

Mr Peter Burke TD

29 June 2022

Minister for Local Government and Planning

Department of Housing, Local Government and Heritage

Custom House

Dublin 1

DO1 W6XO

**By email**

**Re; Galway County Development Plan 2022 – 2028 (“The Development Plan”)**

**Expression of concern and formal complaint**

A Chara,

We are writing to you in connection with the Development Plan and the matters raised in your letter of 3 June 2022 issued to the Office of the Planning Regulator (OPR). We note your subsequent letter of 16 June 2022 to Jim Cullen, Chief Executive of Galway County Council (GCC) and the direction issued under Section 31 of the Planning & Development Act 2000 (as amended). A copy of that correspondence is attached as Appendix 1 and Appendix 2 of this letter for ease of reference.

It is evident from your correspondence and the separate letter from the OPR that fundamental flaws have been identified in the Development Plan.

We wish to notify the Department of Housing, Local Government and Heritage (DHLGH) and the Planning Regulator that the OPR failed to identify all of the issues and there are other flaws in the Development Plan and breaches of due process that have been inadvertently overlooked and which now require your urgent attention.

We have grave concerns about the manner that the Forward Planning staff in GCC have selectively withheld relevant information from the public, from the locally elected representatives, from the OPR and from your office. A prime example of this is the fact that the minutes of the planning and rezoning meetings held from January through 9 May 2022 have still not yet been published. This is unorthodox and it casts a very serious shadow upon how GCC has conducted the Development Plan review process. It is now questionable whether due process has been applied.

As such, this letter should now be treated as a formal complaint in respect of the following non-exhaustive list of shortcomings and flaws within the Development Plan and this letter should be treated as an expression of grave

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concern about the potential abuse of due process by GCC's Forward Planning unit in respect of issues that we have identified and which the OPR may not have been aware of heretofore and thus has inadvertently over-looked;

1. Failure by GCC to publish in a transparent and timely manner, the minutes of all Planning Meetings in respect of the Development Plan review process. In the absence of the publication of this documentation there is now a serious question about whether due process has been applied.
2. Failure by GCC to notify the duly elected representatives of all relevant, live and active planning applications, An Bord Pleanála (ABP) appeal processes and Judicial Review (JR) processes that should have been relevant to the proper review and assessment of the new Development plan. The availability of that information should have informed and influenced the decision-making processes and therefore it is now questionable whether due process has been applied.
3. Failure by GCC to notify the DHLGH and the OPR of all relevant, live and active planning applications, ABP appeal processes and JR processes that should have been relevant to the proper review and assessment of the new Development plan. The availability of that information should have informed and influenced the decision-making process of the OPR and DHLGH and therefore it is now questionable whether due process has been applied.
4. Failure by GCC to impartially apply in a balanced and consistent manner the standards and guidelines outlined in the Development Plan Guidelines for Planning Authorities 2007 (as amended in 2021) and as issued under Section 28 of the Planning & Development Act 2000 (as amended).

We have grave concerns about GCC's failure to have due regard to the requirement to implement or adopt a sequential approach to zoning under the Planning & Development Act 2000 (as amended) and we are concerned about GCC's adoption of an approach that is wholly inconsistent with the requirements to provide for compact growth in accordance with National Policy Objective 3C and Regional Policy Objective 3.2.

These shortcomings have resulted in GCC supporting some rezonings in peripheral areas as evidenced by the maps included in Appendix 3 whilst simultaneously rejecting rezoning proposals on other centrally located sites that would have better supported compact growth of towns and villages. GCC has ignored the fact that the lands in question have immediate and available access to public utility, potable water and wastewater collection and treatment infrastructure as verified by the availability of formal confirmation of feasibility letters from Irish Water. We respectfully submit that these lands should have been approved for rezoning by GCC if the sequential approach had been applied fairly and impartially.

This casts a very serious shadow on the manner in how GCC has approached rezoning proposals and it raises significant questions about whether due process has been applied.

5. Failure by GCC to give proper and due consideration to National Policy Objective 57 [Water Quality and Resource Management], by ensuring that proper regard is had to the standards and guidelines outlined in the ***Planning System and Flood Risk Management Guidelines for Planning Authorities 2009*** (as amended in 23/12/20). (The Guidelines)

NPO 57 specifically provides that flood risk management should inform place making by avoiding inappropriate development in areas at risk of flooding, ***however*** it also provides that the decisions taken by the local authority should be taken in accordance with the ***Planning System and Flood Risk Management Guidelines (The Guidelines)***.

These guidelines specifically provide that ***“the sequential approach and the Justification Test, if appropriate, should be applied in the evaluation process”***

It is now evident from the Development Plan review process that GCC failed to give appropriate attention to technical data provided in the Site Specific Flood Risk Assessment reports (SSFRA) and Justification tests submitted by landowners who have sought the rezoning of lands in flood risk areas after proper assessment of the Flood Risk to include consideration of the risk assessment, justification tests and any proposed mitigation measures.

We understand that the GCC Forward Planning team has also erroneously advised local Councilors that there could be no discussions whatsoever about the rezoning of lands within a flood risk zone. GCC’s approach is wholly inconsistent with National Policy and we respectfully submit that GCC has misinformed local councilors and GCC has taken decisions, without proper regard to Justification Tests submitted and in so doing GCC has committed a clear and flagrant breach of the ***Planning System and Flood Risk Management Guidelines*** (The Guidelines) which specifically provide that ***“the sequential approach and the Justification Test, if appropriate, should be applied in the evaluation process”*** (our emphasis added)

It is difficult to understand how GCC can disregard national policy and national guidelines. It is even more difficult to understand how the OPR and the DHLGH failed to identify an issue as fundamental as this, during the review of the Development Plan, unless pertinent information was withheld from DHLGH and the OPR.

GCC’s failure to apply the Guidelines in a consistent and balanced manner has resulted in some lands that were previously categorized as flood risk lands being rezoned in the 2022 – 2028 plan whilst other lands [for example in Spiddal] which ABP has determined have satisfied the Justification Test provided in the Guidelines have been incorrectly rejected for rezoning and future development.

