartment Type '2B' - 2 bed 4 person (1 Storey)
 - 3no. Apartment Type '2C' - 2 bed 4 person (1 Storey)
 - 3no. Apartment Type '2D' - 2 bed 4 person (1 Storey)
 - 3no. Apartment Type '2E' - 2 bed 3 person (1 Storey)
 - 2no. House Type 'A/A1' - 4 Bed Semi Detached
 - 8no. House Type 'B/B1' - 3 Bed semi detached
 - 4no. House Type 'C/C1' - 3 Bed End of Terrace
 - 2no. House Type 'C2' - 3 Bed Mid Terrace
 - 2no. House Type 'D' - 2 storey town house - end of terrace - 3 bed
 - 4no. House Type 'D1' - 2 storey town house - mid terrace - 3 bed
 - 2no. House Type 'D2' - 3 storey town house - end of terrace - 4 bed
 - 2no. House Type 'E' - 3 bed Long Semi-Detached
 - 2no. House Type 'F' - 4 bed Long Semi-Detached
 - 3no. House Type 'G' - 2 storey town house - end of terrace - 3 bed
 - 6no. House Type 'G1' - 2 storey town house - mid terrace - 3 bed
 - 3no. House Type 'G2' - 3 storey town house- end of terrace- 4 bed
 - 1no. House Type 'H' - 3 Bed semi detached
 - 1no. House Type 'H1' - 3 Bed semi detached - Double front
 - 8no. House Type 'J/J1' - 3 Bed semi detached
 - 4no. House Type 'K' - 3 bed Long Semi-Detached
 - 4no. House Type 'L' - 4 bed Long Semi-Detached
 - 3no. House Type 'M' - 3 Bed End of Terrace
 - 3no. House Type 'M1' - 3 Bed End of Terrace
 - 3no. House Type 'M2' - 3 Bed Mid Terrace
2. Demolition of the existing silage concrete apron (40sqm)
3. Childcare facility (399sqm over 2-storeys)
4. Retail/Commercial space (188.5sqm) including loading bay
5. Provision of shared communal and private open space, including play and fitness equipment
6. Car and cycle parking, including electric vehicle charging points
7. Provision of all associated surface water and foul drainage services and connections including pumping station
8. Landscaping, access routes and public art
9. Lighting and associated works
10. Access and junction improvements at Rosshill Road and Rosshill Stud Farm Road
11. Provision of a footpath connectivity link along Rosshill Road and Rosshill Stud Farm Road
12. All associated works and services

4.

LEGISLATIVE CONTEXT

This application for permission for a strategic housing development located at on lands located at Rosshill, Galway is made pursuant to the provisions of the Planning and Development (Housing) and Residential Tenancies Act 2016 (“the 2016 Act”).

Under Section 8(1)(iv)(II) of the 2016 Act , where a proposed strategic housing development materially contravenes the relevant Development Plan or Local Area Plan (other than in relation to the zoning of the land), then the application must include a statement indicating why permission should, nonetheless, be granted, having regard to a considerations specified in section 37(2)(b) of the Planning and Development Act 2000 (“the 2000 Act”).

This statement on Material Contravention is submitted in accordance with Section of 8(1)(iv) of the Planning and Development (Housing) and Residential Tenancies Act 2016. In accordance with Section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 the Board may grant permission for a proposed strategic housing development that materially contravenes the development plan or local area plan, other than in relation to zoning:

“(6)(a) Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.

(b) The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.

(c) Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development.’

Section 37(2)(b) of the 2000 Act (as amended) provides that where a proposed development materially contravenes the development plan, the Board may grant permission where it considers that:

*“(i) the proposed development is of strategic or national importance,
(ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the government, the Minister or any Minister of the Government, or
(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.”*

5. PLANNING POLICY CONTEXT

The relevant national, regional and local planning policy considerations and Section 28 Guidelines are summarised over the following sections of this Statement.

5.1 National Planning Policy and Section 28 Guidelines

A number of national planning policy documents and Section 28 Guidelines are supportive of efficient use of land, driven by the requirement to address a housing need across the country and especially in main and growing cities and towns. These include:

Project Ireland: National Planning Framework 2040 (2018) (“NPF”) includes ten National Strategic Outcomes implemented through the Strategic Investment Priorities, and includes:

- › Compact growth
- › Enhanced regional accessibility
- › Strengthened rural economics and communities
- › Sustainable mobility
- › A strong economy supported by enterprise, innovation and skills
- › Sustainable management of water and other environmental resources

In terms of Ireland’s future population, circa one million additional people are expected to be living in Ireland by 2040, and National Objective 1b seeks to ensure this growth is felt across all the regions. Under table 4.1 of the NPF Targeted Pattern of City Population Growth a population growth range of 50-60% is noted leading to a minimal target population of 120,000 people for Galway City and Suburbs by 2040. This leads to an estimated growth of between 40,000 to 48,000 additional people when measured against the 2016 levels.

