



May '22

Title

Section 5 Referral - Exempted Development

Development Description

"Whether the proposed connection of 6 no. driveways and the associated footpath (as permitted under ABP-308310-20), to meet the southern edge of the existing Oranhill Avenue estate road, is or is not exempted development."

Location

Oranhill Avenue,
Oranhill,
Co. Galway

Applicants

DeCourcey Developments Ltd.

Planning Authority

Galway County Council

Ref. No.

ED 22/21

| | |
|---------------------------|--------------------------------|
| AN BORD PLEANÁLA | |
| LDG- | <u>053366-22</u> |
| ABP- | _____ |
| 16 MAY 2022 ^{OK} | |
| Fee: € | <u>220</u> Type: <u>cheque</u> |
| Time: _____ | By: <u>post</u> |

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The Secretary
An Bord Pleanála
64 Marlborough Street
Dublin 1

12th May 2021

Re:

Referral

Name & Address of Appellant:

Decourcey Developments Ltd.
No. 2 Corbally South,
Cummer,
Co. Galway.

Name & Address of Person
responsible for the preparation
of this referral:

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Development Description:

"Whether the proposed connection of 6 no. driveways and the associated footpath (as permitted under ABP-308310-20), to meet the southern edge of the existing Oranhill Avenue estate road, is or is not exempted development."

Location of the Development:

Oranhill Avenue Estate road, Oranmore, Co. Galway

Planning Authority:

Galway County Council

PI. Ref. No.:

ED 22/21

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1.0 Introduction

I have been instructed by my clients Decourcey Developments Ltd. to see a Referral to An Bord Pleanála. The relevant fee of €220 is attached. On 23rd March 2022 a Section 5 application for exempted development was made to Galway County Council under the Reference ED 22/21. This application sought clarification as to;

"Whether the proposed connection of 6 no. driveways and the associated footpath (as permitted under ABP-308310-20), to meet the southern edge of the existing Oranhill Avenue estate road, is or is not exempted development."

On 20th April 2022 Galway County Council issued a Declaration with an opinion that the proposal did not constitute exempted development. A copy of the Declaration and the associated Planners/Technicians report is attached as **Appendix 1**.

In short, we are of the opinion that the proposed works are of a very minor nature, are consistent with the terms of the extant planning permission on site, are in keeping with the surrounding character of the existing estate and therefore can be considered exempted development.

My clients are prospective purchasers of the subject site and in the interest of due diligence require confirmation from the Board that the proposed minor works are in fact exempted development. This confirmation would enable the permitted housing scheme of 6 no. houses to be constructed at this location to proceed.

This referral report should be read in conjunction with the Declaration Report, Site Layout Plan and Site Location Map which accompanied the original Section 5 Declaration application.

2.0 Site Location & Context

The subject site is located in the southern part of the town of Oranmore. The subject site is located along the southern edge of Oranhill Avenue, within the established suburb of Oranhill. The subject site is bounded by 2 storey residential development to the south, east and north, with undeveloped agricultural lands located to the west.



Figure 1: Extract from "Google Maps" showing subject Section 5 strip of ground to the south of the Oranhill Avenue Estate road.

Note: This image demonstrates the existing character of driveways/footpaths along this stretch of Oranhill Avenue.

More specifically, the area in question for the subject Section 5 Referral consists of a marginal piece of ground located between the southern edge of the Oranhill Estate road and the red line boundary of the housing development permitted by An Bord Pleanala under ABP-308310-20.

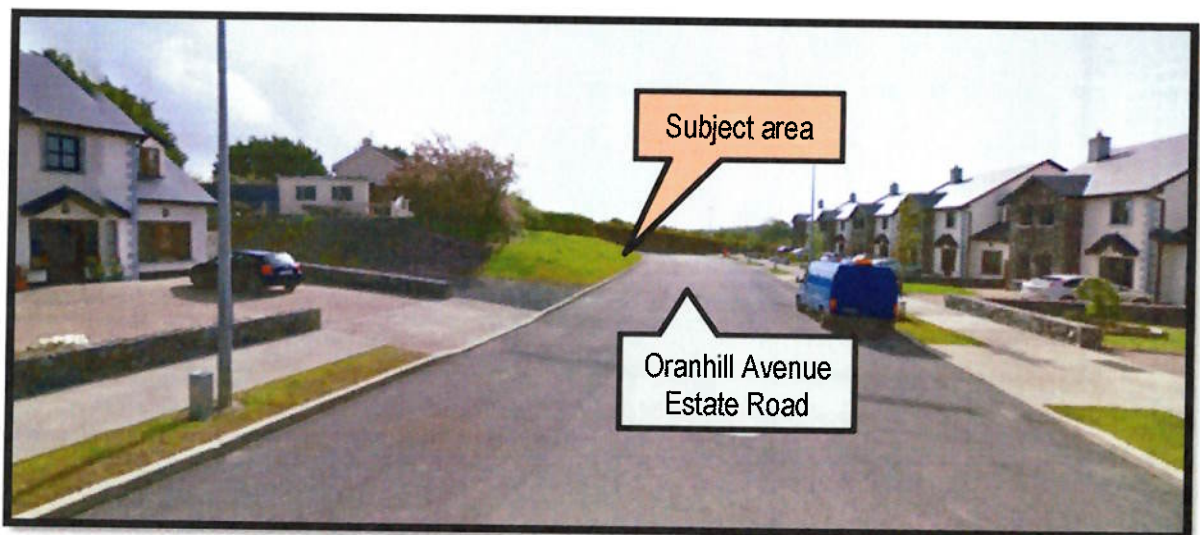


Figure 2: Indicative location of subject area, along the southern edge of the Oranhill Estate road.

Note: This image demonstrates the existing character of driveways/footpaths along this stretch of Oranhill Avenue.

3.0 Permitted Planning History

ABP-308310-20: Under Pl. Ref. No. 20/183, permission was sought on 13th February 2020 “for the following works at Oranhill, Oranmore. (1) Demolition of existing dwelling house and out buildings. (2) Construction of 6No. houses consisting of 3 pairs of 4 bedroom, two story semi-detached houses (3) Connection to existing services and all ancillary site works.”

This application was subsequently granted by An Bord Pleanála on 1st February 2021 subject to 8 no. conditions.

Note: Condition No. 1 stated, inter alia that “The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 3rd day of July, 2020.....” A copy of the layout submitted on 3rd July 2020 is set out in Figure 3 below.

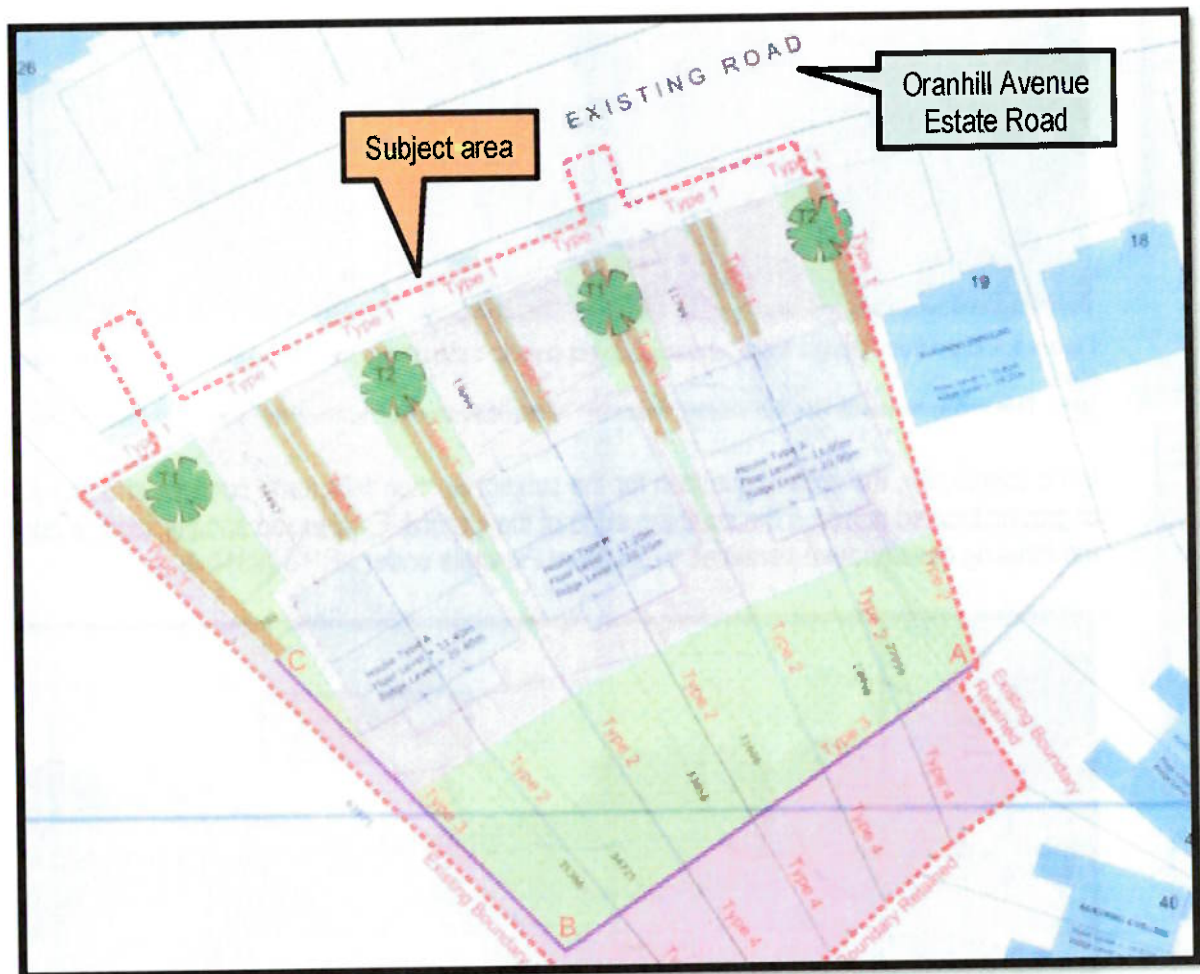


Figure 3: Extract from layout (submitted on 3rd July 2020) permitted under ABP-308310-20

Note: This shows the location of the driveway/footpath connections and the red line boundary of the application.