What is perhaps most egregious about the flaws in GCC’s approach is the fact that GCC systematically ignored the fact that the Spiddal lands in question were the subject of an ABP appeal process. ABP has granted approval for the proposed development of the lands in question [after having assessed the Site Specific Flood Risk assessment and Justification Test submitted], and this fact verifies the flaws in the approach that GCC adopted when evaluating rezoning proposals. To put it very simply, if due process had been applied, then GCC should have given proper and due consideration to the SSFRA and Justification Test when evaluating the rezoning application in the same ways as ABP assessed those reports. Please refer to Appendix 4 for a copy of ABP’s decision to grant planning permission on the same lands in Spiddal.

It is noteworthy that the GCC Forward Planning Unit has failed to provide any adequate technical rationale or justification for their decisions relating to the proper planning and sustainable development of the areas in question and GCC has failed to explain why the Guidelines have not been followed.

6. Failure by GCC to work to improve the visitor experience and to support the implementation of Failte Ireland and Údarás na Gaeltachta’s (“Údarás”) Regional Tourism Strategies, Destination Experience Development Plans and Visitor Experience Development plans for Connemara and the Gaeltacht.

We have grave concerns about GCC’s failure to support the construction of a new Marine Heritage Centre at Sruthán and we have grave concerns about GCC’s failure to support the construction of a new Hotel & Leisure, Artisan Food Hub and Residential development in Spiddal, particularly when the Destination and Visitor experience development plans prepared independently by Failte Ireland and Údarás, specifically highlight the

need for new visitor centers and new hotels in South Connemara to address the current Tourism infrastructure deficits that exist on this important section of the Wild Atlantic Way (WAW).

7. Failure by GCC to notify DHLGH and the OPR of the egregious inconsistencies that exist between the proposed amendment of the county development plan 2022-2028, to remove a 100m cordon sanitaire policy for Carraroe, whilst numerous Local Area Plans (LAPs) for other villages and towns within County Galway specifically provide for a minimum cordon sanitaire or buffer zone of 100 meters between sensitive receptors and municipal wastewater treatment plants. As GCC has abolished the Gaeltacht LAP, the entire Gaeltacht community from Bearna to Carna, including Carraroe, has been placed at a significant technical disadvantage.

The GCC Forward Planning Unit has failed to provide any adequate technical rationale or justification to explain why a 100m rule is permitted when an LAP exists whilst a 50m rule applies under the Development Plan. GCC has incorrectly advised the DHLGH and the OPR that the adoption of a policy specifically for Carraroe/the Gaeltacht would prevent Irish Water from constructing a municipal WWTP at Sruthán Pier but that statement by GCC is factually incorrect and it is wholly misleading as there are other specific reasons why a WWTP will never be constructed at Sruthán, specifically the fact that ABP has already approved the construction of a Marine Heritage Centre at Sruthán Pier and the construction of that Heritage Centre is scheduled to commence imminently.

8. Failure by GCC to have due and proper regard to the important role and democratic function discharged by the locally elected representatives in the rezoning discussions and the Development Plan review process. This includes the potential misuse of the Planning Regulators office by GCC officials in an attempt to circumvent and stifle the local democratic process.

The OPR has now adopted an oversight role that was traditionally conducted by locally elected representatives and whilst we accept the OPR's role in the oversight of national and regional planning policy, we respectfully submit to the Minister, that steps urgently need to be taken to ensure that the OPR is not used by local authorities as a "tool" to circumvent or stifle democratic debate on local issues at local Council level.

The Office of the Planning Regulator should be unimpeachable and beyond reproach. The OPR should not be used or abused inappropriately by any local authority. The technical knowledge and resources of the OPR should be available to local Councilors in the same way as they are available to staff within the local authorities.

We respectfully submit to the Minister that if the OPR's role is not to amount to a usurpation of power, to the detriment of locally elected Councilors and to the detriment of the democratic process at local government level, then it is critically important that the OPR discharge its functions in a transparent and equitable manner that is unimpeachable and beyond reproach.

We are advised that there is [rightly or wrongly] a perception that GCC has used the OPR as a means of terminating democratic debate on issues of local importance. This situation should not be allowed to persist. We respectfully submit to the Minister that any situation such as this needs to be remedied and the OPR should be directed to consult with locally elected councilors to identify how the OPR could better support and assist local councilors.

We also submit that the OPR should not ignore the importance of local democratic debate on issues of local concern. The OPR should question the Local Authority and the Local Councilors about the local considerations and the reasons why they have supported some rezoning proposals and rejected others and we submit that written minutes of those debates should be maintained and published in the interests of fairness and transparency.

From what we have seen from this Development Plan there are significant flaws in how GCC has conducted the Galway County Development Plan review process and it is now clear that there have been flagrant breaches of due process and relevant information has been withheld from, Councilors, from the OPR and from DHLGH.

We are deeply concerned about the prospect that decisions have been taken by Councilors, by the OPR and by the Minister's office without the full facts and we believe that the process has been directly and indirectly influenced by the failure of GCC [inadvertent or otherwise] to present all relevant information to the Local Councilors, to DHLGH and to the OPR, before key decisions were taken.

We note that the DHLGH and the OPR have formally notified GCC that they have identified certain fundamental flaws in the Development Plan. It should now also be evident from this letter and the above list of issues that there are other fundamental flaws within the Development Plan that the OPR was not aware of and therefore inadvertently failed to identify.

As the role of the Development Plan is to provide a legal framework that facilitates development over the plan period, we respectfully submit that it is imperative that your office and the OPR, now intervene to ensure that these matters are resolved in the interests of facilitating the proper planning and sustainable development of County Galway in the period 2022-2028.

To support this submission, we would like to draw your attention to a number of pertinent facts that we have identified from several projects that we are directly involved in within county Galway. As the GCC Executive has ignored all of our submissions, without proper explanation or justification, we have concluded that the only way to address these issues is to now write to you directly in the hope that when your office and the Regulators office have a full and clear understanding of these new facts, you will be better placed to make an informed judgement on the issues at hand. We respectfully request that these matters be referred back to the Galway County Executive Team and to the Locally Elected Representatives in County Galway for proper debate and resolution before the new County Development Plan is adopted.