The northern and western region are to experience population growth in the region of 160,000 – 180,000 (national policy objective 1b). National Policy Objective 3a calls for the delivery of at least 40% of all of these new homes nationally, to be within the built-up footprint of existing settlements.

It is a national policy objective of the Plan (Objective 32) to deliver 550,000 additional households to 2040. Central to meeting Objective 32 is guiding the delivery of future housing.

The role of the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* (2009) is to ensure the sustainable delivery of new development throughout the country. The Guidelines seek to inform the core principles of urban design when designing places of high quality and distinct identity. The Guidelines encourage realistic levels of car parking standards in developments.

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018) promote apartments as “a key and growing part of the way in which we live in various parts of our country and particularly our cities and towns.” The Guidelines acknowledge that “the quantum of car parking or the requirement for any such provision for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.” In that vein the Guidelines state that “For all types of location, where it is sought to eliminate or reduce car parking provision, it is necessary to ensure, where possible, the provision of an appropriate number of drop off, service, visitor parking spaces and parking for the mobility impaired. Provision is also to be made for alternative mobility solutions including facilities for car sharing club vehicles and cycle parking and secure storage. It is also a requirement to demonstrate specific measures that enable car parking provision to be reduced or avoided.”

The *Urban Development and Building Heights Guidelines for Planning Authorities December (2018)* detail that developments should include an effective mix of 2,3 and 4 storey developments which integrate well into the existing historical neighbourhoods. It notes that 4 storeys or more can be accommodated alongside existing larger buildings, trees, parkland, river/sea frontage or along wider streets.

Specific Planning Policy Requirement 4 of the Building Height Guidelines requires the following:

“It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines;*
- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and*
- 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.”*

5.2 Regional Planning Policy Context

5.2.1 Regional Spatial and Economic Strategy (Northern & Western Regional Assembly) 2020

The Regional Spatial and Economic Strategy [RSES] was adopted in January 2020. The RSES introduces the concept of a Growth Framework. Integrated strategic planning connects the planning function across the region to improve operational alignment (County/City Development Plans and RSES) and financial investment through Strategic Investment Priorities. Accordingly, the RSES identifies ‘Five Growth Ambitions’ as follows:

“Our ambition is for a region that is Vibrant, Connected, Natural, Smart and a Great Place to Live, consolidated by a strong settlement strategy focusing on ‘People’ and ‘Places’”.

The RSES estimates that the four cities of the region – including Galway – will house 50% of new homes by 2040. The RSES drives the creation of urban places “*of regional scale*” through (inter alia) delivering on the population targets for the Metropolitan region.

The RSES outlines arrangements for a co-ordinated Metropolitan Area Strategic Plan (MASP) for the Galway Metropolitan Area. The MASP is an opportunity for Galway to address recent growth legacy issues and build on key strengths, including a vibrant arts and cultural scene, year-round tourism and an attractive natural setting.

The Galway Metropolitan area shares many of the challenges arising from growth and economic success with much larger cities. Galway is considered to have a “*pivotal*” role in the development of the region” according to the RSES and the Galway MASP is considered to have “*a considerable land capacity that can significantly contribute to meeting the housing demands based on population targets set out in the NPF and the RSES.*”

The following targets are listed for population and city homes:

- › Population of Galway MASP to grow by 27,500 to 2026 and by 14,500 to 2031 with the population of the City and Suburbs accommodating 23,000 to 2026 and a further 12,000 to 2031.
- › Deliver at least half (50%) of all new homes that are targeted within the MASP to be within the existing built-up footprint.

The RSES further adds that “*The policy framework is to meet this projected demand through promoting the development of sustainable high-quality neighbourhoods, sustainable densities incorporating high design standards and key urban design principles. The Strategy is to provide for integration of housing with transportation infrastructure fostering sustainable transport patterns*”

The RSES seeks to avoid “*inefficient use of land and infrastructure*” acknowledging that this “*limits productivity and reduces property value.*”

In that vein the RSES includes at RPO 3.6.3 regarding the MASP region that “*...areas of high density will target residential density of 50 units/ha. The default rate for other areas will generally be 35 units/ha.*”

Indeed, each planning authority in the RSES region will review their existing development plans once the RSES has been completed; it is the case then that the Galway City Council Development Plan 2017-2023 review is now underway with the emerging plan required to take account of the significant growth targets being promoted at regional level.

5.3 Galway City Council Development Plan 2017-2023

5.3.1 Site Zoning

Pursuant to the Development Plan, the majority of the application site is zoned for Low Density Residential [LDR] uses.