Pl. Ref. No. 04/2614: Permission granted in 2004 “for alterations to site layout approved under plan ref nos. 00/1957 and 04/1423 to increase house numbers from 73 approved under pl ref no. 04/1423 to 81 similar to that granted under pl ref no. 00/1957 on sites 42-47 inclusive and sites 56-81 inclusive.” At Oranhill, Oranmore, subject to 2 no. conditions.

Note: An extract from the permitted layout is set out in Figure 4 below.

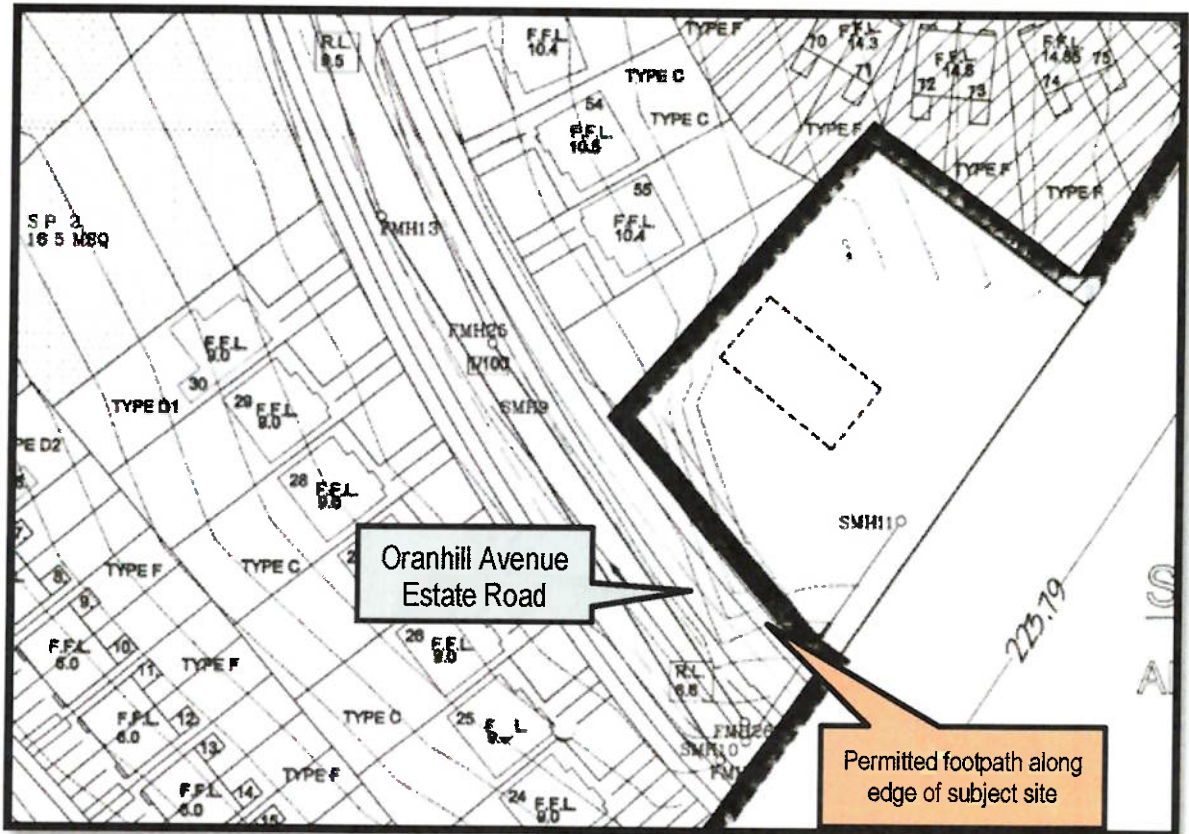


Figure 4: Extract from PI. Ref. No. 04/2614 showing permitted layout for Oranhill Avenue estate

Note: The layout appears to show a permitted footpath along the edge of the subject site. In addition, this layout did not preclude driveway/footpath connections from the proposed houses to the estate road (which have since been developed).

PI. Ref. No. 00/1957: Permission granted on 11th November 2002 "to demolish existing dwellinghouse and construct 81 no. dwellinghouses and associated services" at Oranhill, Oranmore, subject to 15 no. conditions.

Note: An extract from the permitted layout is set out in Figure 5 below.

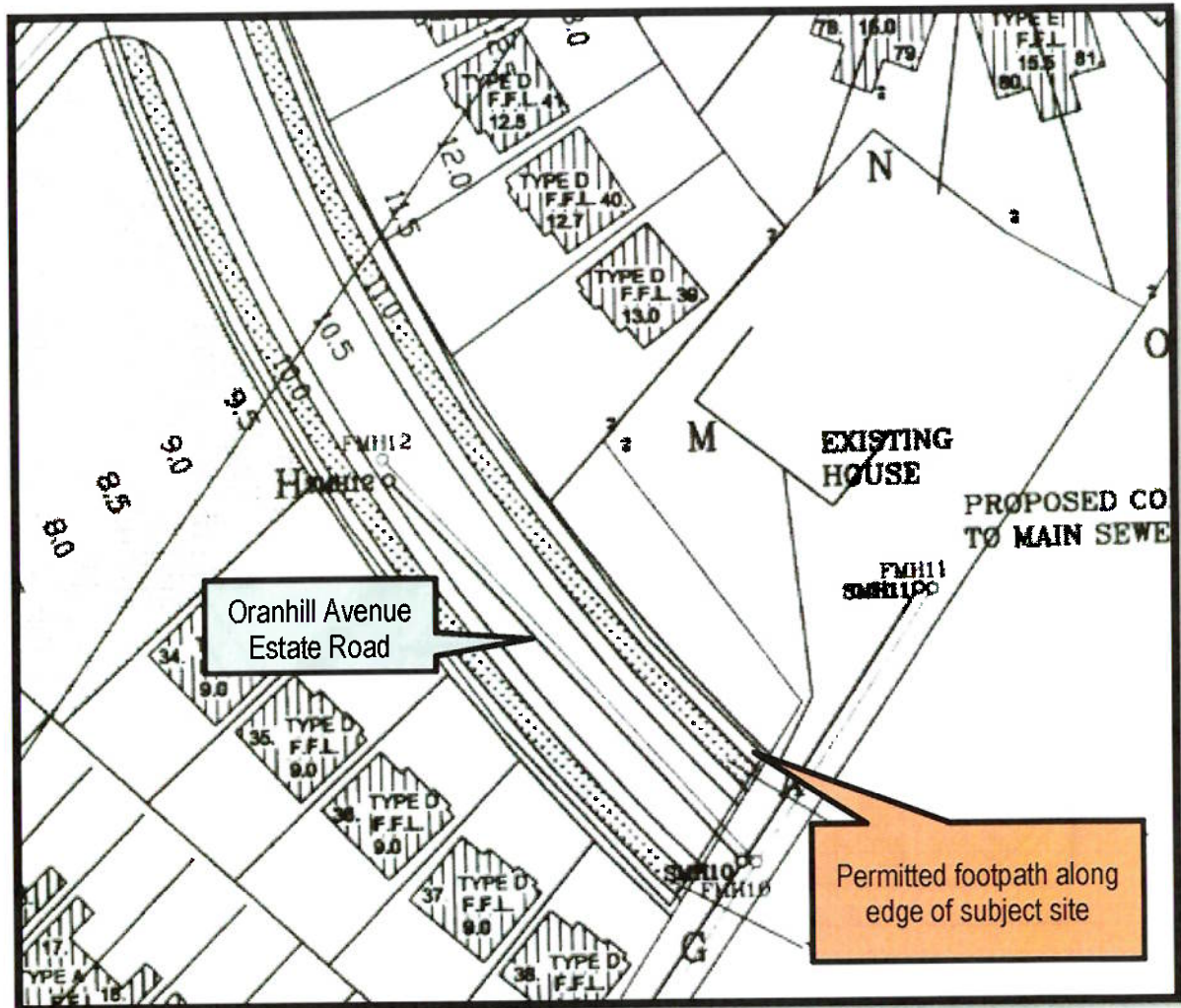


Figure 5: Extract from Pl. Ref. No. 00/1957 showing the originally permitted layout for Oranhill Avenue estate.

Note: The layout appears to show a permitted footpath along the edge of the subject site. In addition, this layout did not preclude driveway/footpath connections from the proposed houses to the estate road (which have since been developed).

4.0 Proposed Works

My clients noted the contents of the planning permission granted by An Bord Pleanála under case reference ABP-308310-20. In particular, it was noted that the red line boundary of the latter application did not include a marginal strip of ground c.1m in width located between the southern edge of the existing Oranhill Avenue Estate Road and the northern edge of the application site. It was obviously the intention of the development to provide for connection between the proposed 6 no. driveways, the associated footpath and the existing estate road. In fact this is indicated on the permitted site layout plan. However, in the interest of due diligence my client requires confirmation from the Planning Authority that the proposed incidental connections are exempted development and do not require planning permission.

Therefore, the extent of the proposed works consists of 6 no. narrow (c. 1m wide) paved strips to provide for connection between the estate road and the footpath and driveways serving the 6 no. permitted semi-detached houses at this location. The extent of the proposed works, which are the subject of this Section 5 application, are described in the Site Layout Plan enclosed. An extract is set out below.