The key areas of specific concern, that we have identified from projects that we are directly involved in, can be summarized as follows;

#### **Example 1**

##### **Sruthán Pier, Carraroe [not Sruffaun]**

**GCC's has failed to have due regard to ABP's decision to approve the Marine & Cultural Heritage Centre at Sruthán.**

9. We note that much has been said and written by GCC about the proposal by elected members to introduce a specific policy in the Galway County Development plan that introduces an area of open recreational space at Sruthán pier [no doubt linked to the extensive use of the pier for Marine sports and Leisure activity]. Much more has been said about the separate policy proposal which sought to impose a 100m cordon sanitaire at Sruthán pier.

And yet, we also note that neither the Forward Planning Unit in GCC nor Irish Water has notified DHLGH nor the OPR of the fact that An Bord Pleanála has issued a grant of Planning permission [**ABP Reference 309759**] which has approved the construction of a Marine and Cultural Heritage Centre at Sruthán. Please refer to Appendix 5 for a copy of the ABP Decision to grant approval for this development.

This Heritage Centre will celebrate the iconic Galway Huicéar and the local religious and cultural heritage and maritime traditions associated with Sruthán Pier and the sailing traditions in Connemara. The Heritage Centre will

be an iconic Tourism attraction which will support the growth and development of the local tourism sector in a manner that is consistent with Regional and National policy and consistent with the Tourism Visitor Development plans that have been independently developed by Fáilte Ireland and by Údaras.

It is therefore wholly incorrect for the OPR to notify DHLGH that "Irish Water have advanced plans to develop a WWTP for An Cheathrú Rua .... to facilitate growth in the village".

Irish Water's plans for a WWTP at Sruthán are, in our view, now "dead in the water". GCC should have made DHLGH and the OPR aware of the fact that Irish Water will now have to develop new plans and select a new site for a municipal WWTP to service Carraroe.

GCC should have advised DHLGH and the OPR's of the fact that we have been engaged in lengthy correspondence with GCC, Irish Water, Údaras, the Department of Agriculture Food & Marine (DAFM) and all locally elected representatives for over four years [to include the initiation of two JR's and other litigation].

All of these State bodies have failed to listen to our submissions and therefore we were left with no option but to initiate legal proceedings through which we have highlighted the fundamentally flawed approach that was adopted by Irish Water and GCC as its predecessor, vis a vis the site selection process which selected Sruthán Pier as a site for a CPO.

Our objections to the Irish Water's selection of Sruthán as a location for a potential WWTP and our objections to the Irish Water CPO process are all based on solid technical considerations. Our position has been supported by the Irish High Court's decision and by ABP's decision to approve a Heritage Centre at Sruthán [and in doing so ABP has [by default] determined that Sruthán is unsuitable for a municipal WWTP].

We would very much welcome your explanation of why it is that GCC, Irish Water and DAFM have failed to listen to us thus far? It has already been demonstrated that Sruthán is simply the wrong choice of location for a municipal WWTP [and the right location for a Marine Heritage Centre]. We would welcome an explanation from DHLGH on why it is that State bodies are wasting public funds in the pursuit of a WWTP at Sruthán, when it should be evident that the only option now available to Irish Water is to identify an alternative site?

As a Development Group that is active nationally and within the Connemara Gaeltacht region we support the need for new Waste Water Collection and Treatment infrastructure in Carraroe, Casla and Rossaveal, the villages that circle Casla Bay and we support the overarching requirement to improve the water quality in Casla Bay. We have already demonstrated that Sruthán is simply the wrong location for a WWTP due to its Cultural, Religious and Maritime Heritage credentials and by virtue of its extensive use by the local community as a Marine Leisure venue by local sailing, diving and kayaking clubs.

We have written extensively to Irish Water and all other local stakeholders to offer advice and assistance to help resolve these local issues, and we have suggested suitable alternative sites in Carraroe and Rossaveal that could readily accommodate a new municipal WWTP. We have also written to all stakeholders to highlight the need for all parties to work together to select an appropriate site for a WWTP that has the capacity to accommodate the needs of all of the communities in Carraroe, Casla and Rossaveal which share Casla Bay. We have also sought to draw attention to the fact that the site selection process for any new WWTP should simultaneously support DAFM's and Udaras's plans for the expansion of the Rossaveal Harbour Port facilities in a manner which supports Ireland's longterm ambitions for an Offshore Renewable Energy industry on the West Coast.

We are at a loss to understand why multiple State bodies are unwilling to collaborate together to enhance the

local wastewater collection and treatment infrastructure within this central hub of the Connemara Gaeltacht and we are surprised and deeply dismayed by the complete absence of “common sense” and the apparent willingness of multiple state bodies to make disjointed unilateral decisions and the apparent willingness to waste public funds.

We are also deeply aggrieved and dismayed by the fact that GCC, the OPR and the DHLGH are now engaged in correspondence about a WWTP at Sruthán, when ABP has already issued its decision to grant permission for the Marine Heritage Centre.

We have written extensively to all stakeholders in the Casla Bay area to highlight why State owned land at Rossaveal Harbour should be utilized as a site for a new Municipal WWTP that supports the needs for the entire Casla Bay area and which supports the Governments planned future development of Rossaveal as a Marine Hub to supports Ireland emerging offshore Renewable Energy aspirations.

We have offered to collaborate with Irish Water to help address the engineering hurdles required to facilitate the delivery of a WWTP at Rossaveal as an alternative site. In that context we have offered Irish Water the use of a site at Sruthán for use as an underground pump station [not a full WWTP] as our engineers have advised us that Irish Water will ultimately need new pump station infrastructure as part of the engineering solution required to support the use of any alternative sites for a municipal WWTP. In this regard, please note that an **underground pump station** can be accommodated at Sruthán adjacent to [and within 15m of] the approved Marine Heritage Centre, without any negative impact on the Heritage Centre and without any negative impact upon the local community.