The Development Plan applies specific controls to LDR-zoned lands, setting out objectives for each site. The following specific development objectives for the application site (and additional land to the south) are noted in the Plan:

“The following lands zoned LDR have the following specific development objectives, subject to design, environmental assets, water and wastewater services and traffic safety. Communal open space and recreational facilities may be a requirement in certain circumstances:

- › *“The maximum plot ratio density of 0.2:1 shall only be considered following agreement on an overall layout of the area.*
- › *This layout will have regard to the sylvan character of the site and where appropriate the protection of existing trees and the Roscam Folly.*
- › *Development will only be considered where it accords with strategic main drainage proposals.”*

The GCDP includes a Core Strategy and Settlement Strategy that notes the need to accommodate continued population growth, in line with the City’s designation as a ‘Gateway’, in a sustainable manner.

Policy 2.2: Housing Strategy of the Development Plan is to be implemented “*by ensuring that sufficient suitable lands are zoned to meet the extent of housing needs identified in the strategy in accordance with the NSS and RPGs targeted population for Galway City.*”

The policy is also to: (inter alia)

- › “*Have regard to all Government policies on housing...*”
- › “*support a diverse range of housing types, size and tenures within housing developments in the interests of countering undue segregation and to allow for choice of community, for all persons irrespective of age, culture, social background and ability.*”
- › “*Support the development of sustainable communities and ensure that all new housing developments – private, public and voluntary are carried out in accordance with the DECLG guidelines Sustainable Residential Developments in Urban Areas (2008) and Section 28 Ministerial guidelines – Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, (2015).*”

5.3.2 Summary

Ultimately the residential zoning of the lands in question is controlled by the application of 3 no. objectives which in turn, and specifically through the application of a plot ratio of 0.2:1, severely limit the potential yield from the zoned lands.

5.3.3 Car Parking Standards

In order to provide for flexibility in residential layouts the following are the options for residential car parking as set out in the Galway City Council Development Plan 2017-2023:

- › on-site spaces per dwelling and 1 grouped visitor space per 3 dwellings or
- › 1 on-site space per dwelling and 1 grouped visitor space per dwellings or
- › 1.5 grouped spaces per dwelling and 1 grouped visitor space per 3 dwellings
- › 3 spaces for dwellings over 200m² and 1 grouped visitor space per 3 dwellings
- › 1 space for one bedroom residential dwellings and 1 grouped visitor per 3 dwellings

Areas of car parking to the front of apartments and townhouses should be visually broken up with trees, planters or other features to soften the overall visual impact.

The Development Plan contains the following requirements in relation to car parking relative to the other proposed uses on the development site:

- › Commercial/Retail - 1 space per 15sqm , Section 11.10.1 Table 11.5
- › Creche – 1 space per 20sqm operation spaces Section 11.10.1 and Table 11.5

In relation to commercial developments, the Development Plan calls for one of the spaces provided to be equipped for electric vehicle (EV) charging point.

The Development Plan notes that the Core Strategy is supported by the Galway Transport Strategy (“GTS”) which “*supports opportunities that will reduce congestion and car dependency...*” Section 11.10.1 of the Plan further notes “*A reduction in these car-parking standards may be acceptable when an application for development includes a Travel Plan, which demonstrates alternative methods of dealing with traffic generation associated with the proposed development.*”

The Development Plan goes on to state that *“Consideration will also given to grouped and dual use parking provision where peak demands do not coincide and cognisance will be given to the potential for multi-purpose trips, subject to assessment.”*

5.4 Section 28 Guidelines

Car parking at the apartment building on site is governed by the Sustainable Urban Housing: Design Standards for New Apartments Guidelines (Section 4.22) which calls for the following :

- › 1 space per apartment and 1 visitor space per every 4 apartments

5.5 Summary

Ultimately the Development Plan and Apartment Guidelines require the provision of 220no. car parking spaces across the proposed development. However, in considering the uses and location of those uses, and the provisions of policy relating to a reduction in car dependency, it is acknowledged that the proposed development includes a shortfall of car parking spaces, with 183 no. spaces being proposed.

6. MATERIAL CONTRAVENTION JUSTIFICATION

The applicant submits that An Bord Pleanála should consider that the proposed development as a material contravention of the required plot ratio of 0.2:1 of the Development Plan and of the stated car parking requirements of the Development Plan, but that the Board should grant permission, pursuant to its jurisdiction under section 5 of the 2016 Act, having had regard to the criteria set out under Section 37(2)(B) of the 2000 Act. Each of the material contraventions are set out below. Section 6.3 illustrates how the proposed development complies with these certain of these criteria, taking each in turn.

6.1 Site Zoning

The subject site is zoned for residential development; the use proposed under this planning application. There is no contravention of the Development Plan in this regard. The contravention in relation to zoning relates solely in respect of the plot ratio set out in relation to the site of 0.2:1. It is held that such a plot ratio would yield in the region of 50 units on the developable site area of 2.8ha and 84 units on the overall site area of 4.7ha, achieving a density of circa 18 units per ha. In the context of the National Planning Framework – specifically National Objective 32 which seeks to make more efficient use of land and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas which advocates a net density in the range of 35-50 units per hectare, it is concluded that this site objective would fail to meet the terms of these more recent policy and guidance documents.

