

An Bord Pleanala
64 Marlborough St
Dublin 1

12th February 2025

Re: Newmar Developments - The retention and completion of 8 dwelling houses - 9 to 16 inclusive Garrai Mhic Aodha, Ballyhugh, Gort and to construct 32 dwelling houses - 17 to 20 inclusive Garrai Mhic Aodha and 1 to 28 inclusive Gort An Choirce, Ballyhugh, Gort.

A Chara,

In relation to the above I can confirm the following:

1. INTRODUCTION:

- This planning application has been lodged on two occasions to Galway Co Council under reference No 23/60216 and 24/60812. On both occasions Galway Co Council invalidates the application as they say there is unauthorized development on site. This is not the case as there was planning permission granted previously on site under 08/2336, 14/502, 19/738 & 20/1010. As such we believe this application should not have to be submitted to An Bord Pleanala but our hands are tied as no other avenue is available to the applicant. **The site is currently part of a Judicial Review case for the refusal of an Extension of Effective period application and the applicant feels that Galway Co Council are not dealing with the application fairly as a result.**
- An Bord Pleanala has already made a decision on an apartment and creche building on this overall site under Case No ABP-314335-22 where they concluded there was no unauthorized development on the site as of the 28th of February 2024. The planning permission forms part of a brown field site which was under construction under the mentioned planning permissions up until the planning permission expired.
- The estate has approximately 80 occupied houses and this application relates to the final phase of development. The sewer and water connections have been designed and agreed with Irish Water and a connection agreement is in place.
- A part V agreement is currently in place for the development.
- The development is consistent with the zoning for the site as per the Gort Development Plan and the density is consistent with the adjoining development.
- All green areas have been completed under previous phases.

2. DEVELOPMENT:

The development consists of mainly residential development with a creche/apartment block on the Northern portion.

The remainder of the development consists of

- semi-detached single storey dwelling houses,
- semi-detached 2-storey dwelling houses,
- and 2-storey terraced dwelling houses.

A portion of the development contains the usual (completed) roads, footpaths, street lighting, green areas, parking, etc.

- **Garrai Mhic Aodha** – this section is located to the North of the site and contains:
 - An apartment and creche block
 - and the completed house Nos: 1 – 8 and 21 – 47.
 - Houses Nos: 9 – 20 are not completed and are at various stages of development.
- **Gort An Choirche** – This section is located to the South of the site and contains:
 - completed house Nos: 29 – 52.
 - completed houses 53 – 73
 - and the proposed houses Nos: 1 – 28 (not yet commenced).

3. PHASING OF THE DEVELOPMENT:

The development was to be carried out in 6 Phases

Details of the phases are as follows:

Garrai Mhic Aodha:

- **Phase 1:** This includes the entrance, the block containing the crèche and the 11 apartments, site development works ancillary to the commercial block and houses 1 – 8 and 21 – 29. The dwelling houses in this Phase are completed and occupied.
- **Phase 2:** Contains the houses 30 – 47. These houses are completed and occupied.
- **Phase 5:** Construction works have commenced on Phase 5. House Nos: 9 – 16 are constructed to 1st floor and the hollow core has been installed. The sewers and service ducts have been installed and the road for this Phase is at formation level. Construction works on Phase 5 are currently on hold – for approximately 3 years.

Gort An Choirche:

- **Phase 3:** contains houses 29 – 52. These houses are completed and occupied.
- **Phase 4:** this relates to house Nos: 53 – 73. These houses are completed and occupied.
- **Phase 6:** this relates to house Nos: 1 – 28. No significant construction works in relation to the houses has taken place. The sewers and service ducts have been installed or partly installed and the road is at formation level. Construction works on Phase 6 are currently on hold – for approximately 3 years.

In summary Phases 1, 2,3,4 & 5 are complete and occupied.
These phases are located in close proximity to the Cannahowna River.

The green areas between the houses and the river have been fully completed.

Construction works have commenced on Phase 6.
However, the construction of the dwelling houses has not been advanced.
Phase 6 is located the furthest away from the Cannahowna River.

4. ENFORCEMENT AND COMPLIANCE:

There is no record of Planning Enforcement on the site.

An Bord Pleanála carried out an examination of the development and Planning File as part of their assessment of ABP-314335-22 and the Inspector's report indicated that there was no record of Enforcement on the site.

I have been provided with copies of various Confirmation of Compliance in relation to financial contributions and bonds.

5. RELEVANT PLANNING PERMISSIONS:

Planning Ref. No: 08/2336:

Date of Grant: 18 May 2009.

Relates to the construction of a residential development, including 132 houses, a 3-storey block containing apartments, Crèche and shop and all site development works, including a sewage pumping plant.

The planning file indicates that the commencement date was the **11th March 2019**.

Planning Ref. No: 14/502.

Date of Grant: 7 July 2014.

Relates to Extension of Duration of the effective period of Planning Ref.

No: 08/2336.

The Effective Period was extended until the 6th July 2019.

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates "*significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats*".

Planning Ref. No: 19/738.

Date of Grant: 5 July 2019.

Relates to extension of duration of the Effective Period of Planning Permission Ref. No: 14/502 and 08/2336.

(The application also refers to Planning Ref. No: 18/741).

The effective period was extended to the 31st December 2021.

The Planner's Report attached to the file refers to appropriate assessment and indicates *"NIS submitted under previous Application on the site which has concluded that there will be no adverse impacts on the qualifying criteria of Coole-Garryland complex SAC/SPA, when the mitigation measures proposed are implemented"*

Planning Ref. No: 19/989.

Date of Grant : 30th September 2019.

Relates to Change of House Plans on 16 sites (Phase 5 - Garrai Mhic Aodha).

There were 11 Conditions attached.

The application related to the approved dwelling houses on sites 5 to 20 (Garrai Mhic Aodha).

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates *"significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats."*

This substitute Consent application and Pl. Ref. No. 23/60216 and 24/60812 include houses which were approved under Pl. Ref. No. 19/989.

Planning Ref. No: 20/780.

Date of Grant : 26th October 2020.

Relates to the Retention of house plans on sites 1 to 4 and 29 to 30 and retention of elevation alterations to sites 21 to 28 and 31 to 47.

The Planning Website indicated that the Commencement date was the 4/11/2020.

The Planner's Report refers to Appropriate Assessment and states:

Article 6(3) of the EU Habitats Directive requires that *"any plan or project not directly connected with or necessary to the management of the site but likely to give a significant effect, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implementations for the site in view of the sites conservation objectives"*.

"The subject site currently a construction site is located circa 1.5km from said sites.

The Planning Authority considered the nature and minor scale of the proposed development, which relates to the retention of alterations to elevations and retention of change of house plans to a number of previously approved units on site. The Planning Authority also considered the parent permission on site and the applications for the extension of the appropriate period (Pl. Ref: 14/502 and 19/738), which screens out likely significant impacts of the overall housing development on European Sites and determined AA was not required.

The location of the site outside of any European Sites, the conservation objectives and qualifying interests of Coole-Garryland complex SAC and Coole-Garryland complex SPA, the distance of the site from same, the proposed connection of the site to the public sewer and on-site surface water disposal, in conjunction with the WFD Catchment Location, the underlying Aquifer-type and vulnerability and the limited excavation works, emissions, excavations, transportation requirements and duration of construction associated with the proposal.

The Planning Authority conclude that the proposed development by itself or in combination with other plans or projects (directly/indirectly/cumulatively) would not have a likely significant effect on European Sites, their qualifying interests and conservation objects. Therefore, no further Assessment is required”.

Planning Ref. No: 20/1010

Date of Grant : 26th October 2020.

Relates to Change of House Plans on Sites 1 – 73 (Gort Na Choirche).

The Planning Website indicates that the Commencement Date was the 4/11/2020.

The planner’s report refers to Appropriate Assessment and states *“significant impact on Habitats and Natura 2000 sites can be ruled out.*

No further assessment is required in relation to habitats”.

Planning Ref. No: 20/1780.

Date of Grant : 15th March 2021.

Relates to retention and completion of dwelling houses on Sites 5 – 8 Garrai Mhic Aodha.

The grant of permission was subject to 29 conditions.

The planner’s report referred to “Appropriate Assessment” and indicated:

- The Planning Authority considered the nature and minor scale of the proposed development and the planning permission screened out likely impacts of the overall housing development on European Sites and determined an AA was not required.
- The proposed development by itself or in combination with any other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objects.
- No further assessment was required.

Planning Ref. No: 21/1753.

Date of Grant: 5th January 2022.

Relates to Retention of the change of use of houses 1 and 2 Garrai Mhic Aodha. Private dwelling house to a single community dwelling house.

There were 27 Conditions attached.

The Planner’s Report deals with the screening determinations EIA *“there is no real likelihood of significant affects on the environment arising from the proposed development. The need for an Environmental Impact Assessment can therefore be excluded, a preliminary examination and a screening determination is not required”.*

The Planning Authority concluded that the proposed development by itself or a combination with other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objectives.

Therefore, no further assessment was required.

6. RELEVANT PLANNING REFUSALS:

Planning Ref. No: 22/60571.

Date of Refusal: 27th July 2022.

Relates to retention of elevation alterations to an apartment and crèche block previously Granted under Pl. No: 18/741.

The Application was refused for 2 reasons.

1 – Galway County Council were not satisfied that the likely effects of the development on European Sites can be excluded.

2 – The proposed development would intensify existing unauthorised development of the site.

The planner's report indicated that the Council were not satisfied of the likely significant effects of the development on European Sites can be screened out.

The decision to refuse was appealed by the applicant to An Bord Pleanála (Ref. No: ABP-314335-22).

An Board Pleanála subsequently decided to overturn Galway County Council's Decision (to refuse permission) and **Granted** Planning Permission for the development in February 2024.

An Board Pleanála's reasons and considerations for Granting Permission are as follows:

"Having regard to the relatively minor nature and scale of the alterations to the apartment and crèche building, which is located within the settlement boundary of Gort on Zoned service lands, it is considered that, subject to compliance with the conditions set out below, the alterations to the building, which is connected to the public foul and surface water sewer network and having regard to the separation distance from the nearest European Sites, which are located on the opposite (Western) side of the M18 Motorway, would have no significant effects on the qualifying interests of these or any other European sites".

The board was satisfied that the alterations to the elevation be retained and that the proposed development would therefore be in accordance with proper Planning and Sustainable Development in the area".

The An Board Pleanála Decision also outlined details in relation to appropriate assessments – screening, which is as follows:

"The subject site is located approx. 1.47km southeast of the Coole-Garryland complex Special Area of Conservation (Site Code: 000252) and 1.47km southeast of the Coole-Garryland Special Protection Area (Site Code: 004107).

Having regard to the scale and nature of the alterations to the apartment/crèche building sought to be retained and the location removed from any European Sites, the Board considered that no appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site".

7. RELEVANT INVALID PLANNING APPLICATIONS:

Planning Ref. No: 23/60216.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses (9 to 16 Garraí Mhic Aodha) and to construct 32 dwelling houses 17 – 20 inclusive in Garraí Mhic Aodha, and 1 to 28 inclusive at Gort An Choirce.

The Application was received on the 8th March 2023.

Galway County Council issued correspondence on the 28th of April 2023, stating that the Application was Invalid and the *“Planning Authority should Refuse to consider an application to Retain Unauthorised Development of land, where the Authority decides that if an Application for Permission had been made in respect of the development concerned before it was commenced, the Application would have required Appropriate Assessment.*

“Following the screening process, it was determined that likely significant affects to European Sites cannot be excluded. By virtue of the requirement for protection or mitigation measures required during construction and operation of the proposed development, the recommendation of a screening process is therefore to proceed to Stage 2 Appropriate Assessment.”

Planning Ref. No: 24/60812.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses - 9 to 16 inclusive Garraí Mhic Aodha, and to construct 32 dwelling houses - 17 to 20 inclusive Garraí Mhic Aodha and 1 to 28 inclusive Gort An Choirce. Gross floor space of proposed works.

The Application was received on the 1st July 2024.

Galway County Council issued correspondence on the 22nd August 2024, stating:

“The application has been screened for appropriate assessment which has determined that an Appropriate Assessment is required. As this is an application which involves a portion of retention of unauthorised development, under Section 34(12) of the Planning and Development Act, 2000 (as amended), a Planning Authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required Appropriate Assessment”.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, subsequently extended under Pl. Ref. No: 14/502 and 19/738. The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

8. SUMMARY OF PLANNING HISTORY:

Planning Permission No: 08/2336 is the original/master planning permission for the entire development. The 5-year effective period for the planning permission was extended twice:

- in 2014 – Ref. No: 14/502,
- in 2019 – Ref. No: 19/738.

The effective period of the original grant of planning permission, along with its extensions as specified on PL. Ref. 19/738 expired on the 31st December 2021.

There were further planning applications for various changes of design, alterations, house plans, etc., which included:

- Ref. No: 19/989,
- Ref. No: 20/780,
- Ref. No: 20/1010,
- Ref. No: 20/1780,

The above 4 planning permissions all relied on, and referred to the original master planning permission, 08/2336.

A specific condition attached to the grant of these permissions indicated that the planning permissions were to expire on the 30th/31st December 2021, the date on which the original/master permission (which was subsequently extended) was to expire.

Planning Ref 19/989 and 20/1010 are of particular significance as they relate to the part of the overall development which has not been completed.

As a result of Covid there was a temporary 2-year extension of the effective period allowed to complete developments.

An application was made in December 2021 (Ref. No: 21/2311) to extend the effective period of the master Planning Permission and subsequent extensions. The application referred to 19/989 and 20/1010.

The planner's report stated that Planning Ref. Nos: 19/989 and 20/1010, should be included in separate applications.

The application was refused on the grounds that the Further Information was not received within the specified time limit.

There were subsequent planning applications (22/444, 22/445 and 22/446) to extend the relevant periods of the planning permission. However, these were all **Refused** by Galway County Council, on the grounds that they were submitted after the effective period had ceased.

There was a planning permission for the crèche/apartment block (18/741), which referred to the earlier Applications 14/502 and 08/2336.

There were 3 further applications for the crèche/apartment block – 2 for retention and 1 for permission for alterations – all were **Refused** by Galway county Council.

The most recent refusal (22/60571) was appealed to An Bord Pleanála.

An Bord Pleanála overturned the decision to refuse and granted planning permission for 22/60571.

The final application on the site related to retention and completion of phase 5 & 6 – Pl. Ref. No. 23/60216 and 24/60812. Galway County Council deemed these applications were **Invalid**.

The planning history indicates that the effective planning period of the master planning permission 08/2336 and the subsequent 2 extensions of duration, has now ceased.

The originally approved development has not been fully completed.

