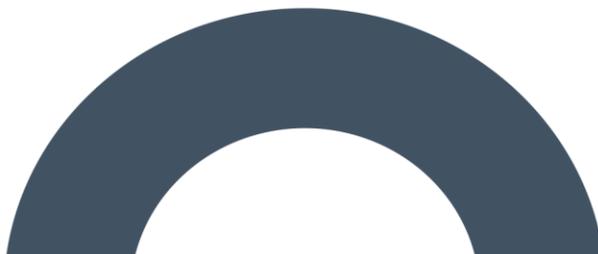




Statement of Material Contravention

Strategic Housing
Development,
Knocknacarra District
Centre, Gort na Bró,
Rahoon, Galway





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Table of Contents

1.	INTRODUCTION	2
1.1	Potential Material Contravention	2
2.	SITE CONTEXT & PROPOSED DEVELOPMENT	4
2.1	Proposed Development	4
3.	LOCAL PLANNING POLICY CONTEXT	5
3.1	Galway City Development Plan 2017-2023.....	5
4.	MATERIAL CONTRAVENTION	7
4.1	Development of Strategic or National Importance	7
4.2	Conflicting Objectives in the Development Plan.....	8
4.3	National Policy & Guidance.....	8
5.	CONCLUSION	12

1. INTRODUCTION

This Statement of Material Contravention has been prepared by MKO on behalf of Glenveagh Living in support of an application to An Bord Pleanála (ABP) under the Planning and Development Act 2000 (as amended by the Residential Tenancies Act 2016) for a strategic housing scheme located at Gort na Bró, Rahoon, Galway. This application is made under the Strategic Housing Provisions of the Planning and Development (Housing) and Residential Tenancies Act, 2016.

An Bord Pleanála issued a Notice of Pre-Application Consultation Opinion to the applicant on 16th August 2019. This Opinion made reference to a number of different matters and made a specific reference to Material Contravention as follows

'Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of land, a statement indicating the plan objective(s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in Section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.'

In light of the above this Statement of Material Contravention has been prepared in order to address a matter which may be deemed to materially contravene the provisions of the Galway City Development Plan 2017-2023 in accordance with Section 8(1)(iv)(ll) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

Under Section 5(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, the Board may grant planning permission for a proposed development that is considered to materially contravene the Development Plan, other than in relation to zoning, having regard to the requirements of Section 37(2)(b) of the Planning and Development Act 2000, as amended. The requirements of Section 37(2)(b) of the Act are as follows:

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

1.1 Potential Material Contravention

In the context of the subject planning application it is considered that the proposed density may be deemed to represent a material contravention of the density standards in the Galway City Development Plan 2017-2023. The proposed development has a net plot ratio of **1.46:1**. The proposed development is located on lands zoned 'CI – Commercial/Industrial'. The Galway City Development Plan 2017-2023 sets out a specific maximum acceptable plot ratio for development on 'CI' zoned lands of **1.25:1**. On this basis it may be deemed by An Bord Pleanála that the proposed development exceeds the maximum permissible density in respect of the land use zoning on which it is located.

However, it is considered that the proposed development can be considered favourably and granted planning permission by An Bord Pleanála under the provisions of Section 37(2)(b) of the Planning and



Development Act 2000, as amended. More detail in respect of this matter is set out in the following sections.

2.

SITE CONTEXT & PROPOSED DEVELOPMENT

The proposed site is located on Gort na Bró, Rahoon, Knocknacarra, Galway approximately 3.1km west of Galway City Centre. The surrounding area is characterised by the established residential suburb of Knocknacarra. The lands adjoining the site to the west are the location of the Gateway Retail Park which is the primary district retail centre serving the surrounding area. A number of well-known retailers have premises at this location including Dunnes Stores and B&Q. The existing Retail Park is Phase 1 of the overall development strategy for the 'Gateway Site'.

Phase 2 of the Gateway Retail Park was granted planning permission on the 5th September 2017 (Pl. Ref No: 17/158) and is currently under construction on lands to the north of the existing retail park and comprises approximately 10,000 sq.m of retail floorspace. The application site is bounded by Gort na Bró to the east and the retail park link road to the west. The Western Distributor Road, an arterial route serving the city, is located to the south. The route of the proposed Galway N6 ring road, which is currently with An Bord Pleanála for consideration, passes approximately 1.3km to the north. However, junction upgrades associated with this proposed development are proposed in the vicinity of the site as well as the realignment of the link road between Gort na Bró and the Gateway Retail Park which traverses the site.