To pursue a lower density range on this site through the application of the plot ratio 0.2:1 would not represent an efficient use of zoned land in a focused growth area of one of the country's main cities. As such and in the context of subsection 9(3) of the 2016 Act and page 45 of the Residential Development in Urban Areas Guidelines noted above, the provision of a residential density in the range of 35 – 50 dwellings per hectare is a specific planning policy requirement of the Guidelines and where such Guidelines differ from Development Plan provisions, the requirements shall apply – i.e. a density range of between 35 – 50 units per ha on the subject site should be supported.

It is emphasised that the matter was previously considered over the course of the last planning application (ref: ABP-306413-2) and the Inspector concluded that:

“...I am of the opinion that the proposed development falls within the definition of Strategic Housing Development, as set out in Section of the Planning and Development (Housing) and Residential Tenancies Act 2016 and is acceptable in principle subject to the detailed consideration hereunder in this report.”

And with specific reference to density and plot ratio:

“The proposed development has a net density of 36 units per hectare. The proposed density is supported by the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)0 which refer to providing net residential densities in the general range of 35-50 dwellings per hectare on outer suburban/greenfield sites, which relates to this application site. The guidelines state that development at net densities less than 40 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares. The proposed density of 36 units per hectare is appropriate within the national policy context.

I note the Material Contravention Statement and the arguments put forward by the applicant in favour of the development. I am satisfied that the Board is not precluded from granting permission in this instance with regard to the provisions of Section 37(2)(b)(iii).”

There is a clear conflict therefore in the plot ratio element of the site objective of the Development Plan and the alignment of the Plan with the ambition to accommodate the growing population of the City with an efficient use of land.

In considering this matter previously under SHD application ref: 306413-20 (which related to a larger site) the Board's Inspector was satisfied that the Board were not precluded from granting permission in the context of section 37(2)(b)(iii) of the Act and considered the density presented then of 36 units per hectare to be appropriate within the national context. It is concluded that these findings remain applicable in the context of the current application.

6.2 Car Parking

With regards residential dwellings it has been established by the City Council in their correspondence with the applicant to date that the site is considered to form part of the outer suburbs¹. This was also the consideration of An Bord Pleanála's inspector in their consideration of the previous SHD planning application which included the current application site (ref: 306413-20).

As an outer suburb site, section 11.3.1(g) of the Development Plan is relevant in relation to car parking standards. It states: (inter alia)

"In order to provide for flexibility in residential layouts the following are the options for car parking requirements:

- > 2 on-site spaces per dwelling and 1 grouped visitor space per 3 dwellings or*
- > 1.5 grouped spaces per dwelling and 1 grouped visitor space per 3 dwellings*

These standards should not be exceeded unless acceptable additional need can be demonstrated.

Where grouped parking is provided, the parking shall be dispersed throughout a residential development. Group car-parking spaces shall not be allocated to individual residential units."

Car parking requirements for the apartments within the proposed development is guided by the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2018). It calls for, as a benchmark guideline, "one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required."

On the basis of the above standards set out, the 220 no. car parking spaces are required across the proposed development. The amount provided for however is less than this figure, totalling 183 no. spaces. There is therefore a 'shortfall' of 37 no. car parking spaces across the proposed layout. However, this is addressed through the likely overlap of parking within the proposed development. As a result of the grouping of certain uses within the site, it is held that an overlap or dual-use of some car parking spaces can take place without adversely affecting the overall functioning of the development as a whole. This approach serves to ensure there is not a visual dominance of car parking on the site, and takes into account the expected behaviours of residents who are likely to walk/cycle to the local retail unit or creche rather than use the private car. Table 6-1 below illustrates the car parking proposed within the development.

¹ Refer to Galway City Council's Stage 2 SHD Opinion

Table 6-1: Car Parking Provision

Use	Required	Proposed	Overlap/Comment
Commercial/Retail	13	3	Shortfall to be covered by some adjacent apartment spaces, typically vacated during business hours
Creche	14	7	Spaces provided are proposed as being dedicated for creche staff. The shortfall to be covered by some adjacent apartment spaces.
Dwellinghouses (30 no. units)– on-curtilage	60 plus 10 visitor = 78	60	2 no. spaces on curtilage plus 10 visitor spaces
Dwellinghouses (37 no. units) - grouped	56 plus 12 visitor = 68	70	1.5 spaces per unit plus 12 visitor spaces
Apartments (35 no. units)	35 plus 8 visitor = 44	43	The 8 no. visitor spaces provided for the apartments
Total	208	183	

With regards the commercial/retail unit, it is proposed that this use functions very much as a local ‘corner shop’, directly meeting the needs of the local population, all of which are within a 5-10 minute walk (500m) of the retail unit. The unit is served by pedestrian footpaths, benefits from 3 no. dedicated retail spaces and 2 no. Go Car visitor spaces immediately adjacent to the unit. It is proposed to include a bike share stand to the east of the unit also. This approach to the provision of car parking spaces is considered feasible and rationale given the flexibility of the Development Plan in relation to dual use parking provision. Mobility Management is included within the Traffic and Transport Assessment included with the application, which highlights the positive pedestrian and cycle attributes of the proposal.