9. COMMENTS ON APPROPRIATE ASSESSMENT:

Noreen McLoughlin, MSc, MCIEEM. Carried out a screening for appropriate assessment and concluded:

“It is of the opinion of the author that an AA of the proposed development is not required as it can be excluded, on the basis of objective information provided in this report, that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on any European sites”.

I submit that:

- An appropriate assessment would not have been a requirement at the time of the original application 08/2366,
- The Planner’s Report for 14/502 indicates under the heading “Appropriate Assessment”, *significant impacts on habitats with Natura 2000 sites can be ruled out. No further assessment is required.*

This relates to the overall site including the dwelling houses which were the subject of Pl. ref No. 23/60216 and 24/60812

- The proposal 23/60216 and 24/60812 are the same as that proposed in the 14/502 and screened out by Galway County Council. This assessment is still valid.
- The assessment carried out by Noreen McLoughlin, MSc, MCIEEM has screened the development out for AA.
- There was an inconsistency of approach and lack of transparency in respect of the Habitats Directive Assessments of the site. If there was a doubt regarding the original assessment (14/502), then the Council themselves should have screened the 19/738 application for Appropriate Assessment.
- It appears that the Council did not and instead relied on an NIS which was prepared for the 18/741 application.

There were 4 further applications on this site, which related to the change of house design, minor alterations, etc., these were:

- 19/989,
- 20/780,
- 20/1010,
- 20/1780,

The planner's reports for these applications indicates that the Appropriate Assessment screening appears to have been assessed and Galway County Council decided that significant impacts on habitats within the Natura 2000 sites can be ruled out. No further assessment is required in relation to the Habitats Directive.

- Galway Co. Co carried out Appropriate Assessment screening for the 2019, 2020 and 2021 Planning Applications (and 14/502),
- and concluded that significant impacts to the Natura 2000 Sites can be ruled out.
- A substantial portion of the development had already been completed at the time of making the planning application Pl. ref No. 23/60216 and 24/60812
- There was no changes to the approved development (which had already screened out for AA).

An Bord Pleanála have concluded:

- having regard to the separation distance from the nearest European Sites which are located on the opposite side of the M18 Motorway
- the relevant development on the site (the crèche development) will have no significant effects (by itself or combined with other developments) on the qualifying interests of these or any other European Sites.

I am of the opinion that the assertion that an Appropriate Assessment as part of planning Pl. ref No. 23/60216 and 24/60812 appears to be contrary to previous Galway County Council planner's report and assessment of the environmental issues and contrary to An Bord Pleanála's assessment of the site having regard to:

- The completed and remaining section of the development is and will be connected to the public foul and surface water sewer network.
- A substantial portion of the dwelling houses have been completed.
- Some of the remaining houses have already commenced.
- A substantial portion of the ground works, including sewer pipes, ducting, boundary walls and road construction to formation level, have already been completed.
- The bulk of the remaining works are located the furthest away from the river.
- An Board Pleanála have considered that due to the separation distance between the European Sites which are located on the opposite side of the M18 Motorway, the works on the site would have no significant effects on the qualifying interests of the European Sites.
- Galway County Council in numerous Planning Applications have considered that no further Screening reports are required.

10. EXCEPTIONAL CIRCUMSTANCE

Galway County Council issued correspondence regarding Pl. ref No. 23/60216 and 24/60812, stating that the applications were **Invalid** and the Planning Authority should refuse to consider an application to retain “unauthorised development” of land, where the Authority decides that if an application for permission had been made in respect of the development concerned before it was commenced, the application would have required Appropriate Assessment.

In such cases a developer would have to apply to An Bord Pleanála, for permission to regularise permission for the development. This process is known as *Substitute Consent*.

I am of the opinion that an Appropriate Assessment for the development was not required having regard to:

- previous planning applications on the site and the relevant planner’s reports which ruled out the requirement to carry out Appropriate Assessment
- and the recent An Bord Pleanála Grant of Planning Permission Ref. No: 22/60571
- the screening report prepared by Noreen McLoughlin, MSc, MCIEEM

I am of the opinion that Galway County Council ought to have been able to assess this planning application on its own merits and should not have invalidated the application.

I am of the opinion that the question of *Substitute Consent* did not apply in this case.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, (subsequently extended under Pl. Ref. No: 14/502 and 19/738).

The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

If Galway County Council granted the extension of duration (21/2311), the development probably would have been completed within the period of the planning permission and there would have been no requirement to make the 2023 & 2024 retention and completion applications (23/60216 & 24/60812).

I submit that the application meets the criteria of Exceptional Circumstance.

11. CONCLUSIONS:

The relevant site has a relatively long and detailed planning history, dating back to the original master planning in 08/2336, granted in May 2009. The Master Planning permission was extended in 2014 and again in 2019 and expired on the 31st December 2021.

A substantial portion of the development has been completed and occupied.

Phase 6 have yet to be constructed (although the groundworks and some houses have been partially constructed within the period of the relevant planning permissions).

I am of the opinion, if Galway County Council required further Environmental reports, they ought to have requested such reports as part of the 2014 and 2019 extension of duration applications. They did not request such reports.

Furthermore, there were numerous changes of house design planning applications and Galway County Council carried out an assessment of the environmental issues and concluded that no further Environmental Screening reports were required.

An Bord Pleanála have recently granted permission for retention of alterations to the crèche/apartment block and concluded, due to the separation distance to the European Site, which is located on the opposite side of the M18 Motorway, impacts on the European Sites can be ruled out.

Should you require any further information, please do not hesitate to contact this office.

Yours faithfully,

Signed: _____
Des Glynn BSc. Arch.T MCIOB
PG Dip CEng & Const Mngt.
Registered Building Surveyor B0349
Grealish Glynn & Associates

An Bord Pleanala
64 Marlborough St
Dublin 1

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- This planning application has been lodged on two occasions to Galway Co Council under reference No 23/60216 and 24/60812. On both occasions Galway Co Council invalidates the application as they say there is unauthorized development on site. This is not the case as there was planning permission granted previously on site under 08/2336, 14/502, 19/738 & 20/1010. As such we believe this application should not have to be submitted to An Bord Pleanala but our hands are tied as no other avenue is available to the applicant. **The site is currently part of a Judicial Review case for the refusal of an Extension of Effective period application and the applicant feels that Galway Co Council are not dealing with the application fairly as a result.**
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- The estate has approximately 80 occupied houses and this application relates to the final phase of development. The sewer and water connections have been designed and agreed with Irish Water and a connection agreement is in place.
- A part V agreement is currently in place for the development.
- The development is consistent with the zoning for the site as per the Gort Development Plan and the density is consistent with the adjoining development.
- All green areas have been completed under previous phases.

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The development consists of mainly residential development with a creche/apartment block on the Northern portion.

The remainder of the development consists of

- semi-detached single storey dwelling houses,
- semi-detached 2-storey dwelling houses,
- and 2-storey terraced dwelling houses.

A portion of the development contains the usual (completed) roads, footpaths, street lighting, green areas, parking, etc.

- **Garrai Mhic Aodha** – this section is located to the North of the site and contains:
 - An apartment and creche block
 - and the completed house Nos: 1 – 8 and 21 – 47.
 - Houses Nos: 9 – 20 are not completed and are at various stages of development.
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In summary Phases 1, 2,3,4 & 5 are complete and occupied.
These phases are located in close proximity to the Cannahowna River.

The green areas between the houses and the river have been fully completed.

Construction works have commenced on Phase 6.
However, the construction of the dwelling houses has not been advanced.
Phase 6 is located the furthest away from the Cannahowna River.

4. ENFORCEMENT AND COMPLIANCE:

There is no record of Planning Enforcement on the site.

An Bord Pleanála carried out an examination of the development and Planning File as part of their assessment of ABP-314335-22 and the Inspector's report indicated that there was no record of Enforcement on the site.

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The planning file indicates that the commencement date was the **11th March 2019**.

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Article 6(3) of the EU Habitats Directive requires that "*any plan or project not directly connected with or necessary to the management of the site but likely to give a significant effect, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implementations for the site in view of the sites conservation objectives*".

"The subject site currently a construction site is located circa 1.5km from said sites.

The Planning Authority considered the nature and minor scale of the proposed development, which relates to the retention of alterations to elevations and retention of change of house plans to a number of previously approved units on site. The Planning Authority also considered the parent permission on site and the applications for the extension of the appropriate period (Pl. Ref: 14/502 and 19/738), which screens out likely significant impacts of the overall housing development on European Sites and determined AA was not required.

The location of the site outside of any European Sites, the conservation objectives and qualifying interests of Coole-Garryland complex SAC and Coole-Garryland complex SPA, the distance of the site from same, the proposed connection of the site to the public sewer and on-site surface water disposal, in conjunction with the WFD Catchment Location, the underlying Aquifer-type and vulnerability and the limited excavation works, emissions, excavations, transportation requirements and duration of construction associated with the proposal.

The Planning Authority conclude that the proposed development by itself or in combination with other plans or projects (directly/indirectly/cumulatively) would not have a likely significant effect on European Sites, their qualifying interests and conservation objects. Therefore, no further Assessment is required”.

Planning Ref. No: 20/1010

Date of Grant : 26th October 2020.

Relates to Change of House Plans on Sites 1 – 73 (Gort Na Choirche).

The Planning Website indicates that the Commencement Date was the 4/11/2020.

The planner’s report refers to Appropriate Assessment and states *“significant impact on Habitats and Natura 2000 sites can be ruled out.*

No further assessment is required in relation to habitats”.

Planning Ref. No: 20/1780.

Date of Grant : 15th March 2021.

Relates to retention and completion of dwelling houses on Sites 5 – 8 Garrai Mhic Aodha.

The grant of permission was subject to 29 conditions.

The planner’s report referred to “Appropriate Assessment” and indicated:

- The Planning Authority considered the nature and minor scale of the proposed development and the planning permission screened out likely impacts of the overall housing development on European Sites and determined an AA was not required.
- The proposed development by itself or in combination with any other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objects.
- No further assessment was required.

Planning Ref. No: 21/1753.

Date of Grant: 5th January 2022.

Relates to Retention of the change of use of houses 1 and 2 Garrai Mhic Aodha. Private dwelling house to a single community dwelling house.

There were 27 Conditions attached.

The Planner’s Report deals with the screening determinations EIA *“there is no real likelihood of significant affects on the environment arising from the proposed development. The need for an Environmental Impact Assessment can therefore be excluded, a preliminary examination and a screening determination is not required”.*

The Planning Authority concluded that the proposed development by itself or a combination with other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objectives.

Therefore, no further assessment was required.

6. RELEVANT PLANNING REFUSALS:

Planning Ref. No: 22/60571.

Date of Refusal: 27th July 2022.

Relates to retention of elevation alterations to an apartment and crèche block previously Granted under Pl. No: 18/741.

The Application was refused for 2 reasons.

- 1 – Galway County Council were not satisfied that the likely effects of the development on European Sites can be excluded.
- 2 – The proposed development would intensify existing unauthorised development of the site.

The planner's report indicated that the Council were not satisfied of the likely significant effects of the development on European Sites can be screened out.

The decision to refuse was appealed by the applicant to An Bord Pleanála (Ref. No: ABP-314335-22).

An Board Pleanála subsequently decided to overturn Galway County Council's Decision (to refuse permission) and **Granted** Planning Permission for the development in February 2024.

An Board Pleanála's reasons and considerations for Granting Permission are as follows:

"Having regard to the relatively minor nature and scale of the alterations to the apartment and crèche building, which is located within the settlement boundary of Gort on Zoned service lands, it is considered that, subject to compliance with the conditions set out below, the alterations to the building, which is connected to the public foul and surface water sewer network and having regard to the separation distance from the nearest European Sites, which are located on the opposite (Western) side of the M18 Motorway, would have no significant effects on the qualifying interests of these or any other European sites".

The board was satisfied that the alterations to the elevation be retained and that the proposed development would therefore be in accordance with proper Planning and Sustainable Development in the area".

The An Board Pleanála Decision also outlined details in relation to appropriate assessments – screening, which is as follows:

"The subject site is located approx. 1.47km southeast of the Coole-Garryland complex Special Area of Conservation (Site Code: 000252) and 1.47km southeast of the Coole-Garryland Special Protection Area (Site Code: 004107).

Having regard to the scale and nature of the alterations to the apartment/crèche building sought to be retained and the location removed from any European Sites, the Board considered that no appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site".

7. RELEVANT INVALID PLANNING APPLICATIONS:

Planning Ref. No: 23/60216.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses (9 to 16 Garraí Mhic Aodha) and to construct 32 dwelling houses 17 – 20 inclusive in Garraí Mhic Aodha, and 1 to 28 inclusive at Gort An Choirce.

The Application was received on the 8th March 2023.

Galway County Council issued correspondence on the 28th of April 2023, stating that the Application was Invalid and the *“Planning Authority should Refuse to consider an application to Retain Unauthorised Development of land, where the Authority decides that if an Application for Permission had been made in respect of the development concerned before it was commenced, the Application would have required Appropriate Assessment.*

“Following the screening process, it was determined that likely significant affects to European Sites cannot be excluded. By virtue of the requirement for protection or mitigation measures required during construction and operation of the proposed development, the recommendation of a screening process is therefore to proceed to Stage 2 Appropriate Assessment.”

Planning Ref. No: 24/60812.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses - 9 to 16 inclusive Garraí Mhic Aodha, and to construct 32 dwelling houses - 17 to 20 inclusive Garraí Mhic Aodha and 1 to 28 inclusive Gort An Choirce. Gross floor space of proposed works.

The Application was received on the 1st July 2024.

Galway County Council issued correspondence on the 22nd August 2024, stating:

“The application has been screened for appropriate assessment which has determined that an Appropriate Assessment is required. As this is an application which involves a portion of retention of unauthorised development, under Section 34(12) of the Planning and Development Act, 2000 (as amended), a Planning Authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required Appropriate Assessment”.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, subsequently extended under Pl. Ref. No: 14/502 and 19/738. The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

8. SUMMARY OF PLANNING HISTORY:

Planning Permission No: 08/2336 is the original/master planning permission for the entire development. The 5-year effective period for the planning permission was extended twice:

- in 2014 – Ref. No: 14/502,
- in 2019 – Ref. No: 19/738.

The effective period of the original grant of planning permission, along with its extensions as specified on PL. Ref. 19/738 expired on the 31st December 2021.

There were further planning applications for various changes of design, alterations, house plans, etc., which included:

- Ref. No: 19/989,
- Ref. No: 20/780,
- Ref. No: 20/1010,
- Ref. No: 20/1780,

The above 4 planning permissions all relied on, and referred to the original master planning permission, 08/2336.

A specific condition attached to the grant of these permissions indicated that the planning permissions were to expire on the 30th/31st December 2021, the date on which the original/master permission (which was subsequently extended) was to expire.

Planning Ref 19/989 and 20/1010 are of particular significance as they relate to the part of the overall development which has not been completed.