The application site has an area of approximately 2.43 ha (excluding Phase 02 basement) and is traversed by the road which links Gort na Bró and the Gateway Retail Park. The southern portion of the site is formed primarily by waste ground and is surrounded by advertising hoarding. The northern portion of the site is formed mainly by scrub and some small trees. The overall topography of the application site is relatively flat. As set out earlier the surrounding area is primarily residential in character with the Gateway Retail Park located immediately to the west. The site is bordered to the north by Gaelscoil Mhic Amhlaigh, a newly built primary school.

2.1

Proposed Development

The proposed development will consist of the following:

1. Construction of 332 no. residential units:
 - 93 no. 1 bed apartments
 - 219 no. 2 bed apartments
 - 20 no. 3 bed apartments
2. Provision of 2,667 sq.m of commercial floorspace
3. Provision of 93 sq.m of community use facilities
4. Provision of 470 sq.m of tenant amenity accommodation including shared workspaces, shared dining and lounge facilities
5. Provision of 174sq.m creche facility including an external secure play area.
6. Provision of 85 no. car parking spaces and provision of realigned road between Gort na Bró and Gateway Retail Park Road.
7. Change of use of underground void to 181 bay underground car park.
8. Provision of shared communal and private open space, car parking, bicycle parking, bin storage, public lighting, site landscaping, services, signage, substation and all associated site development works.

3. LOCAL PLANNING POLICY CONTEXT

3.1 Galway City Development Plan 2017-2023

Section 2.1 of the Galway City Development Plan (GCDP) sets out the Council's key aims and strategy as it relates to the delivery of housing and the creation of sustainable neighbourhoods. A central aim is as follows:

'To provide for good quality housing for all sectors of the community in sustainable neighbourhoods that are attractive places to live and are within easy access to a range of local services, amenities, community facilities and public transport networks. To ensure that these neighbourhoods have a sense of identity and foster sustainable living and movement patterns. To enhance the quality and to protect the character of Galway's older neighbourhoods and regenerate the city centre's neighbourhoods.'

A selection of the key strategy goals set out in the GCDP are listed below:

- Implement the recommended settlement strategy for the city ensuring that sufficient land is zoned to meet future demand, in the interests of sustainability and to achieve optimal integration of land use and transportation.
- Accommodate through land use zoning the requirements of the Housing Strategy
- Encourage sustainable neighbourhoods of high-quality residential development, with a mix of house types and tenures with a strong identity and sense of place.
- Promote sustainable neighbourhoods where community facilities and services of an appropriate nature are easily accessible.

The criteria set out above are detailed in policy terms, through the objectives in the plan as well as through the various other policy/guidance documents at local and national level. Having reviewed these documents in the context of the proposed development, we consider that the key issues relating to the proposed development are:

The application site is located in an area zoned 'CI-Commercial/Industrial' within the Galway City Development Plan 2017-2023 (GCDP). The GCDP lists uses which may contribute to the zoning objectives, dependant on the CI location and scale of development and one such use is residential. The application site is part of a parcel of lands identified as being the '*Northern Portion of CI lands at Rahoon*'

These lands have a number of specific development objectives associated with them as follows:

- The site shall include for a minimum of residential/residential commercial development of a scale equivalent to 20% of the proportion of all likely future floor proposals. This residential development shall be integrated into the overall scheme.
- Development of these lands will only be considered where it can be shown to be linked in with the existing development and shall show how it relates to an overall layout for the area which will include for landscaping, boundary treatment and linkages with the adjoining residential development and transport services.
- The provision of a civic open space will be a requirement on this site and lands shall be reserved for this purpose.
- Any additional phase of development shall include for the front-loaded delivery of a public/community facility which can be in the form of a community facility, a community health facility, a transport facility, a park and play area over and above normal open space requirements.

- Any future development shall include for a number of small retail/service units which can be demonstrated to deliver a broad range of District Centre uses.

The Galway City Development Plan (GCDP) states that a plot ratio of 0.46:1 for new residential development should not normally be exceeded. However, the subject site is zoned 'CI-Commercial/Industrial and the maximum permitted density on lands with this zoning objective is 1.25:1. The maximum permitted site coverage on lands with this zoning designation is 100%. The plot ratio of the proposed development is 1.46:1 and the site coverage of the proposed development is 0.30:1 (30%).