Figure 6: Extract from Section 5 layout, showing extent of proposed works.

5.0 Key Considerations

This section of the report identifies “Key Considerations” in the assessment of this Section 5 Exemption case.

5.1 Minor extent of works

The proposed driveway/footpath “connections” will equate to c.32sqm of paved area. Therefore, the nature and extent of the proposed works can be categorised as minor works. In this regard, we would submit that the nature and extent of these works can be described as “De Minimis”. In other works, these minor surface works would not materially depart from the terms of the extant permission on site.

In support of this case, we refer to the publication entitled “*Planning and Environmental Law in Ireland*” (John Gore Grimes 2011). This refers to the case of “*Marry v Connaughton*” (1984, IEHC 74, O’ Hanlon J.) and states that “*the case made by the applicant that a permission did not authorise the development as the plans submitted did not precisely correspond with the actual location of the houses. The claim was dismissed on the basis that the dwellings were in substantial compliance with those shown on the plans and any deviation was de minimis.*” In response, we would be of the opinion that similar discretion is available in this instance, and that the minor deviation between the permitted and proposed driveway connections can be considered de minimis.

5.2 Minor Mapping Error

The northern boundary of the application site of Pl. Ref. No. 20/173 (ABP-308310-20) is somewhat unusual and did not appear to follow any identifiable ownership boundary. Moreover, the red line boundary does not line up with the edge of the carriageway of the existing Oranhill Estate road on the ground. In this regard, it would appear that the red line boundary as included as part of the latter permission, constitutes a minor mapping error.

Therefore, given that it was the layout of the permitted development proposed to connect the proposed driveways and footpath to the existing estate road, it would be unreasonable and unwarranted for planning permission to be required with respect to this minor red line mapping anomaly. Furthermore, the extent of this red line boundary anomaly is not apparent from the Site Location Map which accompanied the latter planning application, owing to the thickness of the red line boundary (See Figure 7 below).

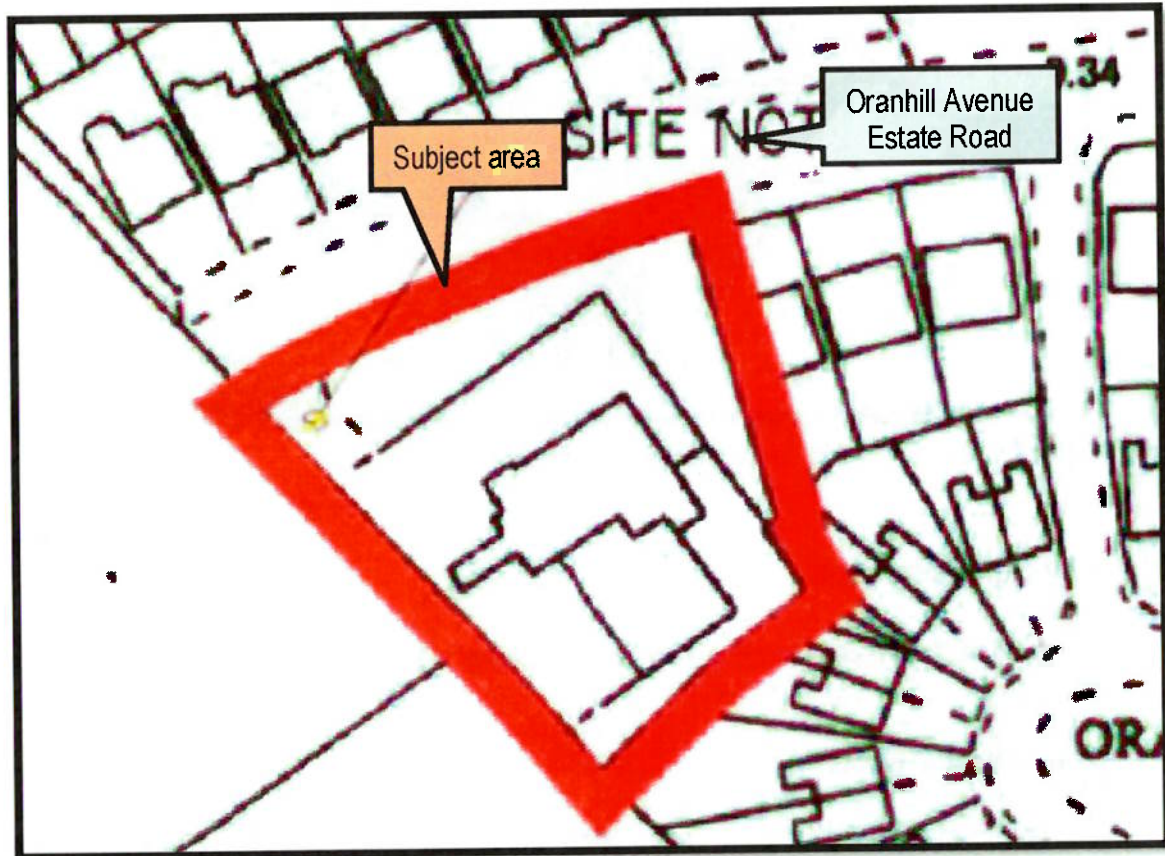


Figure 7: Extract from Site Location map which accompanied Pl. Ref. No. 20/173 (ABP-308310-20).

Therefore, in these circumstances, we would submit that the Board has a certain degree of discretion available in its assessment of the plans submitted with the application.

5.3 Section 4(1)(h) of the Planning Act – consistency with neighbouring structures

Section 4 (1)(h) of the Planning & Development Act 2000 (As amended) provides that “*development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures;*” can be considered exempted development.

In this case the proposed development would consist of the minor alteration of the permitted “driveway” and “footpath” structures, to connect to the existing estate road. As can be seen from the Aerial Photo and the proposed site layout plan, these proposed minor works would not materially affect the permitted driveway/footpath arrangements, nor would it be inconsistent with the character of the neighbouring “footpath/driveway” structures alongside.

5.4 Consent of Landowners

It is noted that as part of the Councils assessment of Pl. Ref. No. 20/173, it was concerned that the applicant did not have the requisite consent to provide access/ connection via the proposed development and the existing estate road. In this regard, the Planners report states that *“Thus, in view of the Roads & Transportation Section, the issue of permission to create new entrance points onto the residential roadway have not been clearly addressed by the Applicant.”*

Subsequently, as part of the Boards assessment of the application, the Inspectors report concluded that *“On the issue of consents and control of land I would note that the onus is on the applicant to ensure they have appropriate control or consent to carry out development on land and as per Section 34(13) of the Planning and Development Act, 2000 (as amended), “a person shall not be entitled solely by reason of a permission under this section to carry out any development”.*

And permission was granted on this basis.

Notwithstanding the above, in the interest of comprehensiveness and to demonstrate that my clients have sufficient legal interest to provide for the required connections, we refer to the letter of consent from the owners of this section of the estate road, which is contained within Folio GY81564F Plan No. BDDK6 (See **Appendix 2**). The location of the subject Section 5 area within the latter folio is set out in Figure 8 below.

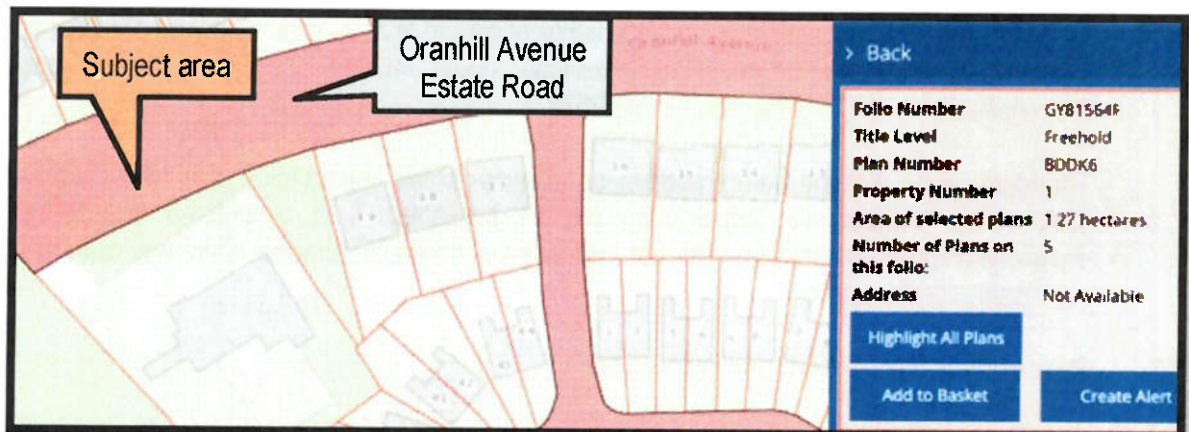


Figure 8: Extract from PRAI showing location of subject Section 5 area within Folio GY81564 Plan No. BDDK6.

5.5 Permitted footpaths along southern edge of existing estate road

As demonstrated in the Planning History above, the permitted layout of the existing Oranhill Avenue estate indicated a footpath along the edge of the subject site.

In addition, the permitted layout did not preclude the provision of *“driveway/footpath connections”* from each of the houses to the estate road. These connections were always inferred. These connections have since been developed.

Therefore, the scope of the proposed minor works is therefore consistent with what has been permitted and established along Oranhill Avenue at this location.

5.6 Availability to complete the works under established planning history

As noted in the permitted planning history the provision of a footpath together with driveway connections was permitted and established within the Oranhill Avenue estate at this location. Therefore, at the very least, the construction of a footpath along the entirety of the subject sites road frontage would still be available under the parent planning permissions. Whilst the latter permissions would appear to be expired, it is worth noting the provisions of Section 40(2)(iii) of the Planning & Development Act 2000 (As amended). This section entitled "Limit of duration of permission" may allow the implementation of the footpath outside of the life of the parent permission. In this regard, this section provides that **"in the case of a development comprising a number of buildings of which only some have been completed, in relation to the provision of roads, services and open spaces included in the relevant permission and which are necessary for or ancillary or incidental to the completed buildings."**

In response, the majority of the original Oranhill Avenue development has been completed. In this regard, it could be interpreted that the subject footpath extent formed part of the "provision of roads" included in the relevant permission which are ancillary/incidental to the completed buildings within the estate.