As a result of Covid there was a temporary 2-year extension of the effective period allowed to complete developments.

An application was made in December 2021 (Ref. No: 21/2311) to extend the effective period of the master Planning Permission and subsequent extensions. The application referred to 19/989 and 20/1010.

The planner's report stated that Planning Ref. Nos: 19/989 and 20/1010, should be included in separate applications.

The application was refused on the grounds that the Further Information was not received within the specified time limit.

There were subsequent planning applications (22/444, 22/445 and 22/446) to extend the relevant periods of the planning permission. However, these were all **Refused** by Galway County Council, on the grounds that they were submitted after the effective period had ceased.

There was a planning permission for the crèche/apartment block (18/741), which referred to the earlier Applications 14/502 and 08/2336.

There were 3 further applications for the crèche/apartment block – 2 for retention and 1 for permission for alterations – all were **Refused** by Galway county Council.

The most recent refusal (22/60571) was appealed to An Bord Pleanála.

An Bord Pleanála overturned the decision to refuse and granted planning permission for 22/60571.

The final application on the site related to retention and completion of phase 5 & 6 – Pl. Ref. No. 23/60216 and 24/60812. Galway County Council deemed these applications were **Invalid**.

The planning history indicates that the effective planning period of the master planning permission 08/2336 and the subsequent 2 extensions of duration, has now ceased.

The originally approved development has not been fully completed.

9. COMMENTS ON APPROPRIATE ASSESSMENT:

Noreen McLoughlin, MSc, MCIEEM. Carried out a screening for appropriate assessment and concluded:

“It is of the opinion of the author that an AA of the proposed development is not required as it can be excluded, on the basis of objective information provided in this report, that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on any European sites”.

I submit that:

- An appropriate assessment would not have been a requirement at the time of the original application 08/2366,
- The Planner’s Report for 14/502 indicates under the heading “Appropriate Assessment”, *significant impacts on habitats with Natura 2000 sites can be ruled out. No further assessment is required.*

This relates to the overall site including the dwelling houses which were the subject of Pl. ref No. 23/60216 and 24/60812

- The proposal 23/60216 and 24/60812 are the same as that proposed in the 14/502 and screened out by Galway County Council. This assessment is still valid.
- The assessment carried out by Noreen McLoughlin, MSc, MCIEEM has screened the development out for AA.
- There was an inconsistency of approach and lack of transparency in respect of the Habitats Directive Assessments of the site. If there was a doubt regarding the original assessment (14/502), then the Council themselves should have screened the 19/738 application for Appropriate Assessment.
- It appears that the Council did not and instead relied on an NIS which was prepared for the 18/741 application.

There were 4 further applications on this site, which related to the change of house design, minor alterations, etc., these were:

- 19/989,
- 20/780,
- 20/1010,
- 20/1780,

The planner's reports for these applications indicates that the Appropriate Assessment screening appears to have been assessed and Galway County Council decided that significant impacts on habitats within the Natura 2000 sites can be ruled out. No further assessment is required in relation to the Habitats Directive.

- Galway Co. Co carried out Appropriate Assessment screening for the 2019, 2020 and 2021 Planning Applications (and 14/502),
- and concluded that significant impacts to the Natura 2000 Sites can be ruled out.
- A substantial portion of the development had already been completed at the time of making the planning application Pl. ref No. 23/60216 and 24/60812
- There was no changes to the approved development (which had already screened out for AA).

An Bord Pleanála have concluded:

- having regard to the separation distance from the nearest European Sites which are located on the opposite side of the M18 Motorway
- the relevant development on the site (the crèche development) will have no significant effects (by itself or combined with other developments) on the qualifying interests of these or any other European Sites.

I am of the opinion that the assertion that an Appropriate Assessment as part of planning Pl. ref No. 23/60216 and 24/60812 appears to be contrary to previous Galway County Council planner's report and assessment of the environmental issues and contrary to An Bord Pleanála's assessment of the site having regard to:

- The completed and remaining section of the development is and will be connected to the public foul and surface water sewer network.
- A substantial portion of the dwelling houses have been completed.
- Some of the remaining houses have already commenced.
- A substantial portion of the ground works, including sewer pipes, ducting, boundary walls and road construction to formation level, have already been completed.
- The bulk of the remaining works are located the furthest away from the river.
- An Board Pleanála have considered that due to the separation distance between the European Sites which are located on the opposite side of the M18 Motorway, the works on the site would have no significant effects on the qualifying interests of the European Sites.
- Galway County Council in numerous Planning Applications have considered that no further Screening reports are required.

10. EXCEPTIONAL CIRCUMSTANCE

Galway County Council issued correspondence regarding Pl. ref No. 23/60216 and 24/60812, stating that the applications were **Invalid** and the Planning Authority should refuse to consider an application to retain “unauthorised development” of land, where the Authority decides that if an application for permission had been made in respect of the development concerned before it was commenced, the application would have required Appropriate Assessment.

In such cases a developer would have to apply to An Bord Pleanála, for permission to regularise permission for the development. This process is known as *Substitute Consent*.

I am of the opinion that an Appropriate Assessment for the development was not required having regard to:

- previous planning applications on the site and the relevant planner’s reports which ruled out the requirement to carry out Appropriate Assessment
- and the recent An Bord Pleanála Grant of Planning Permission Ref. No: 22/60571
- the screening report prepared by Noreen McLoughlin, MSc, MCIEEM

I am of the opinion that Galway County Council ought to have been able to assess this planning application on its own merits and should not have invalidated the application.

I am of the opinion that the question of *Substitute Consent* did not apply in this case.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, (subsequently extended under Pl. Ref. No: 14/502 and 19/738).

The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

If Galway County Council granted the extension of duration (21/2311), the development probably would have been completed within the period of the planning permission and there would have been no requirement to make the 2023 & 2024 retention and completion applications (23/60216 & 24/60812).

I submit that the application meets the criteria of Exceptional Circumstance.

11. CONCLUSIONS:

The relevant site has a relatively long and detailed planning history, dating back to the original master planning in 08/2336, granted in May 2009. The Master Planning permission was extended in 2014 and again in 2019 and expired on the 31st December 2021.

A substantial portion of the development has been completed and occupied.

Phase 6 have yet to be constructed (although the groundworks and some houses have been partially constructed within the period of the relevant planning permissions).

I am of the opinion, if Galway County Council required further Environmental reports, they ought to have requested such reports as part of the 2014 and 2019 extension of duration applications. They did not request such reports.

Furthermore, there were numerous changes of house design planning applications and Galway County Council carried out an assessment of the environmental issues and concluded that no further Environmental Screening reports were required.

An Bord Pleanála have recently granted permission for retention of alterations to the crèche/apartment block and concluded, due to the separation distance to the European Site, which is located on the opposite side of the M18 Motorway, impacts on the European Sites can be ruled out.

Should you require any further information, please do not hesitate to contact this office.

Yours faithfully,

Signed: _____
Des Glynn BSc. Arch.T MCIOB
PG Dip CEng & Const Mngt.
Registered Building Surveyor B0349
Grealish Glynn & Associates

An Bord Pleanala
64 Marlborough St
Dublin 1

12th February 2025

Re: Newmar Developments - The retention and completion of 8 dwelling houses - 9 to 16 inclusive Garrai Mhic Aodha, Ballyhugh, Gort and to construct 32 dwelling houses - 17 to 20 inclusive Garrai Mhic Aodha and 1 to 28 inclusive Gort An Choirce, Ballyhugh, Gort.

A Chara,

In relation to the above I can confirm the following:

1. INTRODUCTION:

- This planning application has been lodged on two occasions to Galway Co Council under reference No 23/60216 and 24/60812. On both occasions Galway Co Council invalidates the application as they say there is unauthorized development on site. This is not the case as there was planning permission granted previously on site under 08/2336, 14/502, 19/738 & 20/1010. As such we believe this application should not have to be submitted to An Bord Pleanala but our hands are tied as no other avenue is available to the applicant. **The site is currently part of a Judicial Review case for the refusal of an Extension of Effective period application and the applicant feels that Galway Co Council are not dealing with the application fairly as a result.**
- An Bord Pleanala has already made a decision on an apartment and creche building on this overall site under Case No ABP-314335-22 where they concluded there was no unauthorized development on the site as of the 28th of February 2024. The planning permission forms part of a brown field site which was under construction under the mentioned planning permissions up until the planning permission expired.
- The estate has approximately 80 occupied houses and this application relates to the final phase of development. The sewer and water connections have been designed and agreed with Irish Water and a connection agreement is in place.
- A part V agreement is currently in place for the development.
- The development is consistent with the zoning for the site as per the Gort Development Plan and the density is consistent with the adjoining development.
- All green areas have been completed under previous phases.

2. DEVELOPMENT:

The development consists of mainly residential development with a creche/apartment block on the Northern portion.

The remainder of the development consists of

- semi-detached single storey dwelling houses,
- semi-detached 2-storey dwelling houses,
- and 2-storey terraced dwelling houses.

A portion of the development contains the usual (completed) roads, footpaths, street lighting, green areas, parking, etc.

- **Garrai Mhic Aodha** – this section is located to the North of the site and contains:
 - An apartment and creche block
 - and the completed house Nos: 1 – 8 and 21 – 47.
 - Houses Nos: 9 – 20 are not completed and are at various stages of development.
- **Gort An Choirche** – This section is located to the South of the site and contains:
 - completed house Nos: 29 – 52.
 - completed houses 53 – 73
 - and the proposed houses Nos: 1 – 28 (not yet commenced).

3. PHASING OF THE DEVELOPMENT:

The development was to be carried out in 6 Phases

Details of the phases are as follows:

Garrai Mhic Aodha:

- **Phase 1:** This includes the entrance, the block containing the crèche and the 11 apartments, site development works ancillary to the commercial block and houses 1 – 8 and 21 – 29. The dwelling houses in this Phase are completed and occupied.
- **Phase 2:** Contains the houses 30 – 47. These houses are completed and occupied.
- **Phase 5:** Construction works have commenced on Phase 5. House Nos: 9 – 16 are constructed to 1st floor and the hollow core has been installed. The sewers and service ducts have been installed and the road for this Phase is at formation level. Construction works on Phase 5 are currently on hold – for approximately 3 years.

Gort An Choirche:

- **Phase 3:** contains houses 29 – 52. These houses are completed and occupied.
- **Phase 4:** this relates to house Nos: 53 – 73. These houses are completed and occupied.
- **Phase 6:** this relates to house Nos: 1 – 28. No significant construction works in relation to the houses has taken place. The sewers and service ducts have been installed or partly installed and the road is at formation level. Construction works on Phase 6 are currently on hold – for approximately 3 years.

In summary Phases 1, 2,3,4 & 5 are complete and occupied.
These phases are located in close proximity to the Cannahowna River.

The green areas between the houses and the river have been fully completed.

Construction works have commenced on Phase 6.
However, the construction of the dwelling houses has not been advanced.
Phase 6 is located the furthest away from the Cannahowna River.

4. ENFORCEMENT AND COMPLIANCE:

There is no record of Planning Enforcement on the site.

An Bord Pleanála carried out an examination of the development and Planning File as part of their assessment of ABP-314335-22 and the Inspector's report indicated that there was no record of Enforcement on the site.

I have been provided with copies of various Confirmation of Compliance in relation to financial contributions and bonds.

5. RELEVANT PLANNING PERMISSIONS:

Planning Ref. No: 08/2336:

Date of Grant: 18 May 2009.

Relates to the construction of a residential development, including 132 houses, a 3-storey block containing apartments, Crèche and shop and all site development works, including a sewage pumping plant.

The planning file indicates that the commencement date was the **11th March 2019**.

Planning Ref. No: 14/502.

Date of Grant: 7 July 2014.

Relates to Extension of Duration of the effective period of Planning Ref.

No: 08/2336.

The Effective Period was extended until the 6th July 2019.

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates "*significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats*".

Planning Ref. No: 19/738.

Date of Grant: 5 July 2019.

Relates to extension of duration of the Effective Period of Planning Permission Ref. No: 14/502 and 08/2336.

(The application also refers to Planning Ref. No: 18/741).

The effective period was extended to the 31st December 2021.

The Planner's Report attached to the file refers to appropriate assessment and indicates "*NIS submitted under previous Application on the site which has concluded that there will be no adverse impacts on the qualifying criteria of Coole-Garryland complex SAC/SPA, when the mitigation measures proposed are implemented*"

Planning Ref. No: 19/989.

Date of Grant : 30th September 2019.

Relates to Change of House Plans on 16 sites (Phase 5 - Garrai Mhic Aodha).

There were 11 Conditions attached.

The application related to the approved dwelling houses on sites 5 to 20 (Garrai Mhic Aodha).

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates "*significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats.*"

This substitute Consent application and Pl. Ref. No. 23/60216 and 24/60812 include houses which were approved under Pl. Ref. No. 19/989.

Planning Ref. No: 20/780.

Date of Grant : 26th October 2020.

Relates to the Retention of house plans on sites 1 to 4 and 29 to 30 and retention of elevation alterations to sites 21 to 28 and 31 to 47.

The Planning Website indicated that the Commencement date was the 4/11/2020.

The Planner's Report refers to Appropriate Assessment and states:

Article 6(3) of the EU Habitats Directive requires that "*any plan or project not directly connected with or necessary to the management of the site but likely to give a significant effect, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implementations for the site in view of the sites conservation objectives*".

"The subject site currently a construction site is located circa 1.5km from said sites.

The Planning Authority considered the nature and minor scale of the proposed development, which relates to the retention of alterations to elevations and retention of change of house plans to a number of previously approved units on site. The Planning Authority also considered the parent permission on site and the applications for the extension of the appropriate period (Pl. Ref: 14/502 and 19/738), which screens out likely significant impacts of the overall housing development on European Sites and determined AA was not required.

The location of the site outside of any European Sites, the conservation objectives and qualifying interests of Coole-Garryland complex SAC and Coole-Garryland complex SPA, the distance of the site from same, the proposed connection of the site to the public sewer and on-site surface water disposal, in conjunction with the WFD Catchment Location, the underlying Aquifer-type and vulnerability and the limited excavation works, emissions, excavations, transportation requirements and duration of construction associated with the proposal.

The Planning Authority conclude that the proposed development by itself or in combination with other plans or projects (directly/indirectly/cumulatively) would not have a likely significant effect on European Sites, their qualifying interests and conservation objects. Therefore, no further Assessment is required”.

Planning Ref. No: 20/1010

Date of Grant : 26th October 2020.

Relates to Change of House Plans on Sites 1 – 73 (Gort Na Choirche).

The Planning Website indicates that the Commencement Date was the 4/11/2020.

The planner’s report refers to Appropriate Assessment and states *“significant impact on Habitats and Natura 2000 sites can be ruled out.*

No further assessment is required in relation to habitats”.

Planning Ref. No: 20/1780.