4. MATERIAL CONTRAVENTION

Under Section 5(6) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, the Board may grant planning permission for a proposed development that is considered to materially contravene the Development Plan, other than in relation to zoning, having regard to the requirements of Section 37(2)(b) of the Planning and Development Act 2000, as amended.

4.1 Development of Strategic or National Importance

An Bord Pleanála *Overview Summary* document with respect to Strategic Housing Development sets out the type and scale of development which are considered to constitute Strategic Housing Development. Planning applications for housing developments of more than 100 residential units and 200 plus student bed spaces can now be made directly to An Bord Pleanála. The Overview Summary goes on to state that:

*'This new type of application has been introduced as part of Rebuilding Ireland to speed up the planning application process and accelerate delivery of larger housing and student accommodation proposals.'*¹

The strategic and national importance of the delivery of homes across the country is a fundamental principle of the *Rebuilding Ireland* programme. This programme sets out a range of measures to facilitate both the construction of new homes (including the SHD process) but also a range of schemes which facilitate social and affordable sale and lease models. A key concept of the *Rebuilding Ireland* programme state that it is:

*'Designed to accelerate housing supply in this country, Rebuilding Ireland is tackling our country's housing shortage. This action-driven plan will result in a dramatic increase in the delivery of homes nationwide.'*²

The strategic goals of the Government in relation to the delivery of new residential development, and their national importance, is reflected in the policies and objectives of the National Planning Framework and the Draft Regional Economic and Spatial Strategies. A comprehensive assessment of the proposed development in respect of those publications is enclosed with this planning application submission. It is considered that the proposed development accords with the provisions of those documents.

The proposed development will deliver 332 residential units of which 41 no. units ultimately intended to be social and affordable housing (as per Part V proposals outlined in the planning application submission). The proposed development will also deliver a key public space for Knocknacarra in the form of a civic square.

On the basis of the above it is considered reasonable to conclude that the proposed development which is the subject of this planning application is clearly of both strategic and national importance.

¹ An Bord Pleanála. 2019. *Strategic Housing Development Planning Applications*. [ONLINE] Available at: <http://www.pleanala.ie/shd/general/overview/Strategic%20Housing%20Developments%20-%20Overview.pdf>. [Accessed 23 October 2019].

² *Rebuilding Ireland*. 2019. *Rebuilding Ireland - About the Plan*. [ONLINE] Available at: <https://rebuildingireland.ie/#About2>. [Accessed 23 October 2019].

Conflicting Objectives in the Development Plan

A selection of the key strategy goals set out in the Galway City Development Plan 2017-2023 are listed below:

- Implement the recommended settlement strategy for the city ensuring that sufficient land is zoned to meet future demand, in the interests of sustainability and to achieve optimal integration of land use and transportation.
- Accommodate through land use zoning the requirements of the Housing Strategy
- Encourage sustainable neighbourhoods of high-quality residential development, with a mix of house types and tenures with a strong identity and sense of place.
- Promote sustainable neighbourhoods where community facilities and services of an appropriate nature are easily accessible.

The density standards specified for new development on 'CI-Commercial/Industrial' zoned lands is 1.25:1 as set out in Section 3.1 above. It is considered that the delivery of development at this density on zoned services lands, on a high capacity transport corridor, would not facilitate the sustainable or optimal use of land. Furthermore, it is considered that the delivery of development at the specified density can potentially prejudice the creation of sustainable neighbourhoods and high-quality residential development. It also potentially reduces the scope for the delivery of community facilities.

It is considered that the key conflict in this instance relates to the City Council's strategic goal to facilitate sustainable patterns of development, which represent optimal land use solutions, while limiting the density of any development proposal to a plot ratio of 1.25:1. It is considered that the requirement to deliver a development on zoned serviced land, on a high capacity public transport corridor, while maintaining a maximum plot ratio of 1.25:1 are mutually exclusive goals.

National Policy & Guidance

This submission is accompanied by an Urban Design Report prepared by Reddy Architecture & Urbanism and this Statement of Consistency should be read in conjunction with the Urban Design Report. The Galway City Development Plan (GCDP) states that a plot ratio of 0.46:1 for new residential development should not normally be exceeded. However, the subject site is zoned 'CI-Commercial/Industrial and the maximum permitted density on lands with this zoning objective is 1.25:1. The maximum permitted site coverage on lands with this zoning designation is 100%. The plot ratio of the proposed development is 1.45:1 and the site coverage of the proposed development is 0.30:1 (30%).