Separately, condition No. 1 of Pl. Ref. No. 04/2614 requires that *"The development shall be carried out in its entirety in accordance with the plans, particulars and specifications lodged to this authority on 4th June 2004, save as may be required by other conditions attached hereto."*

As there is no time limit with respect to the implementation of a planning condition, the provision of the footpath (which formed part of the plans permitted under 04/2614) could still be implemented as per the requirements of Condition No. 1 of 04/2614.

Therefore, given that the parent permission allowed for the construction of a paved footpath to the front of the subject site (which may still be available), it is considered that the proposed driveway/footpath connections do not represent a material change from the original planning permission for the estate.

5.7 Response to Restrictions on Exemption

Table 1: Compliance of proposed development with criteria outlined in Article 9(1) of the Planning & Development Regulations 2001 (As amended).

| Restrictions on Exemption | Response |
|--|--|
| <i>"(i) contravene a condition attached to a permission under the Act or be inconsistent with any use specified in a permission under the Act,"</i> | N/A. The proposed development would not contravene a condition of the extant permission. In fact, the proposed works were indicated on the site layout plan, albeit marginally outside of the red line boundary on the site layout plan. |
| <i>"(ii) consist of or comprise the formation, laying out or material widening of a means of access to a public road the surfaced carriageway of which exceeds 4 metres in width,"</i> | N/A. The proposed works relate to access to a private road and not a public road. |
| <i>"(iii) endanger public safety by reason of traffic hazard or obstruction of road users,"</i> | N/A. The proposed minor works to the permitted driveways and footpath will facilitate safe movements for vehicular and pedestrian road users. This is discussed in more detail in Section 6 below. |
| <i>"(iv) except in the case of a porch to which class 7 specified in column 1 of Part 1 of Schedule 2 applies</i> | N/A. The proposed works does not relate to a building. |

| | |
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| <p>and which complies with the conditions and limitations specified in column 2 of the said Part 1 opposite the mention of that class in the said column 1, comprise the construction, erection, extension or renewal of a building on any street so as to bring forward the building, or any part of the building, beyond the front wall of the building on either side thereof or beyond a line determined as the building line in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,"</p> | |
| <p>"(v) consist of or comprise the carrying out under a public road of works other than a connection to a wired broadcast relay service, sewer, water main, gas main or electricity supply line or cable, or any works to which class 25, 26 or 31 (a) specified in column 1 of Part 1 of Schedule 2 applies,"</p> | <p>N/A. The proposed minor works do not relate to a public road.</p> |
| <p>"(vi) interfere with the character of a landscape, or a view or prospect of special amenity value or special interest, the preservation of which is an objective of a development plan for the area in which the development is proposed or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,"</p> | <p>N/A. The subject site is located on Residentially zoned lands within the urban area of Oranmore. The proposed minor surface works will not interfere with any landscape character, view or prospect.</p> |
| <p>"(vii) consist of or comprise the excavation, alteration or demolition (other than peat extraction) of places, caves, sites, features or other objects of archaeological, geological, historical, scientific or ecological interest, the preservation, conservation or protection of which is an objective of a development plan or local area plan for the area in which the development is proposed or, pending the variation of a development plan or local area plan, or the making of a new development plan or local area plan, in the draft variation of the development plan or the local area plan or the draft development plan or draft local area plan,"</p> | <p>N/A. The location of the proposed minor surface works are located along the edge of an existing estate road. Neither the current Oranmore LAP nor the Draft CDP identify and specific built or heritage objectives on the subject site.</p> |
| <p>"(viiA) consist of or comprise the excavation, alteration or demolition of any archaeological monument included in the Record of Monuments and Places, pursuant to section 12 (1) of the National Monuments (Amendment) Act 1994, save that this provision shall not apply to any excavation or any works, pursuant to and in accordance with a consent granted under section 14 or a licence granted under section 26 of the National Monuments Act 1930 (No. 2 of 1930) as amended,"</p> | <p>N/A. The location of proposed minor surface works are not located near any know archaeological monument.</p> |
| <p>"(viiB) comprise development in relation to which a planning authority or An Bord Pleanála is the competent authority in relation to appropriate assessment and the development would require an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site,"</p> | <p>The proposed works consist of minor surface works to the edge of an estate road. The location of the works are not hydraulically or ecologically linked to the Natura 2000 network in the area. It is noted that as part of the Boards assessment of the extant permission on site, it concluded that "the proposed development, by itself or in combination with other plans or projects, would</p> |

| | |
|--|---|
| | <p><i>not adversely affect the integrity of the European Sites in view of the sites' conservation objectives.</i>" Furthermore, the proposed nature and extent of these minor and incidental surface works would not materially depart from the scope of development permitted under ABP-308310-20, and equally would not adversely affect the integrity of European sites in the area.</p> |
| <p><i>"(viiC) consist of or comprise development which would be likely to have an adverse impact on an area designated as a natural heritage area by order made under section 18 of the Wildlife (Amendment) Act 2000."</i></p> | <p>N/A. The subject site is not located proximate to any NHA.</p> |
| <p><i>"(viii) consist of or comprise the extension, alteration, repair or renewal of an unauthorised structure or a structure the use of which is an unauthorised use,"</i></p> | <p>N/A. The extant permission has not been availed of to date. Moreover, the proposed minor works do not relate to an unauthorised structure or use on site.</p> |
| <p><i>"(ix) consist of the demolition or such alteration of a building or other structure as would preclude or restrict the continuance of an existing use of a building or other structure where it is an objective of the planning authority to ensure that the building or other structure would remain available for such use and such objective has been specified in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan,"</i></p> | <p>N/A. The proposed minor works does not relate to the demolition of a structure where it is an objective of the Planning Authority for it to remain.</p> |
| <p><i>"(x) consist of the fencing or enclosure of any land habitually open to or used by the public during the 10 years preceding such fencing or enclosure for recreational purposes or as a means of access to any seashore, mountain, lakeshore, riverbank or other place of natural beauty or recreational utility,"</i></p> | <p>N/A. The subject site relates to minor works to a permitted infill housing development alongside an existing estate road.</p> |
| <p><i>"(xi) obstruct any public right of way,"</i></p> | <p>N/A. The proposed minor works would not impede a public right of way. On the contrary it will facilitate access from permitted dwellinghouses to an existing estate road and onto the public road network.</p> |
| <p><i>"(xii) further to the provisions of section 82 of the Act, consist of or comprise the carrying out of works to the exterior of a structure, where the structure concerned is located within an architectural conservation area or an area specified as an architectural conservation area in a development plan for the area or, pending the variation of a development plan or the making of a new development plan, in the draft variation of the development plan or the draft development plan and the development would materially affect the character of the area,"</i></p> | <p>N/A. The subject site is not located within an existing or proposed ACA.</p> |

6.0 Response to Declaration opinion of Planning Authority

The Section 5 Declaration by the Planning Authority ultimately formed a conclusion that *“The proposed connection of 6 no. driveways and the associated footpath (as permitted under ABP-308310-20) to meet the southern edge of the existing Oranhill Avenue Estate Road at Oranhill Avenue, Oranhill, Co. Galway is development is not exempted development under Section 9(1)(iii) of the 2001 Planning and Development Regulations.”* The rationale behind the Planning Authority's decision is set out in the Planners Report. This formed an opinion that *“Any works regarding a driveway, could result in reversing traffic movements onto an open carriageway, which may potentially be prejudicial to public safety calling for a review from a traffic safety standpoint, and would therefore conflict with “Restrictions on exemption: Section 9(1)(iii) of the Planning and Development Regulations 2001-2022 in relation to traffic hazards.*

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

Therefore, the proposed is no exempted development.”

With respect, we are of the opinion that the conclusion of the Planning Authority is flawed and unreasonable. In this regard, the grounds of response are outlined below.

6.1 Principle of Permitted Driveways on site

First and foremost, the principle of the construction of 6 no. driveways to serve 6 no. dwellinghouses was established by the Board under ABP-308310-20. This formed an integral part of the permitted development and was clearly indicated on the Site Layout Plans which were submitted during the course of the planning application.

For example, Section 2.1 of the Inspectors report acknowledges that;

“Each dwelling has a driveway and vehicular access off the existing service road and a rear garden area.”

And Section 7.4.2 of the Inspectors Report acknowledges that;

“In relation to visitor parking the proposal provides for individual driveways with space for 2 no. off street car parking spaces”

In the interest of clarity, it is noted that although a revised layout was submitted to the Board as part of the first party appeal, the Board decided to permit the FI Reply drawings which were submitted on 3rd July 2020 (which specified 6 no. driveways connecting to the Oranhill Avenue Estate road). This is enshrined in Condition No. 1 imposed by the Board which stipulated that *“The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 3rd day of July, 2020, except as may otherwise be required in order to comply with the following conditions.....”*

Therefore, the formation of 6 no. individual driveways to connect to the Estate road was acknowledged and permitted by An Bord Pleanála.

6.2 Absence of Traffic Hazard

The Planning Authority's conclusion that the subject works are not exempted development appears to be grounded on the point that *"a driveway, could result in reversing traffic movements onto an open carriageway, which may potentially be prejudicial to public safety calling for a review from a traffic safety standpoint"*. With respect, this conclusion is flawed as it fails to acknowledge the fact that the 6 no. driveways were permitted by the Board at this location, and this fact was clear from the planning permission granted as well as the Section 5 question posed to the Council.