DHLGH and the OPR should be aware that one of our group companies, Glann Mor Ceibh Teoranta (GMCT) has already appointed a design and construction team and that company intends to undertake the construction of the Heritage Centre at Sruthán commencing now in July 2022. As matters stand, GMCT is actively engaged in the preparation and lodgment of a planning commencement notice.

We must state that it is inequitable and entirely prejudicial, for both the Forward Planning team in GCC and Irish Water, to assert that the adoption of a 100m cordon sanitaire policy in Carraroe, would prejudice the delivery of a municipal WWTP **at Sruthán**. DHLGH and the OPR are being misled here - The facts of the matter are that there can never be and will never be a WWTP at Sruthán now that a Heritage Centre has been approved by ABP and now that construction is scheduled to commence imminently.

The technical issue that should in fact be considered by DHLGH and the OPR is the need for a uniform “cordon sanitaire” policy throughout all of County Galway as there cannot and should not be one policy under the County Development Plan and then a different policy under numerous LAPs within the County. There cannot be one policy for the County and another less onerous policy for the Gaeltacht and Carraroe – one uniform and standard policy is required for the entire county.

We respectfully suggest that GCC, DHLGH and the OPR give due consideration to the introduction of a standard and uniform policy that provides for a 100m cordon sanitaire policy to be applied throughout all of county Galway.

## Example 2

### Spiddal – Hotel & Leisure Centre, Artisan Food Hub & Residential development.

**GCC has failed to have due regard to the High Court’s direction to An Bord Pleanala [ABP reference 309753] which supported the grant of approval for a new Hotel and Leisure facility, Artisan Food Hub & Residential development in Spiddal which culminated in ABP approving the proposed development [ABP Reference 309753].**

**GCC has also failed without proper explanation or justification to have due regard to the Flood Risk Management Guidelines, by disregarding without proper explanation, the Site Specific Flood Risk Assessment and Site Specific Justification Tests submitted in respect of the proposed rezoning of the lands in question. Please refer to Appendix 4 for a copy of the ABP decision to grant approval for the development.**

10. Throughout the Development Plan review process there has been much debate and much written about the inconsistent manner in which the GCC Forward Planning unit has assessed Flood Risk matters and specifically the inconsistent manner in which GCC has applied the “Planning System and Flood Risk Management Guidelines for Planning Authorities 2009” (The Guidelines).

The OPR clearly recognizes the import role that Site Specific Flood Risk Assessments (SSFRA’s) and Justification Tests, as provided for under the 2009 Guidelines, should have in guiding how rezoning applications should be considered and assessed by a local authority.

There are glaring inconsistencies in the approach that has been adopted by the GCC Forward Planning Unit when assessing flood risk in the context of rezoning proposals.

It is now clear that GCC has ignored, without explanation or proper technical justification, the SSFRA’s and Justification Tests that we submitted in support of our rezoning application for lands in Spiddal.

The flaws in GCC’s approach are further highlighted by the fact that ABP has already approved the development of the lands in question, which includes the installation of flood remediation works that should benefit the residents of Spiddal. We are deeply concerned and aggrieved by the inconsistencies in the approach that has been adopted by the GCC Forward Planning unit and by their failure to give proper and due consideration to the Site Specific Flood Risk Assessment Report and the Site Specific Justification Test. These technical reports were submitted to GCC, by one of our group companies, Baile Eamoinn Teoranta (BET), to verify and support the technical rationale for the rezoning sought for the lands in Spiddal.

This situation should not have arisen as the GCC Executive and the GCC Forward Planning is acutely aware [as a notice party] that BET initiated a successful Judicial Review which overturned GCC and ABP’s original decision to refuse the proposed Hotel and Leisure facility in Spiddal. It should be noted that ABP rejected all of GCC’s grounds of refusal on the original application but ABP then refused the first appeal on the sole ground that Spiddal did not have a Municipal WWTP at that time.

The only reason that we had to initiate a JR was the fact that ABP made an administrative blunder when they initially refused the appeal. The ABP Inspector was not aware that GCC had granted planning permission for the Spiddal WWTP and as the Inspector failed to consult with Irish Water on the status of the Municipal WWTP, our Appeal was refused. This was a travesty and as we were deeply aggrieved by that decision we initiated a JR. The High Court concluded that, had the Inspector consulted with Irish Water, then ABP would not have had grounds to refuse the proposed development. ABP has since approved this development, which proves our case.

GCC is fully aware of the long planning history on this Spiddal site and GCC is also aware that ABP has granted planning permission for the development [ABP reference 309753], and in doing so, ABP has accepted the SSFRA and the Justification Tests that were submitted with that application and GCC is aware that we also submitted additional technical reports to support the proposed land uses sought under the Rezoning application.

We are therefore at a complete loss to understand how it is that GCC could have ignored all of our submissions on this site without proper explanation or justification. To add further insult to injury, we understand that the GCC Forward Planning team erroneously advised Councilors that there could be no discussions whatsoever about these Spiddal lands as they had a historic flood risk zoning and in doing so GCC clearly breached the 2009 guidelines.

GCC's approach is wholly inconsistent with National Policy and GCC's approach is a clear and flagrant breach of the *Planning System and Flood Risk Management Guidelines* (The Guidelines) which specifically provide that *"the sequential approach and the Justification Test, if appropriate, should be applied in the evaluation process"* [our emphasis added]

The inconsistencies in GCC's approach have resulted in some lands that had historic flood risk zonings being rezoned in the 2022 – 2028 plan whilst other lands [for example, the aforementioned lands in Spiddal] have been rejected for rezoning and future development.

GCC has failed to provide any adequate technical rationale or justification for their decision to reject the rezoning of the Spiddal lands in question and it is perhaps noteworthy that GCC has failed to provide adequate reasons relating to the proper planning and sustainable development of the areas in question to explain why the Guidelines have not been followed.

This is wholly unacceptable practice by the GCC Forward Planning team as their approach is technically flawed and wholly inconsistent with National & Regional policy and it is a flagrant breach of the Flood Risk Management guidelines.