The creche building yields a staff requirement of 14 no. staff parking spaces. 7 no. spaces are proposed, with the remaining requirements being shared with the apartment building which is expected to be vacated during normal business hours.

In considering car parking at the previous SHD application stage which included the application site, the Board’s Inspector concluded that:

“With regard to car parking, 595 spaces are proposed - one space per apartment and one visitor space per four apartments, with two parking spaces provided for each dwelling. 11 spaces are proposed for commercial use with an element of dual-usage with the apartment spaces during the day anticipated. This is acceptable.”

It is considered that the policies and objectives stated in the Section 28 Government Guidelines, including the National Planning Framework 2040, Urban Development and Building Heights Guidelines for Planning Authorities, 2018, and Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018, provide justification for the proposed number of units, density, and car parking provision. Further to the above the guidance emphasises that the design quality of the street is paramount and that new residential development should not be dominated by car parking which has been a consideration in arriving at the proposed layout.

This proposed dual use of car parking spaces is considered appropriate having regard to national planning policy which encourages a reduction in car parking provision and an increased uptake in green transport modes (such as walking and cycling).

The *Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities* (2018) states that “As a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required.” In this instance, the proposed development complies with national standards for the lands noting the subject site is proximate to a number of bus routes on the Dublin Road and Coast Road. The nearest active bus stop (1.2km walk) is the Dublin Road Coast Road Bus Stop which is serviced by the 404 and 409 bus routes which service the City Centre. There is another stop located 1.3km to the west of the development, on the R338 Dublin Road, which is also serviced by the 404 and 409 routes. There is an existing bus stop located at the junction of the development access and the Rosshill Road however at the time of writing there are no public bus routes servicing this stop. The applicant is in discussions with operators regarding the potential to reactivate this stop should planning permission be granted.

Therefore, the car parking arrangement proposed is considered to be accordance with Guidelines and only marginally contravenes the objectives for car parking in the Development Plan which pre-dates national guidelines.

6.2.1 Summary

The shortfall in car parking spaces from the standards set out is not considered significant across the entire development proposal. The proposed overlap or dual use of parking spaces at the retail, creche and apartment building is considered to reflect likely travel/demand patterns and works to ensure car parking does not dominate the site. To achieve the standards set out would, it is considered, diminish the high quality spaces proposed and intrude on the robust landscaping plan set out. It is noted also that the dual use of spaces was previously considered acceptable at this location in the Board’s previous consideration of ABP-306413-20.

6.3 Justification for Grant of Permission in Material Contravention of the Development Plan

(i) The Proposed Development is of Strategic and National Importance

There is an evident housing crisis in Ireland which is experienced most acutely in the main cities, including Galway. In response, the Government has taken a number of policy actions in the planning and development sector, set out in a range of publications including:

- › Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness
- › Extension of the Strategic Housing Development legislation timeframe to continue to “fast-track” large-scale housing schemes
- › National Planning Framework: Project Ireland 2040

In the long term to 2040, the National Planning Framework (NPF) projects a need for a minimum of 550,000 new homes in the country, at least half of the demand for which will arise in Ireland’s five cities. It is clear that the NPF lays considerable weight on the densification of existing urban areas and settlements, where zoned serviced/serviceable land is available and can meet the current housing demand in a sustainable manner. The failure to deliver 102 no. units in this suitably zoned area of Galway City would be contrary to the objectives of policy at national level. In summary, the NPF shows broad policy support for development in an existing settlement area which is appropriately zoned and which avoids further sprawl and ensures sustainable and efficient use of zoned land. As the primary policy document in the national planning hierarchy, the NPF should be accorded significant weight in the decision-making process.

The Rebuilding Ireland Action Plan recognises the strategic importance of larger residential developments (including developments of over 100 residential units) in addressing the ongoing housing and homelessness crisis, in an effort to increase housing supply. Pillar 3 of the Action Plan is to simply, 'Build More Homes'. The Action Plan discusses the Strategic Housing Development process, noting the implementation of the SHD procedures "*should speed up the planning decision-making process in respect of such developments, while also providing greater certainty for developers in terms of timeframes within which such developments can be determined in the planning system.*"

Having regard to this national policy context, it is considered that the proposed Strategic Housing Development at lands at Rosshill, Galway is one of the largest available residentially zoned development areas within the settlement envelope of the Galway Metropolitan Area, per the RSES. As noted earlier, the Metropolitan Area Strategic Plan ('MASP') is an opportunity for Galway to address recent growth legacy issues and build on key strengths, including a vibrant arts and cultural scene, year-round tourism and an attractive natural setting.