In addition, it is important to note that this site is located at the end of a cul de sac to a private estate road, therefore the Planning Authority's reference to an *"open carriageway"* at this location is somewhat misleading. This is a very lightly trafficked area and the 6 no. houses at this location will merely complete the development. The lands to the west are not zoned for development and are not proposed to be zoned for development as part of the forthcoming County Development Plan. Therefore, the minor works are located at the end of a quiet cul de sac, and the proposal must be assessed in this context.

Moreover, the safety and appropriateness of the 6 no. driveways at this location has already been assessed as part of An Bord Pleanála's decision to grant permission at this location. In this regard, we refer to Section 7.4.1 of the Inspectors report which concludes that *"The proposal seeks to replace one dwelling with 6 dwellings and use the existing service road and access point. The nature and level of traffic likely to be generated is unlikely to be high and is similar in nature to the existing traffic using the existing entrance and services road (residential traffic)." Whilst Section 7.4.2 of the Inspectors Report concludes that "The appeal site would be serviced by an existing internal service road that features a just less than 6m wide carriageway with footpaths and is more than sufficient in standard to cater for the level and nature of traffic likely to be generated. This includes access for emergency and service vehicles."*

As such, the Board confirmed that there are no concerns with respect to traffic safety /roads users pertaining to the 6 no. houses and associated driveways at this location. Therefore, the potential for a *"review from a traffic safety standpoint"* can be dismissed, as it does not arise in this case. Owing to the fact that subject works would not *"endanger public safety by reason of traffic hazard or obstruction of road users"*, the proposed development can be considered exempted development.

6.3 Consistency with Planning history

As can be seen from Figures 4 & 5 above, the identification of individual driveways within the estate was never shown in detail on the permitted site layout plans, it was always inferred. Similarly, it was patently obvious that the 6 no. driveways were to connect to the adjoining estate road in this case. Therefore, the opinion made by the Council that these minor and integral works require planning permission is completely unreasonable and is inconsistent with the Planning History for this estate.

In this regard, if the line of thought expressed in the Council's opinion were to be extended, this would suggest that all of the individual driveways within the estate are unauthorised and would require retention. Such a conclusion would be completely unreasonable, irrational and impractical. Therefore, the inferred 6 no. driveway connections to the estate road, is consistent with the established character of the area and the planning history of the estate at this location.

7.0 Summary:

We trust the documentation enclosed is comprehensive and look forward to the decision of the Board.

This Section 5 Referral is required in the interest of due diligence and to enable the permitted housing scheme of 6 no. houses to proceed.

If you require any clarification on any matter, please do not hesitate to contact me.

Yours faithfully,

James O'Donnell



Senior Planning Consultant,
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Appendix 1:
Copy of the Declaration and the
associated Planners/Technicians report

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91 H6KX.

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Pleanáil
Planning
(091) 509 308
planning@galwaycoco.ie

Leabharlann
Library
(091) 562 471
info@galwaylibrary.ie

Our Ref: ED 22/21



Decourcey Developments Ltd.,
c/o James O'Donnell,
Planning Consultancy Services,
Third Floor,
Ross House,
Victoria Place,
Eyre Square,
Galway

Comhairle Chontae na Gaillimhe
Galway County Council

20th April, 2022

RE: Declaration of Exempted Development under section 5 of the Planning & Development Act 2000

ED22/21 – *Whether the proposed connection of 6 no. driveways and the associated footpath (as permitted under ABP-308310-20), to meet the southern edge of the existing Oranhill Avenue Estate Road, is or is not Exempted Development*

DECISION – NOT EXEMPTED DEVELOPMENT

A Chara,

I refer to the above application which was received by this office on the 23rd March, 2022

The Planning Authority, in considering this Section 5 application, had regard particularly to

- The definition of "works" set out in Section 2 of the Planning and Development Act 2000 (as amended).
- The definition of "development" set out in Section 3 of said Planning and Development Act.
- Section (3) of said Planning and Development Act.
- Section 4(1)(h) & (4) of said Planning and Development Acts.
- Article 6(1) of said Planning and Development Regulations.
- Article 9(1)(a) subsection (i) and (iii) & of said Planning and Development Regulations.
- Documents submitted from the referrer in this Section 5 application.

The Planning Authority, in exercise of the powers conferred on it by Section 5 of the 2000 Planning Act (as amended), hereby decides that:

The proposed connection of 6.no driveways and the associated footpath (as permitted under ABP-308310-20) to meet the southern edge of the existing Oranhill Avenue Estate Road at Oranhill Avenue, Oranhill, Co. Galway is development is **not exempted development** under Section 9(1)(iii) of the 2001 Planning and Development Regulations. Report attached.

Please note that you may appeal this decision to An Bord Pleanála within four weeks of the issue of this declaration on payment of the prescribed fee.

Mise le meas


Robert Lydon
Planning & Sustainable Development Unit

Encl.



PLANNER'S REPORT

File Ref: ED 22/21

Applicant: Decourcey Developments.

Location: Oranhill Avenue, Oranhill, Co. Galway.

Section 5 of the Planning and Development Act 2000 (as amended)

If any question arises as to what, in any particular case, is or is not development or is or is not exempted development within the meaning of the Act, any person may, on payment of the prescribed fee, request in writing from the relevant planning authority a declaration on that question, and that person shall provide to the planning authority any information necessary to enable the authority to make its decision on the matter.

Proposed – Application

Whether the proposed connection of 6.no driveways and the associated footpath (as permitted under ABP-308310-20) to meet the southern edge of the existing Oranhill Avenue Estate Road at Oranhill Avenue, Oranhill, Co. Galway is or is not development or, is or is not exempted development within the meaning of the Planning and Development Acts, 2000 (as amended) and Planning and Development Regulations, 2001 (S.I. No. 600 of 2001) (as amended).

Site Location

The site is located in the townland of 'Oranhill', off the local road the L-4101-83, 500M south of the settlement boundary of Oranmore town.

Relevant Legislation

The following excerpts from current planning legislation are relevant to the assessment of this referral.

2000 Planning and Development Act

Section 2 of the Planning and Development Act, 2000 defines the terms used within the act and states that

"Works" includes any act or operation of construction, excavation, demolition, extension or alteration, repair or renewal and, in relation to a protected structure or proposed protected structure, includes...

and

"structure" means any building, structure, excavation, or other thing constructed or made on, in or under any land, or any part of a structure so defined,

Section 3(1) states:

"in this act 'development' means except where the context otherwise requires, the carrying out of any works on, in, over or under land or the making of any material change in the use of any structures or other land."

Section 4 sets out the types of works that while considered 'development', can be considered 'exempted development' for the purposes of the Act. (The 2001 Planning Regulations as amended derive from this section and designate further works as being exempted development for the purposes of the act)

2001 Planning and Development Regulations (as amended)

Article 6 deems the development set out in Schedule 2 to be exempted development. Column 1 describes the development which can be considered exempted development, while Column 2 describes the conditions and limitations applicable to such exemption. Part 1 sets out exemptions for General areas.

Planning Assessment:

The applicant is seeking written opinion from the Planning Authority under Section 5 of the Planning and Development Act, 2000 (as amended), as to whether proposed connection of 6.no driveways and the associated footpath (as permitted under ABP-308310-20) to meet the southern edge of the existing Oranhill Avenue Estate Road at Oranhill Avenue, Oranhill, Co. Galway is or is not development or, is or is not exempted development within the meaning of the Planning and Development Acts, 2000 (as amended) and Planning and Development Regulations, 2001 (S.I. No. 600 of 2001) (as amended).

Planning History:

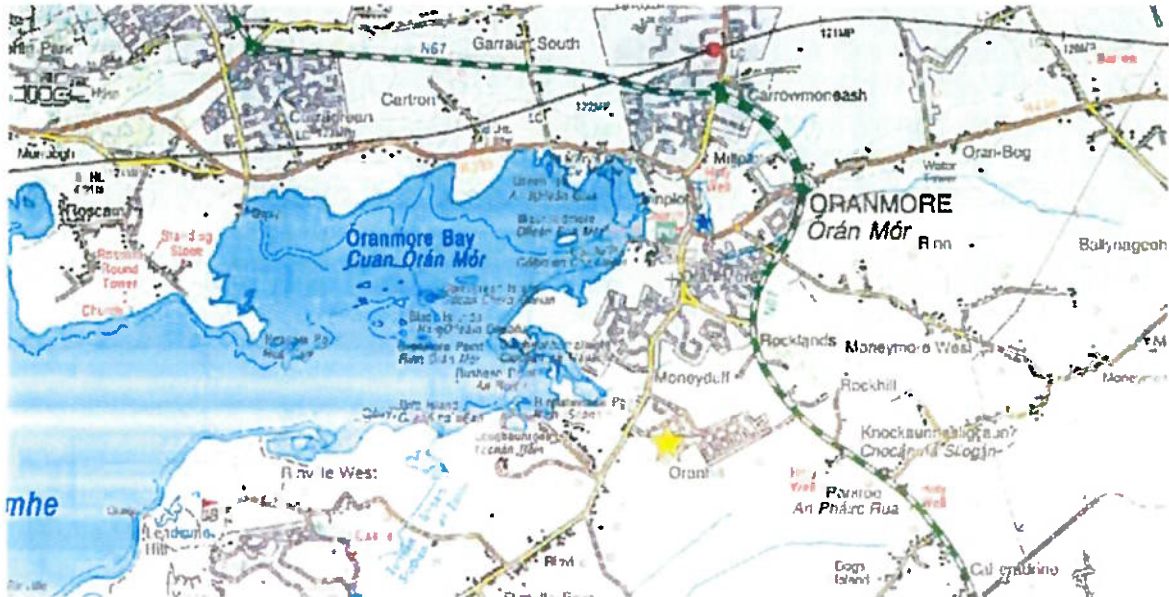
20/173- for the following works at Oranhill, Oranmore. (1) Demolition of existing dwelling house and out buildings. (2) Construction of 6No. houses consisting of 3 pairs of 4 bedroom, two story semi-detached houses (3) Connection to existing services and all ancillary site works. Gross floor space of proposed works: 803.50 sqm. Gross floor space of any demolition: 435.00 sqm **Permission Granted by An Bord Pleanala.**

18/256- for (1) demolition of existing dwelling house and sheds (2) construction of 6 dwelling houses in three pairs of 4 bedroom semi-detached units over 3 floors to include new site entrance, connection to existing services and all ancillary site works. Gross floor space of proposed works 982.8 sqm. Gross floor space of any demolition 435.0 sqm. **Withdrawn.**

Galway County Development Plan, 2015-2021:

Landscape:

The site is located within a Class 3 designated rural landscape, which has a landscape sensitivity rating of 'High'.