GCC approved the new WWTP for Spiddal and GCC is aware that the WWTP is now physically under construction and therefore the technical restrictions which had otherwise impeded the delivery of the proposed Hotel and Leisure facility as already approved by ABP are now physically addressed.

GCC is also aware that both Failte Ireland and Údarás have highlighted the urgent need to support the delivery of new high quality Hotel accommodation in South Connemara, specifically the need for new hotel accommodation within Spiddal as a Gateway village to South Connemara, and as a means to support the Visitor Development Programs that have been independently developed by Failte Ireland and Údaras for this important but under-developed section of the Wild Atlantic Way.

The GCC Executive and the GCC Forward Planning Unit are also aware that Údaras has other plans to promote a new Tourist Visitor attraction in Spiddal. We are advised that Údarás has already notified GCC that its plans would benefit from a new Hotel and Leisure facility in Spiddal and the potentially symbiotic and positive impact that a new hotel in Spiddal would have on Údaras and Failte Ireland's Visitor Development plans for the region as a whole.

Against this backdrop, GCC should not have ignored our rezoning proposals and GCC should not have advised the local Councilors that there could be no discussion on the matter. There has always been a strong technical case for the rezoning that we sought and the SSFRA and Justification Tests that we submitted verified that the historic

flood risk zoning which applied on the southern portion of the site, should not have impeded the future development of the site. Our position is supported by the fact that ABP has approved development on the lands in question, and this fact in of itself highlights the flaws in GCC's approach.

GCC is aware of all of these matters and yet despite the successful JR outcome secured by BET, despite the construction of the new municipal WWTP by Irish Water, despite the publication of Failte Ireland and Údaras Visitor development plans, and despite ABP's decision to grant planning permission for the Hotel and Leisure complex, GCC has chosen to ignore the rezoning proposal and GCC has ignored the SSFRA and Justification Tests that BET submitted to support its rezoning application.

It is perhaps noteworthy that the GCC Forward Planning unit and the GCC Executive have failed to provide any proper written explanation, rationale or technical justification for these decisions. These inconsistencies and the failure to provide any rationale or technical justification for GCC's decisions is prejudicial to and inconsistent with the National and Regional Policy Objectives for the western region and we respectfully submit that GCC has taken its decisions in flagrant breach of the *Planning System and Flood Risk Management Guidelines*

We also note that the GCC Executive has either misled and /or failed to bring these technical matters to the attention of the Local Elected Representatives or to the attention of DHLGH and the OPR.

We respectfully submit to the DHLG and the OPR that there are glaring failures and glaring inconsistencies in the approach that has been adopted by the GCC Executive on this matter. These issues need to be reviewed and assessed before the County Development Plan is finalized.

**We respectfully submit that the lands in question should be rezoned as Central Village Core lands and zoned Residential lands to ensure that the zoning properly reflects the decision of ABP who have already approved the mixed use redevelopment of the lands.**

### Example 3

#### Moycullen and Spiddal – Sequential development

GCC has failed to have due regard to the Confirmation of Feasibility letters that two of our group companies, Coill Bhruchlainn Teoranta (CBT) and Baile Eamoinn Teoranta (BET) obtained from Irish Water, to verify the availability of water connections and access to utility services which support the application by those two companies for the requested rezoning of lands immediately adjacent to the village centers in Moycullen and Spiddal.

GCC has instead decided to rezone other peripheral lands within these two villages, that do not have the benefit of immediate Wastewater and Water connections and in so doing, GCC has made a decision to leapfrog lands and this is wholly inconsistent with the obligations under National policy to adopt a consequential approach to development to support compact growth of towns and villages.

11. We note that throughout the Development Plan review process there has been much debate and much written about the inconsistent manner in which the GCC Forward Planning unit has assessed proposals to rezone lands in peripheral locations, effectively leapfrogging other unzoned and/or undeveloped lands.

The OPR has notified DHLGH that the approach adopted by GCC is wholly inconsistent with National and Regional Policy. It is evident from the OPR's letter to DHLGH that the OPR recognizes the need for sequential and compact

growth and it is evident that the availability of access to utility connections, specifically the availability to access Water and Wastewater collection and treatment infrastructure should be an important consideration in the context of any rezoning process.

12. There are glaring inconsistencies in the approach that has been adopted by the GCC Forward Planning Unit and by the GCC Executive in the context of the current County Development Plan Review process. It is very evident that GCC has ignored, without explanation or proper technical justification, the fact that the lands owned by CBT in Moycullen and the lands owned by BET in Spiddal are located in central village locations and GCC has also ignored the fact that these lands have direct and immediate access to Water and Wastewater connections.

We respectfully submit, that if GCC was in fact following National Policy and the Planning Guidelines then CBT's lands in Moycullen and BET's lands in Spiddal should in fact have been selected by GCC as lands suitable for sequential development in priority to other peripheral lands.

In this context, we have to ask, why is it that GCC has ignored our rezoning submission and why is it that GCC has instead leapfrogged CBT's lands and BET's lands in favour of rezoning other peripheral lands in both Moycullen and Spiddal?

There is an obligation on GCC, under regional and national policy, to adopt a sequential approach to zoning under the Planning & Development Act 2000 (as amended) and GCC's adoption of an approach that is inconsistent with the requirements to provide for compact growth in accordance with National Policy Objective 3C and Regional Policy Objective 3.2 is a breach of those obligations.

These shortcomings have resulted in GCC supporting some rezonings in peripheral areas of Spiddal and Moycullen whilst simultaneously rejecting rezoning proposals that would have better supported the compact growth of both villages. GCC has also ignored the fact that the lands owned by CBT and BET have immediate and available access to public utility, potable water and wastewater collection and treatment infrastructure and services, as has already been verified by the availability of confirmation of feasibility letters from Irish Water.

GCC has also clearly ignored the existence of the High Court direction issued in respect of the Spiddal lands and GCC has ignored the ABP opinion which approves the mixed-use development of the Spiddal lands.

To further highlight the inconsistencies in GCC's approach, it is also now clear that the GCC Forward Planning unit have also ignored the pre-planning consultation engagement that we have had with the GCC Planning team in respect of the same Spiddal and Moycullen lands.