Galway is considered to have a "*pivotal role in the development of the region*" according to the RSES and the Galway MASP is considered to have "*a considerable land capacity that can significantly contribute to meeting the housing demands based on population targets set out in the NPF and the RSES.*" In this regard the MASP area and Galway is, undoubtedly, of strategic importance for the purposes of Section 37(2)(b) of the 2000 Act. The RSES further adds that "*The policy framework is to meet this projected demand through promoting the development of sustainable high-quality neighbourhoods, sustainable densities incorporating high design standards and key urban design principles. The Strategy is to provide for integration of housing with transportation infrastructure fostering sustainable transport patterns*" In that vein, the small shortfall in parking spaces within the scheme around the creche/retail/commercial elements of the proposals has been adopted with a view to creating a better quality of space in this location. Ultimately the shortfall has allowed this space to not be dominated by surface parking and instead encourages users to use more sustainable modes of transport such as walking, where feasible. There are also 3 GoCar spaces within the scheme which further encourage a reduction in car ownership within the scheme. In considering the previous application on the site, which also included a small shortfall in car parking spaces, the Board accepted the dual-use of spaces; an approach which is again being proposed here.

The delivery of high-quality residential development, and associated infrastructure including a childcare facility, on the site of the proposed development should not be constrained by a plot ratio or indeed a small shortfall in car parking provision, which is in conflict with the objectives of sustainable use of land, delivering housing on suitably zoned lands in one of the five key cities in the country.

(li) There are Conflicting Objectives in the Development Plan or the Objectives are Not Clearly Stated, insofar as the Proposed Development as Concerned

The Galway City Development Plan 2017-2023 calls for growth and development to support Galway's role as a key city, and yet the land in question has been zoned for residential development with a plot ratio of 0.2:1 for over three Development Plan cycles with no development having taken place.

The Development Plan has, amongst its strategic goals, an objective to enable the city to fulfil its role as a National Gateway and a regional centre. The Plan cannot achieve this objective if other policies within the Development Plan rigidly apply constraints to otherwise deliverable development on suitably zoned lands. The overly rigid application of a uniform plot ratio should not consistently preclude the development of suitably zoned lands, which is required to allow the City to grow and perform at regional level and cannot be considered to be in accordance with an overall aim for growth and development.

Several other strategic goals set out in the Galway City Development Plan 2017-2023 are noted as:

- › Implement the recommended settlement strategy for the city ensuring that sufficient land is zoned to meet future demands

- › Accommodate through land use zoning the requirements of the Housing Strategy
- › Encourage sustainable neighbourhoods of high-quality residential development, delivering a mix of house types and tenures and creating a strong sense of identity and place
- › Promote sustainable neighbourhoods where community facilities and services of an appropriate nature are easily accessible

Policy 2.2: Housing Strategy of the Development Plan is to be implemented “*by ensuring that sufficient suitable lands are zoned to meet the extent of housing needs identified in the strategy in accordance with the NSS and RPGs targeted population for Galway City.*” The Policy is also however to “*have regard to all Government policies on housing*” and (inter alia):

- › “*Have regard to all Government policies on housing...*”
- › “*support a diverse range of housing types, size and tenures within housing developments in the interests of countering undue segregation and to allow for choice of community, for all persons irrespective of age, culture, social background and ability.*”
- › “*Support the development of sustainable communities and ensure that all new housing developments – private, public and voluntary are carried out in accordance with the DECLG guidelines Sustainable Residential Developments in Urban Areas (2008) and Section 28 Ministerial guidelines – Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, (2015).*”

The application of a plot ratio of 0.2:1 on the residentially zoned proposed development lands will not facilitate the sustainable use of this site. It is a stated objective of the National Planning Framework to ensure a more efficient use of land in the delivery of future housing (National Objective 32). To develop out these zoned lands (4.7ha) at a plot ratio of 0.2:1 would achieve in the region of 85no. units at a density of circa 18 units/ha. The developable area, being 2.8ha would yield an even lower number of units, circa 50. It is the case that the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas advocates a net density in the range of 35-50 units per hectare and moreover, these national Guidelines have been applied across numerous strategic housing development applications where to develop lands a lower density has been cautioned against and found to result in an inefficient use of zoned serviced lands within a given metropolitan area. It is the case that to pursue a lower density range on the site would not represent an efficient use of zoned land in a focused growth area of one of the country’s main cities.

Indeed, the application of the plot ratio in this instance would have the effect of running counter to Government policy on housing and the creation of sustainable communities; this cannot be debated. As such and in the context of subsection 9(3) of the 2016 Act and page 45 of the Guidelines quoted above, the provision of a residential density in the range of 35 – 50 dwellings per hectare is a specific planning policy requirement of the Guidelines and where such Guidelines differ from Development Plan provisions, the requirements shall apply – i.e. a density range of between 35 – 50 units per ha on the subject site should be supported.

There is a clear conflict therefore in the objective of the Development Plan, to allow and facilitate the City to grow and respond to needs, demands and changing environments, while also uniformly applying controls to development sites with no flexibility in the application of those controls to any particular proposed development.