Date of Grant : 15th March 2021.

Relates to retention and completion of dwelling houses on Sites 5 – 8 Garrai Mhic Aodha.

The grant of permission was subject to 29 conditions.

The planner’s report referred to “Appropriate Assessment” and indicated:

- The Planning Authority considered the nature and minor scale of the proposed development and the planning permission screened out likely impacts of the overall housing development on European Sites and determined an AA was not required.
- The proposed development by itself or in combination with any other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objects.
- No further assessment was required.

Planning Ref. No: 21/1753.

Date of Grant: 5th January 2022.

Relates to Retention of the change of use of houses 1 and 2 Garrai Mhic Aodha. Private dwelling house to a single community dwelling house.

There were 27 Conditions attached.

The Planner’s Report deals with the screening determinations EIA *“there is no real likelihood of significant affects on the environment arising from the proposed development. The need for an Environmental Impact Assessment can therefore be excluded, a preliminary examination and a screening determination is not required”.*

The Planning Authority concluded that the proposed development by itself or a combination with other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objectives.

Therefore, no further assessment was required.

6. RELEVANT PLANNING REFUSALS:

Planning Ref. No: 22/60571.

Date of Refusal: 27th July 2022.

Relates to retention of elevation alterations to an apartment and crèche block previously Granted under Pl. No: 18/741.

The Application was refused for 2 reasons.

1 – Galway County Council were not satisfied that the likely effects of the development on European Sites can be excluded.

2 – The proposed development would intensify existing unauthorised development of the site.

The planner's report indicated that the Council were not satisfied of the likely significant effects of the development on European Sites can be screened out.

The decision to refuse was appealed by the applicant to An Bord Pleanála (Ref. No: ABP-314335-22).

An Board Pleanála subsequently decided to overturn Galway County Council's Decision (to refuse permission) and **Granted** Planning Permission for the development in February 2024.

An Board Pleanála's reasons and considerations for Granting Permission are as follows:

"Having regard to the relatively minor nature and scale of the alterations to the apartment and crèche building, which is located within the settlement boundary of Gort on Zoned service lands, it is considered that, subject to compliance with the conditions set out below, the alterations to the building, which is connected to the public foul and surface water sewer network and having regard to the separation distance from the nearest European Sites, which are located on the opposite (Western) side of the M18 Motorway, would have no significant effects on the qualifying interests of these or any other European sites".

The board was satisfied that the alterations to the elevation be retained and that the proposed development would therefore be in accordance with proper Planning and Sustainable Development in the area".

The An Board Pleanála Decision also outlined details in relation to appropriate assessments – screening, which is as follows:

"The subject site is located approx. 1.47km southeast of the Coole-Garryland complex Special Area of Conservation (Site Code: 000252) and 1.47km southeast of the Coole-Garryland Special Protection Area (Site Code: 004107).

Having regard to the scale and nature of the alterations to the apartment/crèche building sought to be retained and the location removed from any European Sites, the Board considered that no appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site".

7. RELEVANT INVALID PLANNING APPLICATIONS:

Planning Ref. No: 23/60216.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses (9 to 16 Garraí Mhic Aodha) and to construct 32 dwelling houses 17 – 20 inclusive in Garraí Mhic Aodha, and 1 to 28 inclusive at Gort An Choirce.

The Application was received on the 8th March 2023.

Galway County Council issued correspondence on the 28th of April 2023, stating that the Application was Invalid and the *“Planning Authority should Refuse to consider an application to Retain Unauthorised Development of land, where the Authority decides that if an Application for Permission had been made in respect of the development concerned before it was commenced, the Application would have required Appropriate Assessment.*

“Following the screening process, it was determined that likely significant affects to European Sites cannot be excluded. By virtue of the requirement for protection or mitigation measures required during construction and operation of the proposed development, the recommendation of a screening process is therefore to proceed to Stage 2 Appropriate Assessment.”

Planning Ref. No: 24/60812.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses - 9 to 16 inclusive Garraí Mhic Aodha, and to construct 32 dwelling houses - 17 to 20 inclusive Garraí Mhic Aodha and 1 to 28 inclusive Gort An Choirce. Gross floor space of proposed works.

The Application was received on the 1st July 2024.

Galway County Council issued correspondence on the 22nd August 2024, stating:

“The application has been screened for appropriate assessment which has determined that an Appropriate Assessment is required. As this is an application which involves a portion of retention of unauthorised development, under Section 34(12) of the Planning and Development Act, 2000 (as amended), a Planning Authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required Appropriate Assessment”.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, subsequently extended under Pl. Ref. No: 14/502 and 19/738. The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

8. SUMMARY OF PLANNING HISTORY:

Planning Permission No: 08/2336 is the original/master planning permission for the entire development. The 5-year effective period for the planning permission was extended twice:

- in 2014 – Ref. No: 14/502,
- in 2019 – Ref. No: 19/738.

The effective period of the original grant of planning permission, along with its extensions as specified on PL. Ref. 19/738 expired on the 31st December 2021.

There were further planning applications for various changes of design, alterations, house plans, etc., which included:

- Ref. No: 19/989,
- Ref. No: 20/780,
- Ref. No: 20/1010,
- Ref. No: 20/1780,

The above 4 planning permissions all relied on, and referred to the original master planning permission, 08/2336.

A specific condition attached to the grant of these permissions indicated that the planning permissions were to expire on the 30th/31st December 2021, the date on which the original/master permission (which was subsequently extended) was to expire.

Planning Ref 19/989 and 20/1010 are of particular significance as they relate to the part of the overall development which has not been completed.

As a result of Covid there was a temporary 2-year extension of the effective period allowed to complete developments.

An application was made in December 2021 (Ref. No: 21/2311) to extend the effective period of the master Planning Permission and subsequent extensions. The application referred to 19/989 and 20/1010.

The planner's report stated that Planning Ref. Nos: 19/989 and 20/1010, should be included in separate applications.

The application was refused on the grounds that the Further Information was not received within the specified time limit.

There were subsequent planning applications (22/444, 22/445 and 22/446) to extend the relevant periods of the planning permission. However, these were all **Refused** by Galway County Council, on the grounds that they were submitted after the effective period had ceased.

There was a planning permission for the crèche/apartment block (18/741), which referred to the earlier Applications 14/502 and 08/2336.

There were 3 further applications for the crèche/apartment block – 2 for retention and 1 for permission for alterations – all were **Refused** by Galway county Council.

The most recent refusal (22/60571) was appealed to An Bord Pleanála.

An Bord Pleanála overturned the decision to refuse and granted planning permission for 22/60571.

The final application on the site related to retention and completion of phase 5 & 6 – Pl. Ref. No. 23/60216 and 24/60812. Galway County Council deemed these applications were **Invalid**.

The planning history indicates that the effective planning period of the master planning permission 08/2336 and the subsequent 2 extensions of duration, has now ceased.

The originally approved development has not been fully completed.

9. COMMENTS ON APPROPRIATE ASSESSMENT:

Noreen McLoughlin, MSc, MCIEEM. Carried out a screening for appropriate assessment and concluded:

“It is of the opinion of the author that an AA of the proposed development is not required as it can be excluded, on the basis of objective information provided in this report, that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on any European sites”.

I submit that:

- An appropriate assessment would not have been a requirement at the time of the original application 08/2366,
- The Planner’s Report for 14/502 indicates under the heading “Appropriate Assessment”, *significant impacts on habitats with Natura 2000 sites can be ruled out. No further assessment is required.*

This relates to the overall site including the dwelling houses which were the subject of Pl. ref No. 23/60216 and 24/60812

- The proposal 23/60216 and 24/60812 are the same as that proposed in the 14/502 and screened out by Galway County Council. This assessment is still valid.
- The assessment carried out by Noreen McLoughlin, MSc, MCIEEM has screened the development out for AA.
- There was an inconsistency of approach and lack of transparency in respect of the Habitats Directive Assessments of the site. If there was a doubt regarding the original assessment (14/502), then the Council themselves should have screened the 19/738 application for Appropriate Assessment.
- It appears that the Council did not and instead relied on an NIS which was prepared for the 18/741 application.

There were 4 further applications on this site, which related to the change of house design, minor alterations, etc., these were:

- 19/989,
- 20/780,
- 20/1010,
- 20/1780,

The planner's reports for these applications indicates that the Appropriate Assessment screening appears to have been assessed and Galway County Council decided that significant impacts on habitats within the Natura 2000 sites can be ruled out. No further assessment is required in relation to the Habitats Directive.

- Galway Co. Co carried out Appropriate Assessment screening for the 2019, 2020 and 2021 Planning Applications (and 14/502),
- and concluded that significant impacts to the Natura 2000 Sites can be ruled out.
- A substantial portion of the development had already been completed at the time of making the planning application Pl. ref No. 23/60216 and 24/60812
- There was no changes to the approved development (which had already screened out for AA).

An Bord Pleanála have concluded:

- having regard to the separation distance from the nearest European Sites which are located on the opposite side of the M18 Motorway
- the relevant development on the site (the crèche development) will have no significant effects (by itself or combined with other developments) on the qualifying interests of these or any other European Sites.

I am of the opinion that the assertion that an Appropriate Assessment as part of planning Pl. ref No. 23/60216 and 24/60812 appears to be contrary to previous Galway County Council planner's report and assessment of the environmental issues and contrary to An Bord Pleanála's assessment of the site having regard to:

- The completed and remaining section of the development is and will be connected to the public foul and surface water sewer network.
- A substantial portion of the dwelling houses have been completed.
- Some of the remaining houses have already commenced.
- A substantial portion of the ground works, including sewer pipes, ducting, boundary walls and road construction to formation level, have already been completed.
- The bulk of the remaining works are located the furthest away from the river.
- An Board Pleanála have considered that due to the separation distance between the European Sites which are located on the opposite side of the M18 Motorway, the works on the site would have no significant effects on the qualifying interests of the European Sites.
- Galway County Council in numerous Planning Applications have considered that no further Screening reports are required.

10. EXCEPTIONAL CIRCUMSTANCE

Galway County Council issued correspondence regarding Pl. ref No. 23/60216 and 24/60812, stating that the applications were **Invalid** and the Planning Authority should refuse to consider an application to retain “unauthorised development” of land, where the Authority decides that if an application for permission had been made in respect of the development concerned before it was commenced, the application would have required Appropriate Assessment.

In such cases a developer would have to apply to An Bord Pleanála, for permission to regularise permission for the development. This process is known as *Substitute Consent*.

I am of the opinion that an Appropriate Assessment for the development was not required having regard to:

- previous planning applications on the site and the relevant planner’s reports which ruled out the requirement to carry out Appropriate Assessment
- and the recent An Bord Pleanála Grant of Planning Permission Ref. No: 22/60571
- the screening report prepared by Noreen McLoughlin, MSc, MCIEEM

I am of the opinion that Galway County Council ought to have been able to assess this planning application on its own merits and should not have invalidated the application.

I am of the opinion that the question of *Substitute Consent* did not apply in this case.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, (subsequently extended under Pl. Ref. No: 14/502 and 19/738).

The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

If Galway County Council granted the extension of duration (21/2311), the development probably would have been completed within the period of the planning permission and there would have been no requirement to make the 2023 & 2024 retention and completion applications (23/60216 & 24/60812).

I submit that the application meets the criteria of Exceptional Circumstance.

11. CONCLUSIONS:

The relevant site has a relatively long and detailed planning history, dating back to the original master planning in 08/2336, granted in May 2009. The Master Planning permission was extended in 2014 and again in 2019 and expired on the 31st December 2021.

A substantial portion of the development has been completed and occupied.

Phase 6 have yet to be constructed (although the groundworks and some houses have been partially constructed within the period of the relevant planning permissions).

I am of the opinion, if Galway County Council required further Environmental reports, they ought to have requested such reports as part of the 2014 and 2019 extension of duration applications. They did not request such reports.

Furthermore, there were numerous changes of house design planning applications and Galway County Council carried out an assessment of the environmental issues and concluded that no further Environmental Screening reports were required.

An Bord Pleanála have recently granted permission for retention of alterations to the crèche/apartment block and concluded, due to the separation distance to the European Site, which is located on the opposite side of the M18 Motorway, impacts on the European Sites can be ruled out.

Should you require any further information, please do not hesitate to contact this office.

Yours faithfully,

Signed: _____
Des Glynn BSc. Arch.T MCIOB
PG Dip CEng & Const Mngt.
Registered Building Surveyor B0349
Grealish Glynn & Associates

An Bord Pleanala
64 Marlborough St
Dublin 1

12th February 2025

Re: Newmar Developments - The retention and completion of 8 dwelling houses - 9 to 16 inclusive Garrai Mhic Aodha, Ballyhugh, Gort and to construct 32 dwelling houses - 17 to 20 inclusive Garrai Mhic Aodha and 1 to 28 inclusive Gort An Choirce, Ballyhugh, Gort.

A Chara,

In relation to the above I can confirm the following:

1. INTRODUCTION:

- This planning application has been lodged on two occasions to Galway Co Council under reference No 23/60216 and 24/60812. On both occasions Galway Co Council invalidates the application as they say there is unauthorized development on site. This is not the case as there was planning permission granted previously on site under 08/2336, 14/502, 19/738 & 20/1010. As such we believe this application should not have to be submitted to An Bord Pleanala but our hands are tied as no other avenue is available to the applicant. **The site is currently part of a Judicial Review case for the refusal of an Extension of Effective period application and the applicant feels that Galway Co Council are not dealing with the application fairly as a result.**
- An Bord Pleanala has already made a decision on an apartment and creche building on this overall site under Case No ABP-314335-22 where they concluded there was no unauthorized development on the site as of the 28th of February 2024. The planning permission forms part of a brown field site which was under construction under the mentioned planning permissions up until the planning permission expired.
- The estate has approximately 80 occupied houses and this application relates to the final phase of development. The sewer and water connections have been designed and agreed with Irish Water and a connection agreement is in place.
- A part V agreement is currently in place for the development.
- The development is consistent with the zoning for the site as per the Gort Development Plan and the density is consistent with the adjoining development.
- All green areas have been completed under previous phases.

2. DEVELOPMENT:

The development consists of mainly residential development with a creche/apartment block on the Northern portion.

The remainder of the development consists of

- semi-detached single storey dwelling houses,
- semi-detached 2-storey dwelling houses,
- and 2-storey terraced dwelling houses.

A portion of the development contains the usual (completed) roads, footpaths, street lighting, green areas, parking, etc.

- **Garrai Mhic Aodha** – this section is located to the North of the site and contains:
 - An apartment and creche block
 - and the completed house Nos: 1 – 8 and 21 – 47.
 - Houses Nos: 9 – 20 are not completed and are at various stages of development.
- **Gort An Choirche** – This section is located to the South of the site and contains:
 - completed house Nos: 29 – 52.
 - completed houses 53 – 73
 - and the proposed houses Nos: 1 – 28 (not yet commenced).