To add further weight to our argument that due process has not been followed, we must draw your attention to the fact that as of 27 June 2022, GCC has approved a separate planning application that we submitted for a Primary Care Centre on the northern portion of the same lands in Spiddal [Planning Reference 21/2211]. This development will deliver new public health infrastructure in Spiddal together with a significant upgrade of the public road network in accordance with published local policy objectives. On the one hand, it appears that GCC accept that the lands are centrally located, as evidenced by GCC's decision to grant approval for a Primary Care Centre on the same landholding and yet the Forward Planning unit has erroneously concluded that they should leapfrog the residential portion of the same landholding by leapfrogging the lands and instead rezoning other peripheral lands in Spiddal. Please refer to Appendix 6 for a copy of the GCC Grant of Approval of the Primary Care Centre in Spiddal.

This grant of planning permission demonstrates very clearly, that GCC has clearly ignored live planning

applications when evaluating rezoning proposals. It is also now evident from this disjointed decision making pattern that there may in fact be a serious disconnect between the personnel in the Forward Planning unit within GCC's whose responsibility includes the preparation of the Development Plan and other personnel in the Planning team who process and assess live planning applications. This inconsistent approach and these shortcomings cast a very serious shadow on how GCC has approached rezoning proposals when defining the new Development Plan and this raises a number of significant questions on whether due process has been applied.

### **Concluding remarks**

We note that the Minister wrote to GCC on 16 June 2022 to give notice of your intention to issue a Ministerial Direction under Section 31 of the Planning Act 2000 (as amended). We understand that GCC has accepted that the Development Plan is flawed and GCC has since published a public notice which will be followed by a two week public consultation process to 8 July 2022 where a further round of written submissions can be made by the public. We intend to utilize this public consultation process to highlight the above listed issues in the hope and expectation that the matters detailed in this letter can be resolved through the statutory Development Plan review process.

As you will note from the above, we are involved in a pipeline of commercial, healthcare, tourism and residential projects in County Galway and we have an extensive and detailed knowledge of the Galway County Development plan. We have also incurred significant third party professional costs in preparing various technical reports which have all been submitted to Galway County Council on a wide variety of matters, to support planning applications and to support rezoning applications and to seek clarification of policies within the Development plan, particularly where we have identified conflicts between the development plan and national and regional policy and also where we have identified official and unofficial policies practiced by Galway County Council which conflict with national and regional policy.

The Development Plan should be clear and unambiguous and it should not be our role or obligation to continuously have to challenge GCC when we identify fundamental flaws in the Development plan and/or in GCC's approach to planning matters which conflict with national and regional policy.

Our experience of the planning process in County Galway over the last six years has been a very negative one as a result of flaws in the previous Development plan and inconsistencies in the approach adopted by GCC. However, as the file history will confirm, we are ready, willing and able to step up and challenge flawed decisions or practices if the need arises and we will do so again without hesitation, when we are met with flawed decision making, ambiguity or intransigence, such as that regularly encountered in our engagements with GCC.

We have had to initiate numerous appeals and several Judicial Review processes to prove our case against GCC on multiple projects and the fact that we have been 100% successful on all Appeals and in all Judicial Reviews, overturning flawed decisions taken by GCC, is a statistic that should speak for itself.

The irony is, that having now secured a full grant of planning permission from ABP for developments in Spiddal and at Sruthán Pier after what was a tortuous planning process, GCC's failure to properly reflect ABP's decisions in the new County Development Plan could potentially prejudice the delivery of the same ABP approved developments over the period 2022-2028. This would be a travesty that cannot be contemplated.

The absence of appropriate zonings on the lands in question, to correspond with the ABP decisions already taken, means that even a minor adjustment to the approved grant of planning [for example to address a construction related issue], could potentially restrict us from seeking any amendments to the approved scheme from GCC, as the flawed zoning might technically restrict GCC's ability to consider even the most minor variation of the approved schemes. The purpose of the Development Plan is to provide clear and unambiguous guidance that supports

development over the lifetime of the plan. It is therefore imperative that the Zoning maps within the Development Plan is amended and it is imperative that the Development Plan is now also amended to address the issues that we have highlighted here.

To the extent that the technical issues that we have raised in this correspondence are not resolved through the statutory development plan review process, which we note has now been reopened for public consultation to 8 July 2022, we are advised by our legal team, that we should reserve our right to initiate a Judicial Review of the Development Plan if it is adopted in its current format without the amendments required to resolve these very serious matters.

We hope that this will not be necessary and we trust that the Forward Planning team and Executive team in GCC will accept that mistakes have been made and that the Development Plan has to be amended. GCC should now take the steps required to address the issues raised by the OPR and GCC should now also take the steps required to address the issues that we have raised separately through this correspondence.

We see no good reason why all of these issues cannot be resolved at a local level, now that we have brought these matters to the attention of the GCC Executive and to the attention of the locally elected councilors, DHLGH and the OPR. We trust that these matters will be referred back to the Locally Elected Representatives and to the GCC Executive by the OPR and DHLGH for proper reconsideration prior to the amendment of the Development Plan.

We trust that this letter is informative and we look forward to receipt of feedback from you on these matters in early course.

Is mise le meas.



Ronan Barrett

Director

Castlestar Property Group

cc. OPR

cc. Jim Cullen, GCC - Chief Executive

cc. Michael Owens. GCC - Director of Services – Planning, Sustainable Development & Corporate Services

cc. Valerie Loughnane and Brendan Dunne. GCC - Planning - Forward Planning

cc. All Locally Elected Representatives in County Galway.

**Appendix 1**

**Letter of 3 June 2022 from the OPR to DHLGH**



Oifig an  
Rialaitheora Pleanála  
Office of the  
Planning Regulator

3rd June 2022

Mr. Peter Burke TD  
Minister for Local Government and Planning  
Department of Housing, Local Government and Heritage  
Custom House  
Dublin 1  
D01 W6X0

**BY HAND AND BY EMAIL**

**Re: Notice Pursuant to section 31AM(8) of the Planning and Development Act 2000 (as amended) – Galway County Development Plan 2022-2028**

A chara,

I am writing to you in relation to the recent adoption by the elected members of the Galway County Development Plan 2022 - 2028 (the 'Development Plan').