Appropriate Assessment:

The application site is located on a site outside any Natura 2000 site; however, it is situated within 15km of the following Natura 2000 sites (12):

- SAC: Ardahan Grassland SAC
- SAC: Lough Corrib SAC
- SAC: East Burren Complex SAC
- SAC: Galway Bay Complex SAC
- SAC: Lough Fingall Complex SAC
- SAC: Kiltiernan Turlough SAC
- SAC: Rahasane Turlough SAC
- SAC: Castletaylor Complex SAC
- SPA: Inner Galway Bay SPA
- SPA: Lough Corrib SPA
- SPA: Cregganna Marsh SPA
- SPA: Rahasane Turlough SPA

The site is located 200m south of the Galway Bay Complex SAC (site code: 000268) which is a designated European site for rare and threatened flora and fauna (i.e. Natura 2000 network) protected under the EU Habitats Directive (92/43/EEC) & EU Birds Directive (79/409/EEC, as amended by Directive 2009/147/EC) and the European Communities (Natural Habitats) Regulations 1997, as amended by the European Communities (Birds and Natural Habitats) Regulations 2011 and part XAB of the Planning and Development, 2000 as amended.

Proposed Works:

The proposed works include the connection of 6.no driveways and the associated footpath (as permitted under ABP-308310-20) to meet the southern edge of the existing Oranhill Avenue Estate Road at Oranhill Avenue, Oranhill, Co. Galway.

Nature of the Development.

The proposed connection of 6.no driveways and the associated footpath comes within the scope of 'works' as defined by the 2000 Act. As such, the proposed connection of 6.no driveways and the associated footpath is 'development' for the purposes of the legislation.

Opinion:

Having regard to the above, in particular the nature of the proposed works in conjunction with the Sections 2, 3, 4(1)(h) & 4(4) of the Planning and Development Act 2000 (as amended) and Articles 9(1) (a) (i), (viiB) of the Planning and Development Regulations 2001 (as amended), it is considered that the development would constitute development under Section 3 of the Planning and Development Act 2000 (as amended).

Any works regarding a driveway, could result in reversing traffic movements onto an open carriageway, which may potentially be prejudicial to public safety calling for a review from a traffic safety standpoint, and would therefore conflict with 'Restrictions on exemption: Section 9(1)(iii)' of the Planning and Development Regulations 2001-2022 in relation to traffic hazards.

(iii) endanger public safety by reason of traffic hazard or obstruction of road users,

Therefore, the proposed is not exempted development.

Recommendation:

The Planning Authority, in considering this Section 5 application, had regard particularly to

- (a) The definition of "works" set out in Section 2 of the Planning and Development Act 2000 (as amended).
- (b) The definition of "development" set out in Section 3 of said Planning and Development Act.
- (c) Section (3) of said Planning and Development Act.
- (d) Section 4(1)(h) & (4) of said Planning and Development Acts.
- (e) Article 6(1) of said Planning and Development Regulations.
- (f) Article 9(1)(a) subsection (i) and (iii) & of said Planning and Development Regulations.
- (g) Documents submitted from the referrer in this Section 5 application.

The Planning Authority, in exercise of the powers conferred on it by Section 5 of the 2000 Planning Act (as amended), hereby decides that:

The proposed connection of 6 no driveways and the associated footpath (as permitted under ABP-308310-20) to meet the southern edge of the existing Oranhill Avenue Estate Road at Oranhill Avenue, Oranhill, Co. Galway is development is **not exempted development** under Section 9(1)(iii) of the 2001 Planning and Development Regulations.



Prepared By: Robert Lydon, Technician Gr 2, Planning

Counter-signed By: Alan O'Connell, Senior Executive Planner

Director's/Manager's Recommendation

Decided By: Michael Owens, Director of Services

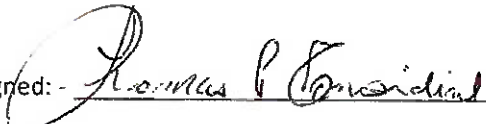
Appendix 2
Written consent from owners of Section 5 subject area,
forming part GY81564F Plan No. BDDK6

Planning Department,
Aras An Chontae,
Galway County Council,
Prospect Hill,
Galway

RE: Section 5 - "Whether the proposed connection of 6 no. driveways and the associated footpath (as permitted under ABP-308310-20), to meet the southern edge of the existing Oranhill Avenue estate road, is or is not exempted development."

Dear Sir/Madam,

We refer to above referenced Section 5 application. We, Tom Considine and Paddy Sweeney, owners of folio GY81564F plan no. BDDK6, hereby consent to the six number units granted under ABP-308310-20 exiting on to Oranhill Avenue Estate which is contained in the above-mentioned folio. A copy of the said folio is attached.

Signed: 

Tom Considine

Signed: 

Paddy Sweeney

Encl;

Copy of Folio GY81564F Plan no. BDDK6

E-MAILED 23 MAR 2022

Land Registry

County Galway

Folio 81564F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

| No. | For parts transferred see Part 1(B) Description | Official Notes |
|-----|--|---------------------|
| 1 | <p>The property shown coloured Red as plan(s) BDDK6, C03B4, C2GTN on the Registry Map, situate in the Townland of ORANHILL, in the Barony of DUNKELLIN, in the Electoral Division of CLARINBRIDGE.</p> <p>The Registration does not extend to the mines and minerals</p> <p>Plans C2GUH, C2GUG added to folio Q2011LR009896H Note: Plan references updated Q2012LR014532U.</p> | From Folio GY29383 |
| 2 | <p>The property shown coloured Red as plan(s) DH7B8 on the Registry Map, situate in the Townland of ORANHILL, in the Barony of DUNKELLIN, in the Electoral Division of CLARINBRIDGE.</p> <p>The Registration does not extend to the mines and minerals</p> <p>D2018LR125190R refers: Plan DH7B8 has been added in accordance with Deeds of Rectification dated 24th July 2018 and 18th November 2019</p> | From Folio GY29383N |

Land Registry

County Galway

Folio 81564F

Part 1(B) - Property Parts Transferred

| No. | Prop No: | Instrument: | Date: | Area (Hectares): | Plan: | Folio No: |
|-----|----------|----------------|-------------|------------------|-------|-----------|
| 1 | 1 | D2007WR005023Q | 31-JAN-2007 | | BPA77 | GY86984F |
| 2 | 1 | D2008WR045363X | 10-OCT-2008 | | B3YET | GY88916F |
| 3 | 1 | D2007WR006575D | 08-FEB-2007 | | B6G36 | GY89315F |
| 4 | 1 | D2007WR060782T | 07-DEC-2007 | | B6JJR | GY89316F |
| 5 | 1 | D2007WR049104K | 10-OCT-2007 | | B6JJ0 | GY89314F |
| 6 | 1 | D2007WR054780D | 05-NOV-2007 | | B6JJ7 | GY89317F |
| 7 | 1 | D2007WR063720Q | 20-DEC-2007 | | B6JKA | GY89318F |
| 8 | 1 | D2007WR033995C | 17-JUL-2007 | | B6JM8 | GY89319F |
| 9 | 1 | D2007WR019755C | 23-APR-2007 | | B6JNH | GY89320F |
| 11 | 1 | D2007WR042947U | 12-SEP-2007 | | B6J2R | GY89327F |
| 12 | 1 | D2007WR011526Y | 05-MAR-2007 | | B6J27 | GY89328F |
| 13 | 1 | D2007WR058464N | 29-NOV-2007 | | B6J3W | GY89329F |
| 14 | 1 | D2007WR038265U | 17-AUG-2007 | | B6KM1 | GY89339F |
| 15 | 1 | D2007WR040360H | 30-AUG-2007 | | C0CD9 | GY94361F |
| 16 | 1 | D2006WR041711E | 05-OCT-2006 | | C0C1D | GY94423F |
| 17 | 1 | D2006WR051358Q | 01-DEC-2006 | | C0C2A | GY94435F |
| 18 | 1 | D2007WR011525X | 05-MAR-2007 | | C0C20 | GY94438F |
| 19 | 1 | D2007WR015145H | 26-MAR-2007 | | C0C3C | GY94441F |
| 20 | 1 | D2007WR064480Y | 08-JAN-2008 | | C0C33 | GY94450F |
| 21 | 1 | D2008WR005053J | 30-JAN-2008 | | C0C4B | GY94455F |
| 22 | 1 | D2008WR006013D | 05-FEB-2008 | | C0C6P | GY94480F |
| 23 | 1 | D2008WR010400P | 27-FEB-2008 | | C0C6W | GY94482F |
| 24 | 1 | D2008WR012325G | 06-MAR-2008 | | C0C62 | GY94484F |