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area,

and any relevant policy of the Government, the Minister or any Minister of the Government

These residentially zoned lands are wholly suitable for the proposed strategic housing development given the location in relation to the City, local centres and public transport. The proposed development would make a sustainable and appropriate use of zoned lands. However, if the plot ratio as prescribed in the Development Plan (0.2:1) was to be applied, the site would not be developed efficiently in the context of the SHD process, national policy or ministerial guidelines. It would in fact result in a development of circa 200 units which in this location would constitute inefficient use of zoned lands. This would directly contravene the applicable Ministerial Guidelines in the form of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas which call for densities in the range of 30-50 units/ha in outer suburb sites, and would fail to take full account of regional policy in the form of the RSES. To develop lands at a lower density than that called for in the Guidelines would represent an inefficient use of zoned serviced lands within the metropolitan area of Galway City. Indeed, the Guidelines clearly discourage developments at net densities less than 30 dwellings per hectare, *“in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.”* The proposed density on the subject site of 35.8 units/ha achieves a mix of unit types, represents an efficient use of the site, while also incorporating a strong landscape character and setting for the development proposed.

The proposed development has been designed to reflect the current housing market and therefore directly supports regional and national policy guidance. As per the Regional Spatial and Economic Strategy Galway is the fastest growing city in Ireland over the past 50 years. The population of the Galway Metropolitan Area Strategic Plan area is set to grow by 27,500 to 2026,000 by 2026, and a further 14,500 to 2031. This must be a driver for more efficient use of zoned land within the Plan area.

It is noted that in recent decisions, An Bord Pleanála has applied higher densities to suitable sites, where this would provide for an acceptable level of efficiency in the use of zoned and serviced lands. This approach has been taken in light of national policy and guidelines, and the need to build more homes of varying types and tenures to accommodate a growing population. It is further noted that in considering the previous application which included the subject site (ref: ABP-306413-20) the Board accepted a higher plot ratio and density on the lands.

It is considered that the plot ratio of 0.2:1 stipulated in the Development Plan is not economically feasible in the context of this proposed strategic housing development nor does it represent best planning practice in this instance, due to a range of factors and in the context of what is a housing crisis.

An increase in residential densities at suitable locations has been emphasised at national level in the NPF and at regional level in the RSES with an increase sought in residential densities across the country along with more efficient use of land. Galway is no exception.

The entire LDR zoned lands within the Plan are expected to deliver 815 units over the Plan period (2017-2023). The analysis underpinning the zoning of the Plan is based on the finding that *“there is sufficient land zoned that can satisfy the housing needs of the NSS targeted population for 2022.”* Under the RSES, it is noted that all counties in Ireland have experienced population growth over the past 30 years with this trend is anticipated to continue into the future. It was assessed that this growth will place new pressure on existing settlement patterns and in particular on housing supplies. Under the National Planning Framework, it is detailed that by the year 2040 it is expected that the population of circa one million people will require *‘hundreds of thousands of new jobs and new homes’*. The NPF consequently sets a minimal target of 120,000 people in Galway City and Suburbs which is an increase of 40,000+ people compared to the 2016 levels. Given this unprecedented expected increase in demand and the continued pressure on Galway to be a regional growth location which provides a live/work balance, the City must look to its immediate suburbs to address growth demand. In that vein, it is strongly suggested that development sites which can be serviced and create a sustainable development should not be subject to the constraint of a low-density zoning. To do so is at odds with national and

regional policy and guidance and serves only to place further burden on supply of housing across the country.

iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

The National Planning Framework prioritises the Galway city region as an area for continued growth given its location and attractiveness for employers. As noted, the RSES contains the following population targets:

1. *The population of Galway MASP to grow by 27,500 to 2026 and by a further 14,500 to 2031 with the population of the city and suburbs accommodating 23,000 to 2026 and a further 12,000 to 2031.*
2. *Deliver at least half (50%) of all new homes that are targeted within the MASP to be within the existing built-up footprint.*

It is clear from the Central Statistics Office [CSO] data that the population growth in Galway City in the 25 years to 2016 has been substantial; increasing by 54.7% to 78,668 people. Galway is the country's fourth largest city and, as such, growth would be expected but this level of growth far exceeds the national level of change for that period which stands at 35.1%.

Galway City is set to grow significantly over the period to 2026 and beyond, if the targets of the NPF and RSES are to be achieved. There is a pent-up demand or unmet requirement for housing in the Galway City area. The CSO indicates that only 206 units were completed in Galway City in 2020². It is expected that the provision of housing in the area will need to significantly increase to keep pace with demographics.

Furthermore the RSES considers the MASP as an opportunity for Galway to address recent growth legacy issues and build on key strengths, including a vibrant arts and cultural scene, year-round tourism and an attractive natural setting.