3. PHASING OF THE DEVELOPMENT:

The development was to be carried out in 6 Phases

Details of the phases are as follows:

Garrai Mhic Aodha:

- **Phase 1:** This includes the entrance, the block containing the crèche and the 11 apartments, site development works ancillary to the commercial block and houses 1 – 8 and 21 – 29. The dwelling houses in this Phase are completed and occupied.
- **Phase 2:** Contains the houses 30 – 47. These houses are completed and occupied.
- **Phase 5:** Construction works have commenced on Phase 5. House Nos: 9 – 16 are constructed to 1st floor and the hollow core has been installed. The sewers and service ducts have been installed and the road for this Phase is at formation level. Construction works on Phase 5 are currently on hold – for approximately 3 years.

Gort An Choirche:

- **Phase 3:** contains houses 29 – 52. These houses are completed and occupied.
- **Phase 4:** this relates to house Nos: 53 – 73. These houses are completed and occupied.
- **Phase 6:** this relates to house Nos: 1 – 28. No significant construction works in relation to the houses has taken place. The sewers and service ducts have been installed or partly installed and the road is at formation level. Construction works on Phase 6 are currently on hold – for approximately 3 years.

In summary Phases 1, 2,3,4 & 5 are complete and occupied.
These phases are located in close proximity to the Cannahowna River.

The green areas between the houses and the river have been fully completed.

Construction works have commenced on Phase 6.
However, the construction of the dwelling houses has not been advanced.
Phase 6 is located the furthest away from the Cannahowna River.

4. ENFORCEMENT AND COMPLIANCE:

There is no record of Planning Enforcement on the site.

An Bord Pleanála carried out an examination of the development and Planning File as part of their assessment of ABP-314335-22 and the Inspector's report indicated that there was no record of Enforcement on the site.

I have been provided with copies of various Confirmation of Compliance in relation to financial contributions and bonds.

5. RELEVANT PLANNING PERMISSIONS:

Planning Ref. No: 08/2336:

Date of Grant: 18 May 2009.

Relates to the construction of a residential development, including 132 houses, a 3-storey block containing apartments, Crèche and shop and all site development works, including a sewage pumping plant.

The planning file indicates that the commencement date was the **11th March 2019**.

Planning Ref. No: 14/502.

Date of Grant: 7 July 2014.

Relates to Extension of Duration of the effective period of Planning Ref.

No: 08/2336.

The Effective Period was extended until the 6th July 2019.

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates "*significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats*".

Planning Ref. No: 19/738.

Date of Grant: 5 July 2019.

Relates to extension of duration of the Effective Period of Planning Permission Ref. No: 14/502 and 08/2336.

(The application also refers to Planning Ref. No: 18/741).

The effective period was extended to the 31st December 2021.

The Planner's Report attached to the file refers to appropriate assessment and indicates "*NIS submitted under previous Application on the site which has concluded that there will be no adverse impacts on the qualifying criteria of Coole-Garryland complex SAC/SPA, when the mitigation measures proposed are implemented*"

Planning Ref. No: 19/989.

Date of Grant : 30th September 2019.

Relates to Change of House Plans on 16 sites (Phase 5 - Garrai Mhic Aodha).

There were 11 Conditions attached.

The application related to the approved dwelling houses on sites 5 to 20 (Garrai Mhic Aodha).

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates "*significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats.*"

This substitute Consent application and Pl. Ref. No. 23/60216 and 24/60812 include houses which were approved under Pl. Ref. No. 19/989.

Planning Ref. No: 20/780.

Date of Grant : 26th October 2020.

Relates to the Retention of house plans on sites 1 to 4 and 29 to 30 and retention of elevation alterations to sites 21 to 28 and 31 to 47.

The Planning Website indicated that the Commencement date was the 4/11/2020.

The Planner's Report refers to Appropriate Assessment and states:

Article 6(3) of the EU Habitats Directive requires that "*any plan or project not directly connected with or necessary to the management of the site but likely to give a significant effect, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implementations for the site in view of the sites conservation objectives*".

"The subject site currently a construction site is located circa 1.5km from said sites.

The Planning Authority considered the nature and minor scale of the proposed development, which relates to the retention of alterations to elevations and retention of change of house plans to a number of previously approved units on site. The Planning Authority also considered the parent permission on site and the applications for the extension of the appropriate period (Pl. Ref: 14/502 and 19/738), which screens out likely significant impacts of the overall housing development on European Sites and determined AA was not required.

The location of the site outside of any European Sites, the conservation objectives and qualifying interests of Coole-Garryland complex SAC and Coole-Garryland complex SPA, the distance of the site from same, the proposed connection of the site to the public sewer and on-site surface water disposal, in conjunction with the WFD Catchment Location, the underlying Aquifer-type and vulnerability and the limited excavation works, emissions, excavations, transportation requirements and duration of construction associated with the proposal.

The Planning Authority conclude that the proposed development by itself or in combination with other plans or projects (directly/indirectly/cumulatively) would not have a likely significant effect on European Sites, their qualifying interests and conservation objects. Therefore, no further Assessment is required”.

Planning Ref. No: 20/1010

Date of Grant : 26th October 2020.

Relates to Change of House Plans on Sites 1 – 73 (Gort Na Choirche).

The Planning Website indicates that the Commencement Date was the 4/11/2020.

The planner’s report refers to Appropriate Assessment and states *“significant impact on Habitants and Natura 2000 sites can be ruled out.*

No further assessment is required in relation to habitats”.

Planning Ref. No: 20/1780.

Date of Grant : 15th March 2021.

Relates to retention and completion of dwelling houses on Sites 5 – 8 Garrai Mhic Aodha.

The grant of permission was subject to 29 conditions.

The planner’s report referred to “Appropriate Assessment” and indicated:

- The Planning Authority considered the nature and minor scale of the proposed development and the planning permission screened out likely impacts of the overall housing development on European Sites and determined an AA was not required.
- The proposed development by itself or in combination with any other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objects.
- No further assessment was required.

Planning Ref. No: 21/1753.

Date of Grant: 5th January 2022.

Relates to Retention of the change of use of houses 1 and 2 Garrai Mhic Aodha. Private dwelling house to a single community dwelling house.

There were 27 Conditions attached.

The Planner’s Report deals with the screening determinations EIA *“there is no real likelihood of significant affects on the environment arising from the proposed development. The need for an Environmental Impact Assessment can therefore be excluded, a preliminary examination and a screening determination is not required”.*

The Planning Authority concluded that the proposed development by itself or a combination with other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objectives.

Therefore, no further assessment was required.

6. RELEVANT PLANNING REFUSALS:

Planning Ref. No: 22/60571.

Date of Refusal: 27th July 2022.

Relates to retention of elevation alterations to an apartment and crèche block previously Granted under Pl. No: 18/741.

The Application was refused for 2 reasons.

- 1 – Galway County Council were not satisfied that the likely effects of the development on European Sites can be excluded.
- 2 – The proposed development would intensify existing unauthorised development of the site.

The planner's report indicated that the Council were not satisfied of the likely significant effects of the development on European Sites can be screened out.

The decision to refuse was appealed by the applicant to An Bord Pleanála (Ref. No: ABP-314335-22).

An Board Pleanála subsequently decided to overturn Galway County Council's Decision (to refuse permission) and **Granted** Planning Permission for the development in February 2024.

An Board Pleanála's reasons and considerations for Granting Permission are as follows:

"Having regard to the relatively minor nature and scale of the alterations to the apartment and crèche building, which is located within the settlement boundary of Gort on Zoned service lands, it is considered that, subject to compliance with the conditions set out below, the alterations to the building, which is connected to the public foul and surface water sewer network and having regard to the separation distance from the nearest European Sites, which are located on the opposite (Western) side of the M18 Motorway, would have no significant effects on the qualifying interests of these or any other European sites".

The board was satisfied that the alterations to the elevation be retained and that the proposed development would therefore be in accordance with proper Planning and Sustainable Development in the area".

The An Board Pleanála Decision also outlined details in relation to appropriate assessments – screening, which is as follows:

"The subject site is located approx. 1.47km southeast of the Coole-Garryland complex Special Area of Conservation (Site Code: 000252) and 1.47km southeast of the Coole-Garryland Special Protection Area (Site Code: 004107).

Having regard to the scale and nature of the alterations to the apartment/crèche building sought to be retained and the location removed from any European Sites, the Board considered that no appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site".

7. RELEVANT INVALID PLANNING APPLICATIONS:

Planning Ref. No: 23/60216.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses (9 to 16 Garraí Mhic Aodha) and to construct 32 dwelling houses 17 – 20 inclusive in Garraí Mhic Aodha, and 1 to 28 inclusive at Gort An Choirce.

The Application was received on the 8th March 2023.

Galway County Council issued correspondence on the 28th of April 2023, stating that the Application was Invalid and the *“Planning Authority should Refuse to consider an application to Retain Unauthorised Development of land, where the Authority decides that if an Application for Permission had been made in respect of the development concerned before it was commenced, the Application would have required Appropriate Assessment.*

“Following the screening process, it was determined that likely significant affects to European Sites cannot be excluded. By virtue of the requirement for protection or mitigation measures required during construction and operation of the proposed development, the recommendation of a screening process is therefore to proceed to Stage 2 Appropriate Assessment.”

Planning Ref. No: 24/60812.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses - 9 to 16 inclusive Garraí Mhic Aodha, and to construct 32 dwelling houses - 17 to 20 inclusive Garraí Mhic Aodha and 1 to 28 inclusive Gort An Choirce. Gross floor space of proposed works.

The Application was received on the 1st July 2024.

Galway County Council issued correspondence on the 22nd August 2024, stating:

“The application has been screened for appropriate assessment which has determined that an Appropriate Assessment is required. As this is an application which involves a portion of retention of unauthorised development, under Section 34(12) of the Planning and Development Act, 2000 (as amended), a Planning Authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required Appropriate Assessment”.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, subsequently extended under Pl. Ref. No: 14/502 and 19/738. The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

8. SUMMARY OF PLANNING HISTORY:

Planning Permission No: 08/2336 is the original/master planning permission for the entire development. The 5-year effective period for the planning permission was extended twice:

- in 2014 – Ref. No: 14/502,
- in 2019 – Ref. No: 19/738.

The effective period of the original grant of planning permission, along with its extensions as specified on PL. Ref. 19/738 expired on the 31st December 2021.

There were further planning applications for various changes of design, alterations, house plans, etc., which included:

- Ref. No: 19/989,
- Ref. No: 20/780,
- Ref. No: 20/1010,
- Ref. No: 20/1780,

The above 4 planning permissions all relied on, and referred to the original master planning permission, 08/2336.

A specific condition attached to the grant of these permissions indicated that the planning permissions were to expire on the 30th/31st December 2021, the date on which the original/master permission (which was subsequently extended) was to expire.

Planning Ref 19/989 and 20/1010 are of particular significance as they relate to the part of the overall development which has not been completed.

As a result of Covid there was a temporary 2-year extension of the effective period allowed to complete developments.

An application was made in December 2021 (Ref. No: 21/2311) to extend the effective period of the master Planning Permission and subsequent extensions. The application referred to 19/989 and 20/1010.

The planner's report stated that Planning Ref. Nos: 19/989 and 20/1010, should be included in separate applications.

The application was refused on the grounds that the Further Information was not received within the specified time limit.

There were subsequent planning applications (22/444, 22/445 and 22/446) to extend the relevant periods of the planning permission. However, these were all **Refused** by Galway County Council, on the grounds that they were submitted after the effective period had ceased.

There was a planning permission for the crèche/apartment block (18/741), which referred to the earlier Applications 14/502 and 08/2336.

There were 3 further applications for the crèche/apartment block – 2 for retention and 1 for permission for alterations – all were **Refused** by Galway county Council.

The most recent refusal (22/60571) was appealed to An Bord Pleanála.

An Bord Pleanála overturned the decision to refuse and granted planning permission for 22/60571.

The final application on the site related to retention and completion of phase 5 & 6 – Pl. Ref. No. 23/60216 and 24/60812. Galway County Council deemed these applications were **Invalid**.

The planning history indicates that the effective planning period of the master planning permission 08/2336 and the subsequent 2 extensions of duration, has now ceased.

The originally approved development has not been fully completed.

9. COMMENTS ON APPROPRIATE ASSESSMENT:

Noreen McLoughlin, MSc, MCIEEM. Carried out a screening for appropriate assessment and concluded:

“It is of the opinion of the author that an AA of the proposed development is not required as it can be excluded, on the basis of objective information provided in this report, that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on any European sites”.

I submit that:

- An appropriate assessment would not have been a requirement at the time of the original application 08/2366,
- The Planner’s Report for 14/502 indicates under the heading “Appropriate Assessment”, *significant impacts on habitats with Natura 2000 sites can be ruled out. No further assessment is required.*

This relates to the overall site including the dwelling houses which were the subject of Pl. ref No. 23/60216 and 24/60812

- The proposal 23/60216 and 24/60812 are the same as that proposed in the 14/502 and screened out by Galway County Council. This assessment is still valid.
- The assessment carried out by Noreen McLoughlin, MSc, MCIEEM has screened the development out for AA.
- There was an inconsistency of approach and lack of transparency in respect of the Habitats Directive Assessments of the site. If there was a doubt regarding the original assessment (14/502), then the Council themselves should have screened the 19/738 application for Appropriate Assessment.
- It appears that the Council did not and instead relied on an NIS which was prepared for the 18/741 application.

There were 4 further applications on this site, which related to the change of house design, minor alterations, etc., these were:

- 19/989,
- 20/780,
- 20/1010,
- 20/1780,

The planner's reports for these applications indicates that the Appropriate Assessment screening appears to have been assessed and Galway County Council decided that significant impacts on habitats within the Natura 2000 sites can be ruled out. No further assessment is required in relation to the Habitats Directive.

- Galway Co. Co carried out Appropriate Assessment screening for the 2019, 2020 and 2021 Planning Applications (and 14/502),
- and concluded that significant impacts to the Natura 2000 Sites can be ruled out.
- A substantial portion of the development had already been completed at the time of making the planning application Pl. ref No. 23/60216 and 24/60812
- There was no changes to the approved development (which had already screened out for AA).

An Bord Pleanála have concluded:

- having regard to the separation distance from the nearest European Sites which are located on the opposite side of the M18 Motorway
- the relevant development on the site (the crèche development) will have no significant effects (by itself or combined with other developments) on the qualifying interests of these or any other European Sites.