Land Registry

County Galway

Folio 81564F

| | | | | | | |
|----|---|----------------|-------------|--|-------|-----------|
| 27 | 1 | D2009LR217481M | 10-DEC-2009 | | C0C7Q | GY94489F |
| 28 | 1 | D2010LR009369N | 18-JAN-2010 | | C0C72 | GY94493F |
| 30 | 1 | D2006WR049883U | 23-NOV-2006 | | C0DE7 | GY94532F |
| 31 | 1 | D2006WR049615W | 22-NOV-2006 | | C0DP1 | GY94558F |
| 32 | 1 | D2006WR046398U | 02-NOV-2006 | | C0DQ7 | GY94561F |
| 33 | 1 | D2006WR036306N | 30-AUG-2006 | | C0DW9 | GY94575F |
| 35 | 1 | D2006WR036967B | 06-SEP-2006 | | C0D2A | GY94595F |
| 36 | 1 | D2009LR143957W | 12-AUG-2009 | | C0D6V | GY94648F |
| 37 | 1 | D2007WR003558N | 23-JAN-2007 | | C0C65 | GY94485F |
| 38 | 1 | D2007WR003764T | 24-JAN-2007 | | C0D7P | GY94652F |
| 39 | 1 | D2007WR026384K | 31-MAY-2007 | | C0D9H | GY94675F |
| 40 | 1 | D2007WR005624P | 05-FEB-2007 | | C0D9Q | GY94679F |
| 41 | 1 | D2007WR015148M | 26-MAR-2007 | | C0D93 | GY94688F |
| 42 | 1 | D2007WR033595N | 16-JUL-2007 | | C0EB6 | GY94696F |
| 43 | 1 | D2007WR028102Q | 13-JUN-2007 | | C0EB9 | GY94698F |
| 44 | 1 | D2007WR038593K | 17-AUG-2007 | | C0EG3 | GY94709F |
| 45 | 1 | D2008WR021034X | 02-MAY-2008 | | C0EH6 | GY94715F |
| 46 | 1 | D2008WR023103C | 15-MAY-2008 | | C0EK4 | GY94723F |
| 47 | 1 | D2008WR033804M | 24-JUL-2008 | | C0EQ1 | GY94736F |
| 48 | 1 | D2008WR034924A | 05-AUG-2008 | | C0ET3 | GY94742F |
| 49 | 1 | D2009LR137514G | 28-JUL-2009 | | C0EX2 | GY94750F |
| 50 | 1 | D2006WR032593U | 14-AUG-2006 | | C0E13 | GY94771F |
| 51 | 1 | D2008WR018253N | 13-MAY-2008 | | C0P49 | GY95950F |
| 53 | 1 | D2008WR012213X | 05-MAR-2008 | | C0TC3 | GY104040F |
| 54 | 1 | D2007WR004177G | 15-MAR-2007 | | C2CYH | GY104244F |

Land Registry

County Galway

Folio 81564F

| | | | | | |
|----|---|----------------|-------------|-------|-----------|
| 55 | 1 | D2007WR016512R | 02-APR-2007 | C2C0P | GY104248F |
| 56 | 1 | D2008WR048685G | 01-NOV-2008 | C0TC7 | GY104268F |
| 57 | 1 | D2007WR018630H | 16-APR-2007 | C2C7B | GY104269F |
| 58 | 1 | D2007WR022558V | 10-MAY-2007 | C2GUG | GY104532F |
| 60 | 1 | D2012LR079501M | 06-JUL-2012 | C2GTP | GY109438F |
| 61 | 1 | D2012LR079512Q | 06-JUL-2012 | C2GTT | GY109441F |
| 62 | 1 | D2006WR031231K | 04-AUG-2006 | C0DY2 | GY94580F |
| 63 | 1 | D2009LR148250M | 31-AUG-2009 | C568G | GY100072F |
| 64 | 1 | D2010LR058522C | 13-MAY-2010 | C568V | GY94501F |
| 65 | 1 | D2009LR039727X | 23-FEB-2009 | C5686 | GY109193F |
| 66 | 1 | D2012LR079012W | 09-JUL-2012 | C2GUH | GY111582F |
| 67 | 1 | D2018LR125670E | 03-SEP-2018 | DME86 | GY123523F |

Land Registry

County Galway

Folio 81564F

Part 2 - Ownership

Title ABSOLUTE

| No. | The devolution of the property is subject to the provisions of Part II of the Succession Act, 1965 | |
|-----|--|---|
| 1 | 14-JUN-2005 D2005GY008045R | THOMAS CONSIDINE (Company Director) of Fanore House, Coast Road, Oranmore, County Galway is full owner as tenant-in-common of 1 undivided 1/2 share(s). |
| 2 | 14-JUN-2005 D2005GY008045R | PATRICK SWEENEY (Company Director) of Main Street, Loughrea, County Galway is full owner as tenant-in-common of 1 undivided 1/2 share(s). |

- ~~1~~ ~~07-APR-2006~~ ~~D2006WR013417T~~ ~~No Dealing by the registered owner(s) affecting part of the property shown on Plans C0TC3, C0D9H, C0TC7, C0D93, C0EB9, C0CD9, C0DQ7, C0P49 and B6JKA is to be registered except after notice to Joseph Hoade of Moneymore East, Oranmore, County Galway.~~
- ~~Cancelled~~ ~~D2016LR158859E~~ ~~22-NOV-2016~~
- ~~2~~ ~~04-AUG-2006~~ ~~D2006WR031257X~~ ~~No Dealing by the registered owner(s) affecting part of the property shown on Plan nos. (Oranmore) C0EG3, BDDK6, B6J2R, C0C69, BDDK6, B6JJR, B6JN5, C0EX2, C0C4B, B6JJ0, BDD5Y, C0D90,~~

Land Registry

County Galway

Folio 81564F

~~C0C20, B6J27, BDDK6, B6J3W, CGQX4, BDDK6, B6KM1, C0C3C, B6JM8,
B6JNH, (Oranhill) BDDK6, C0C7Q, C0C6P, (Oranvale) B3YET,
C0ET3, C0C33, B6JJ7 is to be registered except after notice to
Joseph Hoade of Moneymore East, Oranmore, County Galway~~

Cancelled

D2016LR158859E 22-NOV-2016

- 3 06-JUL-2018 D2018LR095329D No Dealing by the registered owners of folio GY81564F is to be registered except after notice to Oranhill Property Management Company Limited, 5A Liosbaun Business Park, Tuam Road, Galway.

Land Registry

County Galway

Folio 81564F

Part 3 - Burdens and Notices of Burdens

| No. | Particulars |
|-----|---|
| 1 | <p>The property is subject to such of the rights, covenants, conditions and leases of easements (if any) relating to the use and enjoyment thereof made between Thomas Considine and Patrick Sweeney of the one part and the registered owners of the new folios specified in Part 1B of this Folio GY81564F.</p> |
| 2 | <p>11-JUN-2009 D2009LR103618B</p> <p>An office copy of an affidavit by Fidelma Clarke, Secretary of EBS Building Society having its chief office at EBS Building, 2 Burlington Road, Dublin 4, City of Dublin of a Judgment obtained by EBS Building Society against Thomas Considine and James Considine on the 1st day of May 2009 in the High Court (Record Number 2009 No 1361 S) in a matter or cause of EBS Building Society (Plaintiff) V Thomas Considine and James Considine (Defendants) has been deposited in the Registry as a mortgage against the interest of Thomas Considine of Fanore House, Oranmore, County Galway in the property herein.</p> <p>The amount owing on the said Judgment is stated to be €4,648,713.75.</p> <p>Note: As between this burden and any lien on the property created by deposit of the Land Certificate prior to the date of registration this burden ranks in priority after such lien.</p> <p>NOTE: This Judgment Mortgage is also registered on Folios GY75371F, GY75778F, GY73635F, GY73371F, GY78236F, GY20658F, GY7165L, GY31639, GY46693F, GY75807F, GY75372F, GY75775F, GY75806F, GY78336F, GY73631F, GY40735F, GY81574F, GY22234F, GY58690F, GY51699F, GY77620F, GY46694F and GY26901F.</p> <p>Note: The Judgment Mortgage registered at entry no. 2 affects the interest of Thomas Considine registered at entry no. 1.</p> <p>Note: See entry nos. 4, 5 and 6 below.</p> |
| 3 | <p>14-SEP-2009 D2009LR161190V</p> <p>An office copy of an affidavit by Tara Glynn of ACC Bank plc Charlemont Place, Dublin 2 of a Judgment obtained by ACC Bank plc against James Considine and Tom Considine on the 18th May 2009 in the High Court in a matter or cause of ACC Bank plc (Plaintiff) V</p> |

Land Registry

County Galway

Folio 81564F

James Considine and Tom Considine (Defendant) has been deposited in the Registry as a mortgage against the interest of Tom Considine of Fanore House, Coast Road, Oranmore, County Galway in the property herein.

The amount owing on the said Judgment is stated to be €6,910,703.85.

Note: Also registered on Galway folios
39787F, 61785F, 58963F, 78196F, 78274F, 35298F, 9802F, 6171L, 50206F,
24477F, 75371F, 75778F, 73635F, 73371F, 78236F, 20658F, 7165L, 81564F,
, 46693F, 75807F, 75372F, 31639, 75775F, 75806F, 78336F, 73631F, 40735
F, 81574F, 22234F, 58690F, 51699F, 77620F, 46694F, Dublin folios
2829, 160F, 19075, 167532F, 1544, 2444, Westmeath folios
1859L, 26319F Clare Folios 34076F, 23325, 40694, Mayo folio
17240F Kildare Folios 24597F and 31385F.