Plot ratio is typically an indicator of the density of commercial or industrial development while the density of residential development is more typically calculated on a units per hectare basis. In this regard it is considered that the standards set out in the *Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)* are the most pertinent for the purposes of setting out the relevant density standard. These Guidelines set out appropriate levels of density depending on the location of a site. Development sites which are identified for increased levels of density, among others, are those located on public transport corridors. The guidelines state the following in respect of such sites-

'In general, minimum net densities of 50 dwellings per hectare, subject to appropriate design and amenity standards, should be applied within public transport corridors, with the highest densities being located at rail stations/bus stops, and decreasing with distance away from such nodes.'

The application site is located immediately adjacent to the 412 and 414 bus routes which are major arterial public transport routes linking the western suburbs with Galway City Centre. There are bus stops serving both of these routes located in the immediate vicinity of the application site. The location of the subject site in the context of the City bus routes is illustrated in Figure 5.6 below. Given the location of the site

in the context of this public transport corridor and its strategic importance as the Knocknacarra District Centre, it is considered that a significantly higher density than the minimum 50 dwelling per hectare is appropriate at this location.

The Department of Housing, Planning and Local Government published the Urban Development and Building Heights Guidelines for Planning Authorities in December 2018. The purpose of these guidelines is to outline wider and strategic policy considerations and a more performance criteria driven approach that planning authorities should apply when considering building heights. The Guidelines are designed to move planning authorities away from generic maximum height restrictions in urban areas.

A key point set out in Section 2.0 of the Guidelines is as follows:

‘While achieving higher density does not automatically and constantly imply taller buildings alone, increased building height is a significant component in making optimal use of the capacity of sites in urban areas where transport, employment, services or retail development can achieve a requisite level of intensity for sustainability.’

The Guidelines set out a number of criteria against which the Planning Authority and An Bord Pleanála must assess a planning application and against which an application must demonstrate compliance. These are set out below and responses included to demonstrate compliance:

Table 1: Proposed development assessed against the Criteria outline in the Urban Development and Building Heights Guidelines for Planning Authorities

Criteria: At the Scale of the relevant City/Town -
<i>‘The site is well served by public transport with high capacity, frequent service and good links to other modes of public transport.’</i>
<i>‘Development proposals incorporating increased building height, including proposals within architecturally sensitive areas, should successfully integrate into/enhance the character and public realm of the area, having regard to topography, its cultural context, setting of key landmarks, protection of key views. Such development proposals shall undertake a landscape and visual assessment, by a suitably qualified practitioner such as a chartered landscape architect.’</i>
<i>‘On larger urban redevelopment sites, proposed developments should make a positive contribution to place-making, incorporating new streets and public spaces, using massing and height to achieve the required densities but with sufficient variety in scale and form to respond to the scale of adjoining developments and create visual interest in the streetscape.’</i>
Criteria: At the scale of district/neighbourhood/street -
<i>‘The proposal responds to its overall natural and built environment and makes a positive contribution to the urban neighbourhood and streetscape’</i>
<i>‘The proposal is not monolithic and avoids long, uninterrupted walls of building in the form of slab blocks with materials / building fabric well considered.’</i>
<i>‘The proposal enhances the urban design context for public spaces and key thoroughfares and inland waterway/marine frontage, thereby enabling additional height in development form to be favourably considered in terms of enhancing a sense of scale and enclosure while being in line with the requirements of “The Planning System and Flood Risk Management – Guidelines for Planning Authorities ” (2009).’</i>
<i>‘The proposal makes a positive contribution to the improvement of legibility through the site or wider urban area within which the development is situated and integrates in a cohesive manner.’</i>

'The proposal positively contributes to the mix of uses and/or building/ dwelling typologies available in the neighbourhood.'

Criteria: At the scale of the site/building

'The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light.'

'Appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like the Building Research Establishment's 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'

'Where a proposal may not be able to fully meet all the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, in respect of which the planning authority or An Bord Pleanála should apply their discretion, having regard to local factors including specific site constraints and the balancing of that assessment against the desirability of achieving wider planning objectives. Such objectives might include securing comprehensive urban regeneration and or an effective urban design and streetscape solution.'