I am of the opinion that the assertion that an Appropriate Assessment as part of planning Pl. ref No. 23/60216 and 24/60812 appears to be contrary to previous Galway County Council planner's report and assessment of the environmental issues and contrary to An Bord Pleanála's assessment of the site having regard to:

- The completed and remaining section of the development is and will be connected to the public foul and surface water sewer network.
- A substantial portion of the dwelling houses have been completed.
- Some of the remaining houses have already commenced.
- A substantial portion of the ground works, including sewer pipes, ducting, boundary walls and road construction to formation level, have already been completed.
- The bulk of the remaining works are located the furthest away from the river.
- An Board Pleanála have considered that due to the separation distance between the European Sites which are located on the opposite side of the M18 Motorway, the works on the site would have no significant effects on the qualifying interests of the European Sites.
- Galway County Council in numerous Planning Applications have considered that no further Screening reports are required.

10. EXCEPTIONAL CIRCUMSTANCE

Galway County Council issued correspondence regarding Pl. ref No. 23/60216 and 24/60812, stating that the applications were **Invalid** and the Planning Authority should refuse to consider an application to retain “unauthorised development” of land, where the Authority decides that if an application for permission had been made in respect of the development concerned before it was commenced, the application would have required Appropriate Assessment.

In such cases a developer would have to apply to An Bord Pleanála, for permission to regularise permission for the development. This process is known as *Substitute Consent*.

I am of the opinion that an Appropriate Assessment for the development was not required having regard to:

- previous planning applications on the site and the relevant planner’s reports which ruled out the requirement to carry out Appropriate Assessment
- and the recent An Bord Pleanála Grant of Planning Permission Ref. No: 22/60571
- the screening report prepared by Noreen McLoughlin, MSc, MCIEEM

I am of the opinion that Galway County Council ought to have been able to assess this planning application on its own merits and should not have invalidated the application.

I am of the opinion that the question of *Substitute Consent* did not apply in this case.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, (subsequently extended under Pl. Ref. No: 14/502 and 19/738).

The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

If Galway County Council granted the extension of duration (21/2311), the development probably would have been completed within the period of the planning permission and there would have been no requirement to make the 2023 & 2024 retention and completion applications (23/60216 & 24/60812).

I submit that the application meets the criteria of Exceptional Circumstance.

11. CONCLUSIONS:

The relevant site has a relatively long and detailed planning history, dating back to the original master planning in 08/2336, granted in May 2009. The Master Planning permission was extended in 2014 and again in 2019 and expired on the 31st December 2021.

A substantial portion of the development has been completed and occupied.

Phase 6 have yet to be constructed (although the groundworks and some houses have been partially constructed within the period of the relevant planning permissions).

I am of the opinion, if Galway County Council required further Environmental reports, they ought to have requested such reports as part of the 2014 and 2019 extension of duration applications. They did not request such reports.

Furthermore, there were numerous changes of house design planning applications and Galway County Council carried out an assessment of the environmental issues and concluded that no further Environmental Screening reports were required.

An Bord Pleanála have recently granted permission for retention of alterations to the crèche/apartment block and concluded, due to the separation distance to the European Site, which is located on the opposite side of the M18 Motorway, impacts on the European Sites can be ruled out.

Should you require any further information, please do not hesitate to contact this office.

Yours faithfully,

Signed: _____
Des Glynn BSc. Arch.T MCIOB
PG Dip CEng & Const Mngt.
Registered Building Surveyor B0349
Grealish Glynn & Associates

An Bord Pleanala
64 Marlborough St
Dublin 1

12th February 2025

Re: Newmar Developments - The retention and completion of 8 dwelling houses - 9 to 16 inclusive Garrai Mhic Aodha, Ballyhugh, Gort and to construct 32 dwelling houses - 17 to 20 inclusive Garrai Mhic Aodha and 1 to 28 inclusive Gort An Choirce, Ballyhugh, Gort.

A Chara,

In relation to the above I can confirm the following:

1. INTRODUCTION:

- This planning application has been lodged on two occasions to Galway Co Council under reference No 23/60216 and 24/60812. On both occasions Galway Co Council invalidates the application as they say there is unauthorized development on site. This is not the case as there was planning permission granted previously on site under 08/2336, 14/502, 19/738 & 20/1010. As such we believe this application should not have to be submitted to An Bord Pleanala but our hands are tied as no other avenue is available to the applicant. **The site is currently part of a Judicial Review case for the refusal of an Extension of Effective period application and the applicant feels that Galway Co Council are not dealing with the application fairly as a result.**
- An Bord Pleanala has already made a decision on an apartment and creche building on this overall site under Case No ABP-314335-22 where they concluded there was no unauthorized development on the site as of the 28th of February 2024. The planning permission forms part of a brown field site which was under construction under the mentioned planning permissions up until the planning permission expired.
- The estate has approximately 80 occupied houses and this application relates to the final phase of development. The sewer and water connections have been designed and agreed with Irish Water and a connection agreement is in place.
- A part V agreement is currently in place for the development.
- The development is consistent with the zoning for the site as per the Gort Development Plan and the density is consistent with the adjoining development.
- All green areas have been completed under previous phases.

2. DEVELOPMENT:

The development consists of mainly residential development with a creche/apartment block on the Northern portion.

The remainder of the development consists of

- semi-detached single storey dwelling houses,
- semi-detached 2-storey dwelling houses,
- and 2-storey terraced dwelling houses.

A portion of the development contains the usual (completed) roads, footpaths, street lighting, green areas, parking, etc.

- **Garrai Mhic Aodha** – this section is located to the North of the site and contains:
 - An apartment and creche block
 - and the completed house Nos: 1 – 8 and 21 – 47.
 - Houses Nos: 9 – 20 are not completed and are at various stages of development.
- **Gort An Choirche** – This section is located to the South of the site and contains:
 - completed house Nos: 29 – 52.
 - completed houses 53 – 73
 - and the proposed houses Nos: 1 – 28 (not yet commenced).

3. PHASING OF THE DEVELOPMENT:

The development was to be carried out in 6 Phases

Details of the phases are as follows:

Garrai Mhic Aodha:

- **Phase 1:** This includes the entrance, the block containing the crèche and the 11 apartments, site development works ancillary to the commercial block and houses 1 – 8 and 21 – 29. The dwelling houses in this Phase are completed and occupied.
- **Phase 2:** Contains the houses 30 – 47. These houses are completed and occupied.
- **Phase 5:** Construction works have commenced on Phase 5. House Nos: 9 – 16 are constructed to 1st floor and the hollow core has been installed. The sewers and service ducts have been installed and the road for this Phase is at formation level. Construction works on Phase 5 are currently on hold – for approximately 3 years.

Gort An Choirche:

- **Phase 3:** contains houses 29 – 52. These houses are completed and occupied.
- **Phase 4:** this relates to house Nos: 53 – 73. These houses are completed and occupied.
- **Phase 6:** this relates to house Nos: 1 – 28. No significant construction works in relation to the houses has taken place. The sewers and service ducts have been installed or partly installed and the road is at formation level. Construction works on Phase 6 are currently on hold – for approximately 3 years.

In summary Phases 1, 2,3,4 & 5 are complete and occupied.
These phases are located in close proximity to the Cannahowna River.

The green areas between the houses and the river have been fully completed.

Construction works have commenced on Phase 6.
However, the construction of the dwelling houses has not been advanced.
Phase 6 is located the furthest away from the Cannahowna River.

4. ENFORCEMENT AND COMPLIANCE:

There is no record of Planning Enforcement on the site.

An Bord Pleanála carried out an examination of the development and Planning File as part of their assessment of ABP-314335-22 and the Inspector's report indicated that there was no record of Enforcement on the site.

I have been provided with copies of various Confirmation of Compliance in relation to financial contributions and bonds.

5. RELEVANT PLANNING PERMISSIONS:

Planning Ref. No: 08/2336:

Date of Grant: 18 May 2009.

Relates to the construction of a residential development, including 132 houses, a 3-storey block containing apartments, Crèche and shop and all site development works, including a sewage pumping plant.

The planning file indicates that the commencement date was the **11th March 2019**.

Planning Ref. No: 14/502.

Date of Grant: 7 July 2014.

Relates to Extension of Duration of the effective period of Planning Ref.

No: 08/2336.

The Effective Period was extended until the 6th July 2019.

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates "*significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats*".

Planning Ref. No: 19/738.

Date of Grant: 5 July 2019.

Relates to extension of duration of the Effective Period of Planning Permission Ref. No: 14/502 and 08/2336.

(The application also refers to Planning Ref. No: 18/741).

The effective period was extended to the 31st December 2021.

The Planner's Report attached to the file refers to appropriate assessment and indicates "*NIS submitted under previous Application on the site which has concluded that there will be no adverse impacts on the qualifying criteria of Coole-Garryland complex SAC/SPA, when the mitigation measures proposed are implemented*"

Planning Ref. No: 19/989.

Date of Grant : 30th September 2019.

Relates to Change of House Plans on 16 sites (Phase 5 - Garrai Mhic Aodha).

There were 11 Conditions attached.

The application related to the approved dwelling houses on sites 5 to 20 (Garrai Mhic Aodha).

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates "*significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats.*"

This substitute Consent application and Pl. Ref. No. 23/60216 and 24/60812 include houses which were approved under Pl. Ref. No. 19/989.

Planning Ref. No: 20/780.

Date of Grant : 26th October 2020.

Relates to the Retention of house plans on sites 1 to 4 and 29 to 30 and retention of elevation alterations to sites 21 to 28 and 31 to 47.

The Planning Website indicated that the Commencement date was the 4/11/2020.

The Planner's Report refers to Appropriate Assessment and states:

Article 6(3) of the EU Habitats Directive requires that "*any plan or project not directly connected with or necessary to the management of the site but likely to give a significant effect, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implementations for the site in view of the sites conservation objectives*".

"The subject site currently a construction site is located circa 1.5km from said sites.

The Planning Authority considered the nature and minor scale of the proposed development, which relates to the retention of alterations to elevations and retention of change of house plans to a number of previously approved units on site. The Planning Authority also considered the parent permission on site and the applications for the extension of the appropriate period (Pl. Ref: 14/502 and 19/738), which screens out likely significant impacts of the overall housing development on European Sites and determined AA was not required.

The location of the site outside of any European Sites, the conservation objectives and qualifying interests of Coole-Garryland complex SAC and Coole-Garryland complex SPA, the distance of the site from same, the proposed connection of the site to the public sewer and on-site surface water disposal, in conjunction with the WFD Catchment Location, the underlying Aquifer-type and vulnerability and the limited excavation works, emissions, excavations, transportation requirements and duration of construction associated with the proposal.

The Planning Authority conclude that the proposed development by itself or in combination with other plans or projects (directly/indirectly/cumulatively) would not have a likely significant effect on European Sites, their qualifying interests and conservation objects. Therefore, no further Assessment is required”.

Planning Ref. No: 20/1010

Date of Grant : 26th October 2020.

Relates to Change of House Plans on Sites 1 – 73 (Gort Na Choirche).

The Planning Website indicates that the Commencement Date was the 4/11/2020.

The planner’s report refers to Appropriate Assessment and states *“significant impact on Habitats and Natura 2000 sites can be ruled out.*

No further assessment is required in relation to habitats”.

Planning Ref. No: 20/1780.

Date of Grant : 15th March 2021.

Relates to retention and completion of dwelling houses on Sites 5 – 8 Garrai Mhic Aodha.

The grant of permission was subject to 29 conditions.

The planner’s report referred to “Appropriate Assessment” and indicated:

- The Planning Authority considered the nature and minor scale of the proposed development and the planning permission screened out likely impacts of the overall housing development on European Sites and determined an AA was not required.
- The proposed development by itself or in combination with any other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objects.
- No further assessment was required.

Planning Ref. No: 21/1753.

Date of Grant: 5th January 2022.

Relates to Retention of the change of use of houses 1 and 2 Garrai Mhic Aodha. Private dwelling house to a single community dwelling house.

There were 27 Conditions attached.

The Planner’s Report deals with the screening determinations EIA *“there is no real likelihood of significant affects on the environment arising from the proposed development. The need for an Environmental Impact Assessment can therefore be excluded, a preliminary examination and a screening determination is not required”.*

The Planning Authority concluded that the proposed development by itself or a combination with other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objectives.

Therefore, no further assessment was required.

6. RELEVANT PLANNING REFUSALS:

Planning Ref. No: 22/60571.

Date of Refusal: 27th July 2022.

Relates to retention of elevation alterations to an apartment and crèche block previously Granted under Pl. No: 18/741.

The Application was refused for 2 reasons.

- 1 – Galway County Council were not satisfied that the likely effects of the development on European Sites can be excluded.
- 2 – The proposed development would intensify existing unauthorised development of the site.

The planner's report indicated that the Council were not satisfied of the likely significant effects of the development on European Sites can be screened out.

The decision to refuse was appealed by the applicant to An Bord Pleanála (Ref. No: ABP-314335-22).

An Board Pleanála subsequently decided to overturn Galway County Council's Decision (to refuse permission) and **Granted** Planning Permission for the development in February 2024.

An Board Pleanála's reasons and considerations for Granting Permission are as follows:

"Having regard to the relatively minor nature and scale of the alterations to the apartment and crèche building, which is located within the settlement boundary of Gort on Zoned service lands, it is considered that, subject to compliance with the conditions set out below, the alterations to the building, which is connected to the public foul and surface water sewer network and having regard to the separation distance from the nearest European Sites, which are located on the opposite (Western) side of the M18 Motorway, would have no significant effects on the qualifying interests of these or any other European sites".

The board was satisfied that the alterations to the elevation be retained and that the proposed development would therefore be in accordance with proper Planning and Sustainable Development in the area".

The An Board Pleanála Decision also outlined details in relation to appropriate assessments – screening, which is as follows:

"The subject site is located approx. 1.47km southeast of the Coole-Garryland complex Special Area of Conservation (Site Code: 000252) and 1.47km southeast of the Coole-Garryland Special Protection Area (Site Code: 004107).

Having regard to the scale and nature of the alterations to the apartment/crèche building sought to be retained and the location removed from any European Sites, the Board considered that no appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site".

7. RELEVANT INVALID PLANNING APPLICATIONS:

Planning Ref. No: 23/60216.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses (9 to 16 Garraí Mhic Aodha) and to construct 32 dwelling houses 17 – 20 inclusive in Garraí Mhic Aodha, and 1 to 28 inclusive at Gort An Choirce.

The Application was received on the 8th March 2023.

Galway County Council issued correspondence on the 28th of April 2023, stating that the Application was Invalid and the *“Planning Authority should Refuse to consider an application to Retain Unauthorised Development of land, where the Authority decides that if an Application for Permission had been made in respect of the development concerned before it was commenced, the Application would have required Appropriate Assessment.*

“Following the screening process, it was determined that likely significant affects to European Sites cannot be excluded. By virtue of the requirement for protection or mitigation measures required during construction and operation of the proposed development, the recommendation of a screening process is therefore to proceed to Stage 2 Appropriate Assessment.”