Note: See entry nos 4, 5 and 6 below.

| | | |
|---|---|---|
| 4 | 14-JUN-2005 Q2010LR012391T D2004GY007489E | Charge for present and future advances repayable with interest. **(Maximum Duty €630000 paid)** anglo irish bank corporation plc is owner of this charge. |
|---|---|---|

Land Registry

County Galway

Folio 81564F

| | | |
|---|-------------------------------|---|
| | | <p>Note : This charge is also registered on folio GY20658F, GY57292F and GY6252</p> <p>DATE OF REGISTRATION AMENDED TO 14TH JUNE 2005 SEE INST NO Q2010LR012391T 13TH AUGUST 2010</p> <p>THIS CHARGE RANKS IN PRIORITY TO THE CHARGES AT ENTRIES 2 AND 3</p> <p>Note: The ownership of this charge has been transferred and is now registered on folio GY71S entry no. 12.</p> <p>Note: This charge does not affect the following plans; B3YET, COET3, COC33, B6JJ7, C2GTN, COC7Q, COEQ1, COC6P, COC62, COEH6, COE63, B6J2R, C2C7B, CIDIY, B6JJR, COEX2, COC4B, B6KKO, C2CGUG, BDDY5, COD90, COC20, B6J27, C2GTD, B6J3W, CGQX4, C2GTT, C2GUH, C2GTP, B6KMI, COC3C, B6JM8, B6JNH, BDD5Y, COD90, COC20, B6J27, B6J3W, CGOX4, B6KMI, COC3C, B6JM8, B6JNH, B6JKA, COTD2, CODG5, COE79, COTC3, COP49, CODQ7, COCD9, COEB9, COD93, COTC7, COD9H, COEK4.</p> |
| 5 | 07-APR-2006 D2006WR013417T | <p>Charge for present and future advances repayable with interest. **(Maximum Duty €630,000 paid)** ULSTER BANK IRELAND LIMITED is owner of this charge.</p> <p>Note: This Charge only affects Plans C0TC3, COD9H, COCD9, B6JKA.</p> <p>Note: This Charge is also registered on folio GY20658F affecting Plans C0TD2, CODG5 and COEY9.</p> <p>Note: This Charge ranks in priority to burdens registered at entry nos. 2 and 3 above.</p> |
| 6 | 04-AUG-2006 D2006WR031257X | <p>Charge for present and future advances repayable with interest. **(Maximum Duty €630,000 paid)** ULSTER BANK IRELAND LIMITED is owner of this charge.</p> |

Land Registry

County Galway

Folio 81564F

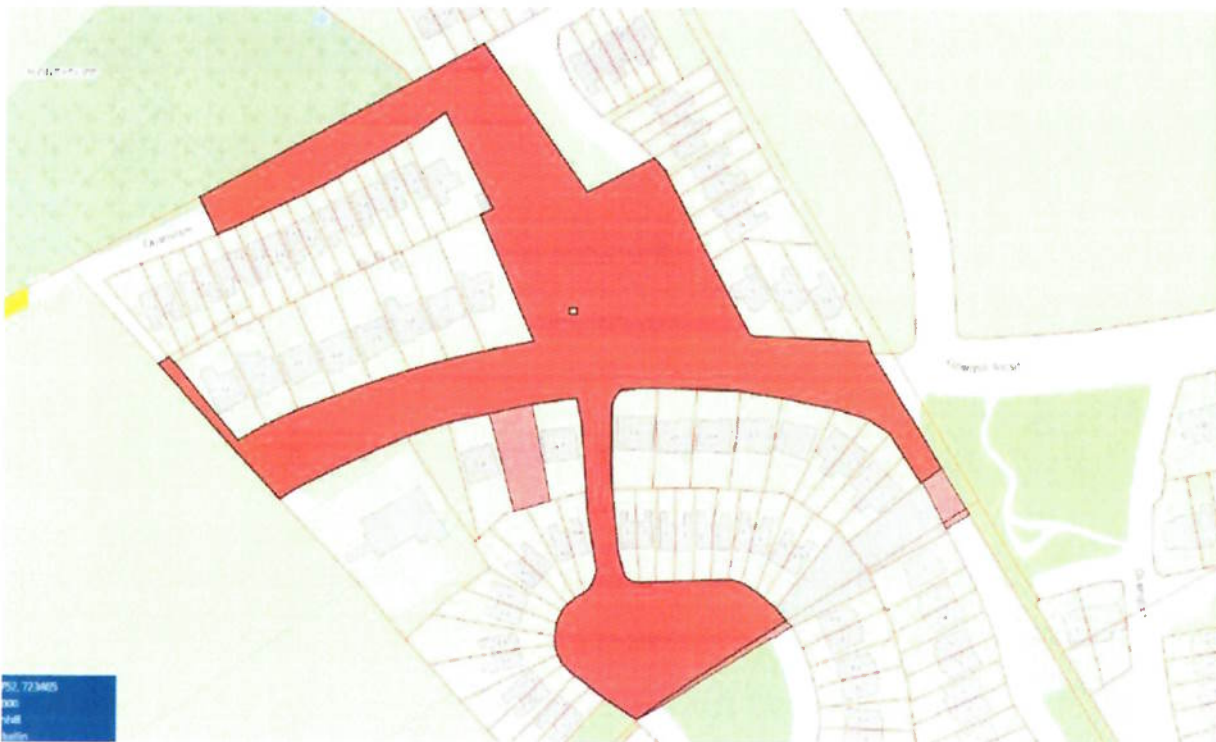
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|---|-------------------------------|---|
| 7 | 11-JUN-2009 D2009LR103618B | <p>Note: This Charge only affects Plans (Oranclouse) COEG3, BDDK6, B6J2R, C0C69, BDDK6, C2GUG, B6JN5, BDD5Y, COD90, BDDK6, CGQX4, BDDK6, (Oranhill) BDDK6 (Oranvale) B6JJ7 Entry amended see D2011LR113286E</p> <p>Note: This Charge ranks in priority to the burdens registered at entry nos. 2 and 3 above.</p> <p>An office copy of an affidavit by Fidelma Clarke, Secretary of EBS Building Society having its chief office at EBS Building, 2 Burlington Road, Dublin 4, City of Dublin of a Judgment obtained by EBS Building Society against Thomas Considine and James Considine on the 1st day of May 2009 in the High Court (Record Number 2009 No 1361 S) in a matter or cause of EBS Building Society (Plaintiff) V Thomas Considine and James Considine (Defendants) has been deposited in the Registry as a mortgage against the interest of Thomas Considine of Fanore House, Oranmore, County Galway in the property herein.</p> <p>The amount owing on the said Judgment is stated to be €4,648,713.75.</p> <p>Note: As between this burden and any lien on the property created by deposit of the Land Certificate prior to the date of registration this burden ranks in priority after such lien.</p> <p>NOTE: This Judgment Mortgage is also registered on Folios GY75371F, GY75778F, GY73635F, GY73371F, GY78236F, GY20658F, GY7165L, GY31639, GY46693F, GY75807F, GY75372F, GY75775F, GY75806F, GY78336F, GY73631F, GY40735F, GY81574F, GY22234F, GY58690F, GY51699F, GY77620F, GY46694F and GY26901F.</p> <p>Note: The Judgment Mortgage registered at entry no. 2 affects the interest of Thomas Considine registered at entry no. 1.</p> |
| 8 | 27-AUG-2010 D2010LR106316P | <p>The property is subject to the rights covenants and conditions and lease of easements specified in Instrument No. D2010LR106316P made between Thomas Considine, Patrick Sweeney and Ronald Greene of the one part and the registered owner of folio GY81572F of the other</p> |

Land Registry

County Galway

Folio 81564F

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| | | part relating to the use and enjoyment of the property. Note: Folio GY81572F is comprised of plans BDDM3, BDD47, BDD48, BDD49. |
| 9 | 13-MAY-2010 D2010LR058522C | The easements, rights and privileges as specified in Instrument No. D2010LR058522C made between Thomas Considine and Patrick Sweeney of the one part and Electricity Supply Board of the other part relating to the use and enjoyment of the property. |
| 10 | 18-JUN-2012 D2012LR072714Q | The easements, rights and privileges specified in Instrument No. D2012LR072714Q made between Ronald Greene, Thomas Considine and Patrick Sweeney of the one part and Padraic Keane and Kathleen Bernadette Keane the registered owners of Folio GY29383 of the other part relating to the use and enjoyment of the property. |
| 11 | 28-JUN-2018 D2018LR091312X | The easements, rights and privileges specified in Instrument No. D2018LR091312X made between Ronald Greene, Thomas Considine and Patrick Sweeney of the one part and Tony and Lorraine McHugh the registered owners of Folio GY94438F of the other part relating to the use and enjoyment of the property. |
| 12 | 08-AUG-2018 D2018LR112594Q | The Grant of Wayleave and such other easements as specified in Instrument Number D2018LR112594Q in favour of Kathleen Keane the registered owner(s) of the property comprised in folio GY29383, her heirs, assigns and others as specified therein affecting the part of the property shown coloured yellow on Plan BDDK6 of the Registry Map. |



> Back

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|--------------------------------------|---------------|
| Folio Number | 0YB10648 |
| Title Level | Freehold |
| Plan Number | 800366 |
| Property Number | 1 |
| Area of selected plans | 1.27 hectares |
| Number of Plans on this folio | 5 |

Address: MacAvale

This information and any other information are not conclusive.

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PS 73405
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Planning Department
Galway County Council
County Hall
Prospect Hill
Galway

8th March 2022

**RE: Planning reference 04 2614 and/or ABP-308310-20.
Owner of lands Bernadette Keane- Folio GY29383(part) and GY123523F
DeCourcey Developments Limited**

To whom it may concern,

I write to confirm that I am the registered owner of the lands referred to above and I hereby consent to the planning authority engaging with DeCourcey Developments Limited in respect of a proposed section 5 application relating to the planning referred to above

Yours faithfully,

Bernadette Keane
Bernadette Keane