The plot ratio provided for in the Development Plan in relation to the LDR zoned lands – 0.2:1 – is exceeded by this proposed strategic housing development, with the proposal achieving a plot ratio of 0.40:1. This exceedance is a direct consequence of the national requirement to make efficient use of land and to increase overall residential densities in light a housing crisis, and the expectant population growth trajectory for the region. It also however balances the requirement to deliver sustainable, vibrant communities and high quality design approach.

The implementation of such a strict plot ratio in the Development Plan is inconsistent with the Government's policies and objectives to tackle the national housing crisis as set out in Rebuilding Ireland Action Plan for Housing and Homelessness, and as implemented inter alia through the NPF.

With regards car parking provision on the site, the design of this has been considered against the overall design vision, technical standards, policy requirements and guidance. A total of 183 car parking spaces are provided as illustrated on ONOM drawing 20175-3026, enclosed. With regards the level of car parking provided within a scheme, as noted in the Design Manual for Urban Streets (DMURS), *“Getting the balance right presents a challenge to designers. If parking is over provided it will conflict with sustainability objectives and can be visually dominant. Conversely, if parking does not cater for user needs or is under provided it may encourage poor parking practices (including illegal ones) such as kerb mounting, parking on footpaths and within areas of open space.”*

² New dwelling completions Q1-Q4 2020 inclusive, CSO 2021

With regards the proposed dwellinghouses on site, a mixture of on-curtilage and grouped parking is proposed. The intention to enhance the character of the primary access road/main avenue to that of a street, with vibrancy and a varied streetscape, resulted in the use of grouped car parking in this location as indicated by the purple spaces on the noted drawing. These perpendicular and parallel spaces serve 37no. houses, proposed at 1.5 spaces per dwelling and 1 visitor space per 3 dwellings required by the extant Development Plan. In total then 68 spaces are required and 70 have been provided. Away from the main avenue into the development, grouped parallel and perpendicular parking spaces are also provided where the character of the area transitions along secondary access roads/local access roads.

As noted in DMURS, there are benefits to the provision of on-street car parking including:

- 》 Traffic calming by increasing driver caution
- 》 Add to the vitality of the street as people move to and from their vehicles
- 》 Contribute to a pedestrian buffer between the main carriageway and footpath
- 》 Reduce temptation for drivers to mount the kerb
- 》 Provides good levels of passive security

The implementation of this parking arrangement will achieve the above-noted benefits for the development and future residents.

Moving further north into the development, there is a shift to on-curtilage parking. 2no. on curtilage spaces are provided for the remaining 30no. dwellinghouses (60no. spaces in total) indicated in green on the car parking drawing (ref: ONOM 2175-3026).

Both grouped and on curtilage parking will be ducted for future electric vehicle (EV) charging, if required.

The retail/commercial, creche and apartment cluster located at the eastern section of the site, adjacent to the main point of access to the site benefits from shared parking provision. In detail, 35no. parking spaces are provided for the apartment building, 43 no. spaces when visitor parking is added. Two of these spaces – those closest to the retail unit – are to be electric vehicle charging spaces. Two of these spaces are also disabled parking spaces.

It is proposed that the creche facility will be able to use 7no. of these spaces likely to be vacated by residents during the day. 7no. dedicated parking spaces are provided close to the creche. In addition, 2no. visitor spaces exist to the west of these spaces, which can be used for pick up/drop off where required. Moving south, the retail/commercial element of the proposed development 3no. dedicated spaces are provided immediately adjacent to the retail/commercial unit. 3no. visitor spaces are also provided, adjacent to which 2no. GoCar spaces (visitor) and 1no. disabled space (visitor) spaces are located. A dedicated loading bay is provided to the south of the building.

It is held that the car parking provided on site reflects the likely demand and takes into account the pattern of movement within the site.

7.

CONCLUSION

It is considered that the proposed development is compliant with national and regional policy and guidance, and that the deviation from a restrictive plot ratio as stipulated in the Development Plan and the dual-use of some parking spaces proposed on site is permissible. The siting and design of the proposed development been carefully considered as demonstrated elsewhere in the application pack. The resultant community will ensure a high-quality development with access to varied and quality public spaces and facilities, all of which are considered to comprise sustainable development in this growing City.

It is also contended the car parking provision within the scheme is appropriate in the context of the likelihood of residents to use the adjacent services/facilities and with a view to seeking to support a modal shift to walking, cycling and public transport.

The development proposed has regard to the site's location within the GTS area and the associated requirement to lower the dependency on private car use. This approach it is held promotes a flexible approach to parking, without raising traffic safety issues and which ensures the layout is visually not car-dominated.

In accordance with section 37(2)(b) of the Planning and Development Act, 2000, and notwithstanding the material contravention of the Development Plan, it is submitted that the Board should grant permission, having considered the proper planning and, in particular, the sustainable development of the area, in circumstances where the proposed development is of strategic and national importance, having had regard guidelines under section 28 and the relevant policy of the Government.