Planning Ref. No: 24/60812.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses - 9 to 16 inclusive Garraí Mhic Aodha, and to construct 32 dwelling houses - 17 to 20 inclusive Garraí Mhic Aodha and 1 to 28 inclusive Gort An Choirce. Gross floor space of proposed works.

The Application was received on the 1st July 2024.

Galway County Council issued correspondence on the 22nd August 2024, stating:

“The application has been screened for appropriate assessment which has determined that an Appropriate Assessment is required. As this is an application which involves a portion of retention of unauthorised development, under Section 34(12) of the Planning and Development Act, 2000 (as amended), a Planning Authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required Appropriate Assessment”.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, subsequently extended under Pl. Ref. No: 14/502 and 19/738. The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

8. SUMMARY OF PLANNING HISTORY:

Planning Permission No: 08/2336 is the original/master planning permission for the entire development. The 5-year effective period for the planning permission was extended twice:

- in 2014 – Ref. No: 14/502,
- in 2019 – Ref. No: 19/738.

The effective period of the original grant of planning permission, along with its extensions as specified on PL. Ref. 19/738 expired on the 31st December 2021.

There were further planning applications for various changes of design, alterations, house plans, etc., which included:

- Ref. No: 19/989,
- Ref. No: 20/780,
- Ref. No: 20/1010,
- Ref. No: 20/1780,

The above 4 planning permissions all relied on, and referred to the original master planning permission, 08/2336.

A specific condition attached to the grant of these permissions indicated that the planning permissions were to expire on the 30th/31st December 2021, the date on which the original/master permission (which was subsequently extended) was to expire.

Planning Ref 19/989 and 20/1010 are of particular significance as they relate to the part of the overall development which has not been completed.

As a result of Covid there was a temporary 2-year extension of the effective period allowed to complete developments.

An application was made in December 2021 (Ref. No: 21/2311) to extend the effective period of the master Planning Permission and subsequent extensions. The application referred to 19/989 and 20/1010.

The planner's report stated that Planning Ref. Nos: 19/989 and 20/1010, should be included in separate applications.

The application was refused on the grounds that the Further Information was not received within the specified time limit.

There were subsequent planning applications (22/444, 22/445 and 22/446) to extend the relevant periods of the planning permission. However, these were all **Refused** by Galway County Council, on the grounds that they were submitted after the effective period had ceased.

There was a planning permission for the crèche/apartment block (18/741), which referred to the earlier Applications 14/502 and 08/2336.

There were 3 further applications for the crèche/apartment block – 2 for retention and 1 for permission for alterations – all were **Refused** by Galway county Council.

The most recent refusal (22/60571) was appealed to An Bord Pleanála.

An Bord Pleanála overturned the decision to refuse and granted planning permission for 22/60571.

The final application on the site related to retention and completion of phase 5 & 6 – Pl. Ref. No. 23/60216 and 24/60812. Galway County Council deemed these applications were **Invalid**.

The planning history indicates that the effective planning period of the master planning permission 08/2336 and the subsequent 2 extensions of duration, has now ceased.

The originally approved development has not been fully completed.

9. COMMENTS ON APPROPRIATE ASSESSMENT:

Noreen McLoughlin, MSc, MCIEEM. Carried out a screening for appropriate assessment and concluded:

“It is of the opinion of the author that an AA of the proposed development is not required as it can be excluded, on the basis of objective information provided in this report, that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on any European sites”.

I submit that:

- An appropriate assessment would not have been a requirement at the time of the original application 08/2366,
- The Planner’s Report for 14/502 indicates under the heading “Appropriate Assessment”, *significant impacts on habitats with Natura 2000 sites can be ruled out. No further assessment is required.*

This relates to the overall site including the dwelling houses which were the subject of Pl. ref No. 23/60216 and 24/60812

- The proposal 23/60216 and 24/60812 are the same as that proposed in the 14/502 and screened out by Galway County Council. This assessment is still valid.
- The assessment carried out by Noreen McLoughlin, MSc, MCIEEM has screened the development out for AA.
- There was an inconsistency of approach and lack of transparency in respect of the Habitats Directive Assessments of the site. If there was a doubt regarding the original assessment (14/502), then the Council themselves should have screened the 19/738 application for Appropriate Assessment.
- It appears that the Council did not and instead relied on an NIS which was prepared for the 18/741 application.

There were 4 further applications on this site, which related to the change of house design, minor alterations, etc., these were:

- 19/989,
- 20/780,
- 20/1010,
- 20/1780,

The planner's reports for these applications indicates that the Appropriate Assessment screening appears to have been assessed and Galway County Council decided that significant impacts on habitats within the Natura 2000 sites can be ruled out. No further assessment is required in relation to the Habitats Directive.

- Galway Co. Co carried out Appropriate Assessment screening for the 2019, 2020 and 2021 Planning Applications (and 14/502),
- and concluded that significant impacts to the Natura 2000 Sites can be ruled out.
- A substantial portion of the development had already been completed at the time of making the planning application Pl. ref No. 23/60216 and 24/60812
- There was no changes to the approved development (which had already screened out for AA).

An Bord Pleanála have concluded:

- having regard to the separation distance from the nearest European Sites which are located on the opposite side of the M18 Motorway
- the relevant development on the site (the crèche development) will have no significant effects (by itself or combined with other developments) on the qualifying interests of these or any other European Sites.

I am of the opinion that the assertion that an Appropriate Assessment as part of planning Pl. ref No. 23/60216 and 24/60812 appears to be contrary to previous Galway County Council planner's report and assessment of the environmental issues and contrary to An Bord Pleanála's assessment of the site having regard to:

- The completed and remaining section of the development is and will be connected to the public foul and surface water sewer network.
- A substantial portion of the dwelling houses have been completed.
- Some of the remaining houses have already commenced.
- A substantial portion of the ground works, including sewer pipes, ducting, boundary walls and road construction to formation level, have already been completed.
- The bulk of the remaining works are located the furthest away from the river.
- An Board Pleanála have considered that due to the separation distance between the European Sites which are located on the opposite side of the M18 Motorway, the works on the site would have no significant effects on the qualifying interests of the European Sites.
- Galway County Council in numerous Planning Applications have considered that no further Screening reports are required.

10. EXCEPTIONAL CIRCUMSTANCE

Galway County Council issued correspondence regarding Pl. ref No. 23/60216 and 24/60812, stating that the applications were **Invalid** and the Planning Authority should refuse to consider an application to retain “unauthorised development” of land, where the Authority decides that if an application for permission had been made in respect of the development concerned before it was commenced, the application would have required Appropriate Assessment.

In such cases a developer would have to apply to An Bord Pleanála, for permission to regularise permission for the development. This process is known as *Substitute Consent*.

I am of the opinion that an Appropriate Assessment for the development was not required having regard to:

- previous planning applications on the site and the relevant planner’s reports which ruled out the requirement to carry out Appropriate Assessment
- and the recent An Bord Pleanála Grant of Planning Permission Ref. No: 22/60571
- the screening report prepared by Noreen McLoughlin, MSc, MCIEEM

I am of the opinion that Galway County Council ought to have been able to assess this planning application on its own merits and should not have invalidated the application.

I am of the opinion that the question of *Substitute Consent* did not apply in this case.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, (subsequently extended under Pl. Ref. No: 14/502 and 19/738).

The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

If Galway County Council granted the extension of duration (21/2311), the development probably would have been completed within the period of the planning permission and there would have been no requirement to make the 2023 & 2024 retention and completion applications (23/60216 & 24/60812).

I submit that the application meets the criteria of Exceptional Circumstance.

11. CONCLUSIONS:

The relevant site has a relatively long and detailed planning history, dating back to the original master planning in 08/2336, granted in May 2009. The Master Planning permission was extended in 2014 and again in 2019 and expired on the 31st December 2021.

A substantial portion of the development has been completed and occupied.

Phase 6 have yet to be constructed (although the groundworks and some houses have been partially constructed within the period of the relevant planning permissions).

I am of the opinion, if Galway County Council required further Environmental reports, they ought to have requested such reports as part of the 2014 and 2019 extension of duration applications. They did not request such reports.

Furthermore, there were numerous changes of house design planning applications and Galway County Council carried out an assessment of the environmental issues and concluded that no further Environmental Screening reports were required.

An Bord Pleanála have recently granted permission for retention of alterations to the crèche/apartment block and concluded, due to the separation distance to the European Site, which is located on the opposite side of the M18 Motorway, impacts on the European Sites can be ruled out.

Should you require any further information, please do not hesitate to contact this office.

Yours faithfully,

Signed: _____
Des Glynn BSc. Arch.T MCIOB
PG Dip CEng & Const Mngt.
Registered Building Surveyor B0349
Grealish Glynn & Associates

An Bord Pleanala
64 Marlborough St
Dublin 1

12th February 2025

Re: Newmar Developments - The retention and completion of 8 dwelling houses - 9 to 16 inclusive Garrai Mhic Aodha, Ballyhugh, Gort and to construct 32 dwelling houses - 17 to 20 inclusive Garrai Mhic Aodha and 1 to 28 inclusive Gort An Choirce, Ballyhugh, Gort.

A Chara,

In relation to the above I can confirm the following:

1. INTRODUCTION:

- This planning application has been lodged on two occasions to Galway Co Council under reference No 23/60216 and 24/60812. On both occasions Galway Co Council invalidates the application as they say there is unauthorized development on site. This is not the case as there was planning permission granted previously on site under 08/2336, 14/502, 19/738 & 20/1010. As such we believe this application should not have to be submitted to An Bord Pleanala but our hands are tied as no other avenue is available to the applicant. **The site is currently part of a Judicial Review case for the refusal of an Extension of Effective period application and the applicant feels that Galway Co Council are not dealing with the application fairly as a result.**
- An Bord Pleanala has already made a decision on an apartment and creche building on this overall site under Case No ABP-314335-22 where they concluded there was no unauthorized development on the site as of the 28th of February 2024. The planning permission forms part of a brown field site which was under construction under the mentioned planning permissions up until the planning permission expired.
- The estate has approximately 80 occupied houses and this application relates to the final phase of development. The sewer and water connections have been designed and agreed with Irish Water and a connection agreement is in place.
- A part V agreement is currently in place for the development.
- The development is consistent with the zoning for the site as per the Gort Development Plan and the density is consistent with the adjoining development.
- All green areas have been completed under previous phases.

2. DEVELOPMENT:

The development consists of mainly residential development with a creche/apartment block on the Northern portion.

The remainder of the development consists of

- semi-detached single storey dwelling houses,
- semi-detached 2-storey dwelling houses,
- and 2-storey terraced dwelling houses.

A portion of the development contains the usual (completed) roads, footpaths, street lighting, green areas, parking, etc.

- **Garrai Mhic Aodha** – this section is located to the North of the site and contains:
 - An apartment and creche block
 - and the completed house Nos: 1 – 8 and 21 – 47.
 - Houses Nos: 9 – 20 are not completed and are at various stages of development.
- **Gort An Choirche** – This section is located to the South of the site and contains:
 - completed house Nos: 29 – 52.
 - completed houses 53 – 73
 - and the proposed houses Nos: 1 – 28 (not yet commenced).

3. PHASING OF THE DEVELOPMENT:

The development was to be carried out in 6 Phases

Details of the phases are as follows:

Garrai Mhic Aodha:

- **Phase 1:** This includes the entrance, the block containing the crèche and the 11 apartments, site development works ancillary to the commercial block and houses 1 – 8 and 21 – 29. The dwelling houses in this Phase are completed and occupied.
- **Phase 2:** Contains the houses 30 – 47. These houses are completed and occupied.
- **Phase 5:** Construction works have commenced on Phase 5. House Nos: 9 – 16 are constructed to 1st floor and the hollow core has been installed. The sewers and service ducts have been installed and the road for this Phase is at formation level. Construction works on Phase 5 are currently on hold – for approximately 3 years.

Gort An Choirche:

- **Phase 3:** contains houses 29 – 52. These houses are completed and occupied.
- **Phase 4:** this relates to house Nos: 53 – 73. These houses are completed and occupied.
- **Phase 6:** this relates to house Nos: 1 – 28. No significant construction works in relation to the houses has taken place. The sewers and service ducts have been installed or partly installed and the road is at formation level. Construction works on Phase 6 are currently on hold – for approximately 3 years.

In summary Phases 1, 2,3,4 & 5 are complete and occupied.
These phases are located in close proximity to the Cannahowna River.

The green areas between the houses and the river have been fully completed.

Construction works have commenced on Phase 6.
However, the construction of the dwelling houses has not been advanced.
Phase 6 is located the furthest away from the Cannahowna River.

4. ENFORCEMENT AND COMPLIANCE:

There is no record of Planning Enforcement on the site.

An Bord Pleanála carried out an examination of the development and Planning File as part of their assessment of ABP-314335-22 and the Inspector's report indicated that there was no record of Enforcement on the site.

I have been provided with copies of various Confirmation of Compliance in relation to financial contributions and bonds.

5. RELEVANT PLANNING PERMISSIONS:

Planning Ref. No: 08/2336:

Date of Grant: 18 May 2009.

Relates to the construction of a residential development, including 132 houses, a 3-storey block containing apartments, Crèche and shop and all site development works, including a sewage pumping plant.

The planning file indicates that the commencement date was the **11th March 2019**.

Planning Ref. No: 14/502.

Date of Grant: 7 July 2014.

Relates to Extension of Duration of the effective period of Planning Ref.

No: 08/2336.

The Effective Period was extended until the 6th July 2019.

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates "*significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats*".

Planning Ref. No: 19/738.

Date of Grant: 5 July 2019.

Relates to extension of duration of the Effective Period of Planning Permission Ref. No: 14/502 and 08/2336.

(The application also refers to Planning Ref. No: 18/741).

The effective period was extended to the 31st December 2021.

The Planner's Report attached to the file refers to appropriate assessment and indicates "*NIS submitted under previous Application on the site which has concluded that there will be no adverse impacts on the qualifying criteria of Coole-Garryland complex SAC/SPA, when the mitigation measures proposed are implemented*"

Planning Ref. No: 19/989.

Date of Grant : 30th September 2019.

Relates to Change of House Plans on 16 sites (Phase 5 - Garrai Mhic Aodha).

There were 11 Conditions attached.

The application related to the approved dwelling houses on sites 5 to 20 (Garrai Mhic Aodha).

The planner's report attached to the grant of permission referred to the "Appropriate Assessment" and indicates "*significant impacts on habitats within Natura 2000 Sites can be ruled out. No further assessment is required in relation to habitats.*"

This substitute Consent application and Pl. Ref. No. 23/60216 and 24/60812 include houses which were approved under Pl. Ref. No. 19/989.

Planning Ref. No: 20/780.

Date of Grant : 26th October 2020.

Relates to the Retention of house plans on sites 1 to 4 and 29 to 30 and retention of elevation alterations to sites 21 to 28 and 31 to 47.