In particular, I am writing to you in the context of the statutory duty of the Office of the Planning Regulator ('the Office') pursuant to section 31AM(8) of the *Planning and Development Act 2000* (as amended) (the 'Act') to issue a Notice to you on the basis that, having considered the Development Plan, the Office is of the opinion that:

- a) the Development Plan has not been made in a manner consistent with and fails to implement recommendations of the Office, which required specific changes to the Development Plan:
  - i. to ensure consistency with the core strategy of the adopted Development Plan;
  - ii. to ensure consistency with the national policy objectives (NPOs) of *Project Ireland 2040 National Planning Framework* (the NPF) and the regional policy objectives (RPOs) of the *Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy* (the RSES),

specifically that in relation to particular material amendments to the draft development plan adopted by the elected members, the Development Plan does not support compact growth of certain towns and villages;

- iii. having regard to the *Development Plan Guidelines for Planning Authorities* (2007) and the *Development Plans, Guidelines for Planning Authorities – Draft for Consultation* (August, 2021), specifically the Development Plan zones land for development in peripheral locations, leapfrogging unzoned and/ or undeveloped land, and in so doing does not apply the sequential approach to development to support compact growth of certain towns and villages;
- iv. to ensure consistency with the national policy objectives (NPOs) of *Project Ireland 2040 National Planning Framework* (the NPF) and having regard to *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), specifically that in relation to particular material amendments to the draft development plan adopted by the elected members, the Development Plan zones land for development in areas of flood risk;
- v. having regard to the *Spatial Planning and National Roads, Guidelines for Planning Authorities* (2012), specifically that in relation to the material amendment to the draft development plan adopted by the elected members, the Development Plan zones land for development adjacent to the route of the proposed N59 Maigh Cuilinn Bypass Scheme;
- vi. to ensure consistency with section 10(1D) of the Act, specifically that the Development Plan as made includes Policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathrú Rua;
- vii. to ensure consistency with the national policy objectives (NPOs) of *Project Ireland 2040 National Planning Framework* (the NPF) and the regional policy objectives (RPOs) of the *Northern and Western Regional Assembly Regional Spatial and Economic Strategy* (the RSES), specifically in relation to the material amendments to the draft

development plan in respect of sludge management and wastewater infrastructure adopted by the elected members

- b) as a consequence of the above, the Development Plan made by Galway County Council (“the Council”) fails to set out an overall strategy for the proper planning and sustainable development of the area concerned, contrary to the requirements of the Act; and
- c) the use by you of your function to issue a direction under section 31 of the Act would be merited.

The reasons for the Opinion of the Office are set out in further detail in section 2 of this Notice letter. This letter is a Notice to you pursuant to section 31AM(8) of the Act.

## **1. Background**

### **1.1 Draft Galway County Development Plan 2022-2028**

The Draft Galway County Development Plan 2022 – 2028 (the draft Plan) was on public display from 20<sup>th</sup> May 2021 to 30<sup>th</sup> July 2021.

A statement was appended to the draft Development Plan, as required under section 28(1A)(b) of the Act, concerning the implementation of Ministerial Guidelines. The statement did not include any information to demonstrate that the planning authority had formed the opinion that it is not possible to implement certain policies and objectives of the Minister contained in any relevant guidelines, as outlined in further detail below, and did not provide any reasons for not implementing any such policies or objectives. Such information and reasons are required where section 28(1B)(b) applies.

The Office made a submission to the draft Plan containing 17 recommendations and 12 observations on 30<sup>th</sup> July 2021.

In relation to the overall pattern of development proposed by the Council under the core strategy of the draft Plan, the Office was generally satisfied with the plan-led approach to the key development areas within the county, subject to revisions to the

Core Strategy Table 2.9 in accordance with sections 10 (2A) (c ) and (d) and 10 (2C) (b)(ii) of the Act, and having regard to the section 28 Guidelines *Housing Supply Target Methodology for Development Planning (2021)* (Recommendations 1 and 2 of the Office's submission to the draft Plan).

The Office was also generally satisfied that the settlement hierarchy and distribution of growth across the settlements was generally consistent with the national and regional policy framework.

Recommendation 7 (Residential Zoning) of the Office's submission to the draft Plan did, however, raise concerns in relation to a number of specific residential zonings in Oranmore and Oughterard.

Having given consideration to the Chief Executive's report (CE Report) on the draft Plan, the reasons in the notice letter and the reasons given by the elected members, the Office accepts the clear and evidence based rationale for making the Plan with these zoning objectives.

In relation to employment and enterprise type policies and zoning objectives (including industry and related uses) the Office was generally satisfied that the draft Plan provided a strategic approach to the development of employment and enterprise development in the county focused on strategic employment locations.

Recommendation 11 (Land zoned for employment uses) of the Office's submission to the draft Plan did, however, raise concerns in relation to two specific residential zonings, (a) lands zoned Business and Enterprise to the south of Headford and (b) lands zoned Tourism to the northeast of Oughterard, which were considered contrary to the objectives for compact growth and sequential approach to development under the section 28 guidelines *Development Plan Guidelines for Planning Authorities (2007)*.

**Recommendation 11 Land zoned for employment uses** states:

*Having regard to the National Strategic Outcome for Compact Growth, the principles of sequential approach to zoning (section 28 Development Plan Guidelines, paragraph 4.19) the planning authority is required to remove the following land use zonings:*

- (i) Business and Enterprise lands zoned to the south of Headford, on the eastern side of the N84 road to Galway; and*
- (ii) Tourism lands to the Northeast of Oughterard, accessed from the Pier Road.*

In relation to the lands zoned Tourism to the northeast of Oughterard, the Office accepts the reasons given by the elected members for making the plan with this zoning objective.