The Guidelines go on to provide guidance in respect of building heights in suburban/edge locations (City & Town) i.e. developments outside city and town centres and inner suburbs. The application site forms part of a district centre so does not adhere to this exact typology but nonetheless the guidance is applicable. It states that:

'Development should include an effective mix of 2, 3 and 4-storey development which integrates well into existing and historical neighbourhoods and 4 storeys or more can be accommodated alongside existing larger buildings, trees and parkland, river/sea frontage or along wider streets.'

The proposed development comprises a mixture of 4-7 storey buildings. However, it is considered that the nature of the application site and the buffer between it and surrounding residential and commercial development make it a suitable location where 4 or more storeys can be accommodated.

The Design Standards for New Apartments were published in March 2018 and recognise the importance of ensuring that apartment living is an increasingly attractive and desirable housing option while also ensuring that quality outcomes are achieved on the ground.

The Apartment Guidelines set out criteria in terms of the location of new apartment developments. While the application site is not central in the context of Galway City Centre it is considered reasonable to describe it as an Urban Location. This type of location is described in the Apartment Guidelines as follows:

➤ Central and/or Accessible Urban Locations

'Such locations are generally suitable for small-to-large scale and higher density development that may wholly comprise apartments including:

- *Sites within walking distance or principal city centres, or significant employment locations, that may include hospitals and third-level institutions (i.e. up to 15 minutes or 1,000-1,500 metres).*
- *Sites within reasonable walking distance to/from high capacity urban public transport stops.*
Sites within easy walking distance (up to 5 minutes or 400-500m to/from high frequency urban bus services).

It should be noted that while the UCHG and NUIG Campuses are located just outside the 1.5km buffer specified in the Apartment Guidelines they are both still within a 20-minute walk of the application site or a 10-minute cycle. These locations are significant employment locations on the western side of the City. In addition, there are significant employment opportunities at the Westside Shopping Centre and the surrounding area i.e. Rahoon Road and Seamus Quirke Road. There are also employment opportunities at the Gateway Retail Park immediately adjoining the application site and in Salthill to the south east of the application site.

In the context of the proximity to employment centres it should be noted that there are approximately 30 hectares of lands zoned 'Industrial' to the north of the application site. At present, only a small proportion of these lands have been developed but this landbank has the potential to deliver a quantum of industrial/light industrial development which could support levels of employment to rival the Ballybrit or Parkmore Business Parks on the eastern side of the city. As these lands are developed, they will offer employment opportunities to the residents in the proposed scheme. There are also existing employment locations in the immediate vicinity i.e. Aviva & Abbott.

In addition to the above the application site is located immediately adjacent to the 411 and 412 bus routes which are major arterial public transport routes linking the western suburbs with Galway City Centre. These routes combined operate 4 times per hour (every 15 minutes) between the application site and the City Centre. There are bus stops serving both of these routes located in the immediate vicinity of the application site. It is also intended to provide a bus stop within the proposed development.

In addition to the above it should be noted that the application site is the designated district/town centre for Knocknacarra which is the largest residential suburb in the city. It is considered that the proposed development meets the criteria to be classified as an Accessible Urban Location as per the provisions of the Apartment Guidelines. This designation sits at the top of the hierarchy in terms of the number of units that may be delivered and the density that may be achieved. The apartment guidelines do not specify an upper density threshold for accessible urban locations. However, they do specify a density guideline for application sites located at Intermediate Urban Locations which are locations on the second rung of the hierarchy. The Guidelines state that at these locations it may be possible to achieve in excess of 45 units per hectare. It is therefore reasonable to conclude that a higher density may be achievable at an accessible urban location.

5.

CONCLUSION

It is considered that the proposed development is fully compliant with all national and regional planning policy and guidance and that the density proposed is appropriate. The siting and design of the proposed development have been carefully considered in the context of the site location and the proposed development will deliver a high-quality mixed-use scheme which incorporates high quality public spaces and amenity facilities for residents and the wider community. It is considered that the proposed development accords with the principles of proper planning and sustainable development.

We respectfully submit that the criteria have been met for the Board to grant planning permission for the proposed development in accordance with Section 37(2)(b) of the Planning and Development Act 2000, as amended despite the fact that the density of the proposed development exceeds the maximum threshold set out in the Galway County Development Plan 2017-2023.