The Planning Website indicated that the Commencement date was the 4/11/2020.

The Planner's Report refers to Appropriate Assessment and states:

Article 6(3) of the EU Habitats Directive requires that "*any plan or project not directly connected with or necessary to the management of the site but likely to give a significant effect, either individually or in combination with other plans or projects, shall be subject to appropriate assessment of its implementations for the site in view of the sites conservation objectives*".

"The subject site currently a construction site is located circa 1.5km from said sites.

The Planning Authority considered the nature and minor scale of the proposed development, which relates to the retention of alterations to elevations and retention of change of house plans to a number of previously approved units on site. The Planning Authority also considered the parent permission on site and the applications for the extension of the appropriate period (Pl. Ref: 14/502 and 19/738), which screens out likely significant impacts of the overall housing development on European Sites and determined AA was not required.

The location of the site outside of any European Sites, the conservation objectives and qualifying interests of Coole-Garryland complex SAC and Coole-Garryland complex SPA, the distance of the site from same, the proposed connection of the site to the public sewer and on-site surface water disposal, in conjunction with the WFD Catchment Location, the underlying Aquifer-type and vulnerability and the limited excavation works, emissions, excavations, transportation requirements and duration of construction associated with the proposal.

The Planning Authority conclude that the proposed development by itself or in combination with other plans or projects (directly/indirectly/cumulatively) would not have a likely significant effect on European Sites, their qualifying interests and conservation objects. Therefore, no further Assessment is required”.

Planning Ref. No: 20/1010

Date of Grant : 26th October 2020.

Relates to Change of House Plans on Sites 1 – 73 (Gort Na Choirche).

The Planning Website indicates that the Commencement Date was the 4/11/2020.

The planner’s report refers to Appropriate Assessment and states *“significant impact on Habitats and Natura 2000 sites can be ruled out.*

No further assessment is required in relation to habitats”.

Planning Ref. No: 20/1780.

Date of Grant : 15th March 2021.

Relates to retention and completion of dwelling houses on Sites 5 – 8 Garrai Mhic Aodha.

The grant of permission was subject to 29 conditions.

The planner’s report referred to “Appropriate Assessment” and indicated:

- The Planning Authority considered the nature and minor scale of the proposed development and the planning permission screened out likely impacts of the overall housing development on European Sites and determined an AA was not required.
- The proposed development by itself or in combination with any other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objects.
- No further assessment was required.

Planning Ref. No: 21/1753.

Date of Grant: 5th January 2022.

Relates to Retention of the change of use of houses 1 and 2 Garrai Mhic Aodha. Private dwelling house to a single community dwelling house.

There were 27 Conditions attached.

The Planner’s Report deals with the screening determinations EIA *“there is no real likelihood of significant affects on the environment arising from the proposed development. The need for an Environmental Impact Assessment can therefore be excluded, a preliminary examination and a screening determination is not required”.*

The Planning Authority concluded that the proposed development by itself or a combination with other plans or projects would not have a likely significant effect on European Sites, their qualifying interests or conservation objectives.

Therefore, no further assessment was required.

6. RELEVANT PLANNING REFUSALS:

Planning Ref. No: 22/60571.

Date of Refusal: 27th July 2022.

Relates to retention of elevation alterations to an apartment and crèche block previously Granted under Pl. No: 18/741.

The Application was refused for 2 reasons.

- 1 – Galway County Council were not satisfied that the likely effects of the development on European Sites can be excluded.
- 2 – The proposed development would intensify existing unauthorised development of the site.

The planner's report indicated that the Council were not satisfied of the likely significant effects of the development on European Sites can be screened out.

The decision to refuse was appealed by the applicant to An Bord Pleanála (Ref. No: ABP-314335-22).

An Board Pleanála subsequently decided to overturn Galway County Council's Decision (to refuse permission) and **Granted** Planning Permission for the development in February 2024.

An Board Pleanála's reasons and considerations for Granting Permission are as follows:

"Having regard to the relatively minor nature and scale of the alterations to the apartment and crèche building, which is located within the settlement boundary of Gort on Zoned service lands, it is considered that, subject to compliance with the conditions set out below, the alterations to the building, which is connected to the public foul and surface water sewer network and having regard to the separation distance from the nearest European Sites, which are located on the opposite (Western) side of the M18 Motorway, would have no significant effects on the qualifying interests of these or any other European sites".

The board was satisfied that the alterations to the elevation be retained and that the proposed development would therefore be in accordance with proper Planning and Sustainable Development in the area".

The An Board Pleanála Decision also outlined details in relation to appropriate assessments – screening, which is as follows:

"The subject site is located approx. 1.47km southeast of the Coole-Garryland complex Special Area of Conservation (Site Code: 000252) and 1.47km southeast of the Coole-Garryland Special Protection Area (Site Code: 004107).

Having regard to the scale and nature of the alterations to the apartment/crèche building sought to be retained and the location removed from any European Sites, the Board considered that no appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European Site".

7. RELEVANT INVALID PLANNING APPLICATIONS:

Planning Ref. No: 23/60216.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses (9 to 16 Garraí Mhic Aodha) and to construct 32 dwelling houses 17 – 20 inclusive in Garraí Mhic Aodha, and 1 to 28 inclusive at Gort An Choirce.

The Application was received on the 8th March 2023.

Galway County Council issued correspondence on the 28th of April 2023, stating that the Application was Invalid and the *“Planning Authority should Refuse to consider an application to Retain Unauthorised Development of land, where the Authority decides that if an Application for Permission had been made in respect of the development concerned before it was commenced, the Application would have required Appropriate Assessment.*

“Following the screening process, it was determined that likely significant affects to European Sites cannot be excluded. By virtue of the requirement for protection or mitigation measures required during construction and operation of the proposed development, the recommendation of a screening process is therefore to proceed to Stage 2 Appropriate Assessment.”

Planning Ref. No: 24/60812.

Invalid Application

This relates to an application for retention and completion of 8 dwelling houses - 9 to 16 inclusive Garraí Mhic Aodha, and to construct 32 dwelling houses - 17 to 20 inclusive Garraí Mhic Aodha and 1 to 28 inclusive Gort An Choirce. Gross floor space of proposed works.

The Application was received on the 1st July 2024.

Galway County Council issued correspondence on the 22nd August 2024, stating:

“The application has been screened for appropriate assessment which has determined that an Appropriate Assessment is required. As this is an application which involves a portion of retention of unauthorised development, under Section 34(12) of the Planning and Development Act, 2000 (as amended), a Planning Authority shall refuse to consider an application to retain unauthorised development of land where the authority decides that if an application for permission had been made in respect of the development concerned before it was commenced the application would have required Appropriate Assessment”.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, subsequently extended under Pl. Ref. No: 14/502 and 19/738. The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

8. SUMMARY OF PLANNING HISTORY:

Planning Permission No: 08/2336 is the original/master planning permission for the entire development. The 5-year effective period for the planning permission was extended twice:

- in 2014 – Ref. No: 14/502,
- in 2019 – Ref. No: 19/738.

The effective period of the original grant of planning permission, along with its extensions as specified on PL. Ref. 19/738 expired on the 31st December 2021.

There were further planning applications for various changes of design, alterations, house plans, etc., which included:

- Ref. No: 19/989,
- Ref. No: 20/780,
- Ref. No: 20/1010,
- Ref. No: 20/1780,

The above 4 planning permissions all relied on, and referred to the original master planning permission, 08/2336.

A specific condition attached to the grant of these permissions indicated that the planning permissions were to expire on the 30th/31st December 2021, the date on which the original/master permission (which was subsequently extended) was to expire.

Planning Ref 19/989 and 20/1010 are of particular significance as they relate to the part of the overall development which has not been completed.

As a result of Covid there was a temporary 2-year extension of the effective period allowed to complete developments.

An application was made in December 2021 (Ref. No: 21/2311) to extend the effective period of the master Planning Permission and subsequent extensions. The application referred to 19/989 and 20/1010.

The planner's report stated that Planning Ref. Nos: 19/989 and 20/1010, should be included in separate applications.

The application was refused on the grounds that the Further Information was not received within the specified time limit.

There were subsequent planning applications (22/444, 22/445 and 22/446) to extend the relevant periods of the planning permission. However, these were all **Refused** by Galway County Council, on the grounds that they were submitted after the effective period had ceased.

There was a planning permission for the crèche/apartment block (18/741), which referred to the earlier Applications 14/502 and 08/2336.

There were 3 further applications for the crèche/apartment block – 2 for retention and 1 for permission for alterations – all were **Refused** by Galway county Council.

The most recent refusal (22/60571) was appealed to An Bord Pleanála.

An Bord Pleanála overturned the decision to refuse and granted planning permission for 22/60571.

The final application on the site related to retention and completion of phase 5 & 6 – Pl. Ref. No. 23/60216 and 24/60812. Galway County Council deemed these applications were **Invalid**.

The planning history indicates that the effective planning period of the master planning permission 08/2336 and the subsequent 2 extensions of duration, has now ceased.

The originally approved development has not been fully completed.

9. COMMENTS ON APPROPRIATE ASSESSMENT:

Noreen McLoughlin, MSc, MCIEEM. Carried out a screening for appropriate assessment and concluded:

“It is of the opinion of the author that an AA of the proposed development is not required as it can be excluded, on the basis of objective information provided in this report, that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on any European sites”.

I submit that:

- An appropriate assessment would not have been a requirement at the time of the original application 08/2366,
- The Planner’s Report for 14/502 indicates under the heading “Appropriate Assessment”, *significant impacts on habitats with Natura 2000 sites can be ruled out. No further assessment is required.*

This relates to the overall site including the dwelling houses which were the subject of Pl. ref No. 23/60216 and 24/60812

- The proposal 23/60216 and 24/60812 are the same as that proposed in the 14/502 and screened out by Galway County Council. This assessment is still valid.
- The assessment carried out by Noreen McLoughlin, MSc, MCIEEM has screened the development out for AA.
- There was an inconsistency of approach and lack of transparency in respect of the Habitats Directive Assessments of the site. If there was a doubt regarding the original assessment (14/502), then the Council themselves should have screened the 19/738 application for Appropriate Assessment.
- It appears that the Council did not and instead relied on an NIS which was prepared for the 18/741 application.

There were 4 further applications on this site, which related to the change of house design, minor alterations, etc., these were:

- 19/989,
- 20/780,
- 20/1010,
- 20/1780,

The planner's reports for these applications indicates that the Appropriate Assessment screening appears to have been assessed and Galway County Council decided that significant impacts on habitats within the Natura 2000 sites can be ruled out. No further assessment is required in relation to the Habitats Directive.

- Galway Co. Co carried out Appropriate Assessment screening for the 2019, 2020 and 2021 Planning Applications (and 14/502),
- and concluded that significant impacts to the Natura 2000 Sites can be ruled out.
- A substantial portion of the development had already been completed at the time of making the planning application Pl. ref No. 23/60216 and 24/60812
- There was no changes to the approved development (which had already screened out for AA).

An Bord Pleanála have concluded:

- having regard to the separation distance from the nearest European Sites which are located on the opposite side of the M18 Motorway
- the relevant development on the site (the crèche development) will have no significant effects (by itself or combined with other developments) on the qualifying interests of these or any other European Sites.

I am of the opinion that the assertion that an Appropriate Assessment as part of planning Pl. ref No. 23/60216 and 24/60812 appears to be contrary to previous Galway County Council planner's report and assessment of the environmental issues and contrary to An Bord Pleanála's assessment of the site having regard to:

- The completed and remaining section of the development is and will be connected to the public foul and surface water sewer network.
- A substantial portion of the dwelling houses have been completed.
- Some of the remaining houses have already commenced.
- A substantial portion of the ground works, including sewer pipes, ducting, boundary walls and road construction to formation level, have already been completed.
- The bulk of the remaining works are located the furthest away from the river.
- An Board Pleanála have considered that due to the separation distance between the European Sites which are located on the opposite side of the M18 Motorway, the works on the site would have no significant effects on the qualifying interests of the European Sites.
- Galway County Council in numerous Planning Applications have considered that no further Screening reports are required.

10. EXCEPTIONAL CIRCUMSTANCE

Galway County Council issued correspondence regarding Pl. ref No. 23/60216 and 24/60812, stating that the applications were **Invalid** and the Planning Authority should refuse to consider an application to retain “unauthorised development” of land, where the Authority decides that if an application for permission had been made in respect of the development concerned before it was commenced, the application would have required Appropriate Assessment.

In such cases a developer would have to apply to An Bord Pleanála, for permission to regularise permission for the development. This process is known as *Substitute Consent*.

I am of the opinion that an Appropriate Assessment for the development was not required having regard to:

- previous planning applications on the site and the relevant planner’s reports which ruled out the requirement to carry out Appropriate Assessment
- and the recent An Bord Pleanála Grant of Planning Permission Ref. No: 22/60571
- the screening report prepared by Noreen McLoughlin, MSc, MCIEEM

I am of the opinion that Galway County Council ought to have been able to assess this planning application on its own merits and should not have invalidated the application.

I am of the opinion that the question of *Substitute Consent* did not apply in this case.

Galway County Council make reference to “Unauthorised Development”. It should be noted that the development, as constructed, was authorised under Planning Ref. No: 08/2336, (subsequently extended under Pl. Ref. No: 14/502 and 19/738).

The approved development could not be completed once Galway County Council refused permission to extend the duration of the relevant planning permission.

If Galway County Council granted the extension of duration (21/2311), the development probably would have been completed within the period of the planning permission and there would have been no requirement to make the 2023 & 2024 retention and completion applications (23/60216 & 24/60812).

I submit that the application meets the criteria of Exceptional Circumstance.

11. CONCLUSIONS:

The relevant site has a relatively long and detailed planning history, dating back to the original master planning in 08/2336, granted in May 2009. The Master Planning permission was extended in 2014 and again in 2019 and expired on the 31st December 2021.

A substantial portion of the development has been completed and occupied.

Phase 6 have yet to be constructed (although the groundworks and some houses have been partially constructed within the period of the relevant planning permissions).

I am of the opinion, if Galway County Council required further Environmental reports, they ought to have requested such reports as part of the 2014 and 2019 extension of duration applications. They did not request such reports.

Furthermore, there were numerous changes of house design planning applications and Galway County Council carried out an assessment of the environmental issues and concluded that no further Environmental Screening reports were required.

An Bord Pleanála have recently granted permission for retention of alterations to the crèche/apartment block and concluded, due to the separation distance to the European Site, which is located on the opposite side of the M18 Motorway, impacts on the European Sites can be ruled out.

Should you require any further information, please do not hesitate to contact this office.

Yours faithfully,

Signed: _____
Des Glynn BSc. Arch.T MCIOB
PG Dip CEng & Const Mngt.
Registered Building Surveyor B0349
Grealish Glynn & Associates