In relation to the lands zoned Business and Enterprise to the south of Headford, the submission of the Office to the material alterations noted the decision of the elected members not to accept the recommendation of the chief executive to remove the zoning in accordance with Recommendation 11. This issue is addressed in detail below in conjunction with other matters relevant to Headford (section 1.4.2 of this notice letter).

In relation to the settlement of An Cheathrú Rua, the Office's submission to the draft Plan noted the lack of a wastewater treatment facility for the village and that untreated waste is currently discharged to the sea. The submission further pointed out that the draft Plan's core strategy allocated a further 60 dwellings for the village, which would further add to the loading and exacerbate the negative impacts on the environment contrary to section 10(1D) of the Act which requires that the development objectives in the development plan are consistent with the conservation and protection of the environment.

The Office's submission letter notes that Irish Water have advanced plans to develop a waste water treatment plant for An Cheathrú Rua to address this situation and facilitate the growth of the village.

In this context, the Office considered that the inclusion of Policy WW9 to require a minimum 100m setback for all new wastewater treatment plants in An Cheathrú Rua without policy or environmental justification may prejudice the delivery of this key infrastructure and should be removed.

Policy Objective WW9 Municipal Wastewater Treatment Plants in An Cheathrú Rua states:

*There shall of be a minimum 100m setback for all new wastewater treatment plants in An Cheathrú Rua.*

**Recommendation 16 (Cheathrú Rua WWTP) states:**

*Having regard to Section 10(1D) and Section 12(11) of the Planning Act, the planning authority is required to remove policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathrú Rua*

The submission of the Office to the material alterations noted the decision of the elected members not accept the recommendation of the chief executive to remove Policy WW9. This issue is addressed in detail at section 1.6 of this notice letter.

## **1.2 Material Alterations to the Draft Galway County Development Plan 2022-2028**

The elected members, having considered the draft Plan and the CE Report on submissions (dated October 2021), resolved to amend the draft Galway County Development Plan 2022 - 2028 on 13<sup>th</sup> January 2022.

The material alterations to the draft Plan were on public display from 3<sup>rd</sup> February 2022 to 4<sup>th</sup> March 2022.

The material alterations included a number of changes including:

- A series of individual material amendments to the following land use zoning objectives:
  - Residential (Phase 1/ Existing/Infill)
  - Residential (Phase 2)
  - Lands zoned for Employment Uses including Tourism
- An amendment to change the zoning objective of the lands identified as the preferred site to provide a wastewater treatment plant for An Cheathrú Rua from 'rural countryside' to 'open recreation and amenity area'.

- Amendments to Policy Objectives WW1 and WW2 which identify Ballinasloe and Tuam as being unsuitable locations for a regional waste management facility and/or sludge hub centre.

The Office made a submission on 4<sup>th</sup> March 2022 to the material alterations to the draft Plan containing ten (10) recommendations. The Office's submission stated:

*There are, however, a number of areas where the Office is of the view that the amendments are not consistent with national or regional policies, the key principles of Core Strategy of the draft Plan itself, the SFRA or the plan's environmental reports prepared under the European Directives on Strategic Environmental Assessment (SEA) and Habitats. These instances have been clearly identified in the submission below and the reasons and considerations of the Office in reaching this conclusion have been set out.*

The Office's submission further stated:

*Finally, some further careful consideration needs to be given to the potential of the Plan to affect the delivery of objectives in the National Wastewater Sludge Management Plan (NWSMP) and the provision of key public infrastructure (An Cheathrú Rua WWTP) in accordance with the statutory requirement that objectives in the development plan are consistent with the conservation and protection of the environment and make adequate provision for wastewater infrastructure.*

The letter also noted the decision of the planning authority not to comply, in particular, with Recommendation 11 of the Office's submission on the draft Plan concerning the employment zoning at Headford, and Recommendation 16 concerning the omission of policy objective WW9 and its reference to a separation distance of 100 metres for all new wastewater treatment plants in An Cheathrú Rua.

The Office recommendations at Material Alterations stage included:

- MA Recommendation 2 – Residential zoning (Phase 1/Existing/Infill):  
Additional Residential Zoning in Baile Chláir, Bearna, Oranmore, Oughterard, An Cheathrú Rua, An Spidéal and Woodlawn;

- MA Recommendation 3 – Residential (Phase 2): Additional Residential Zoning in Baile an Chláir, Oranmore, Clifden, Headford, Oughterard, An Cheathrú Rua and Kinvarra;
- MA Recommendation 7 – Employment Zoned Land: Additional Employment Zoned Land in Oughterard, Glennascaul, Portumna, Maigh Cuillinn and lands north of Galway Airport site;
- MA Recommendation 8 – Flood Risk Management: Additional zoned lands that are identified as being within a flood zone at Baile Chláir, Bearna, Oranmore, Headford and Portumna;
- MA Recommendation 9 – Additional lands zoned as open recreation An Cheathrú Rua; and
- MA Recommendation 10 – Wastewater Management Infrastructure policy amendments.

The elected members of Galway County Council resolved to make the Galway County Development Plan 2022 – 2028 at a council meeting on 9<sup>th</sup> May 2022.

Subsequently, the chief executive sent a notice letter under section 31(AM)(6) of the Act dated 16<sup>th</sup> May 2022 to the Office advising of the making of the Development Plan and specifying the recommendations of the Office not complied with.

The section 31AM (6) notice letter stated that all ten recommendations of the Office had not been complied with, either in full or in part.

Having reviewed the CE's reports on the draft Plan and material alterations to the draft Plan, the notice of the making of the Development Plan and the reasons in the notice letter, the Office has concluded that, with the exception of the below, the recommendations of the Office have been responded to in the reports and/or section 31AM (6) notice letter and have been addressed to the satisfaction of the Office, or are otherwise considered satisfactory within the legislative and policy context.

In relation to the rural housing policy (MA Recommendations 5 and 6) the Office notes the reasons given by the elected members for not accepting the recommendation of the chief executive to revert to the draft Plan or the recommendations of the Office. Having regard to the current policy framework,

however, on balance, the Office does not consider that there are sufficient grounds to make a recommendation to the Minister to issue a draft Direction in respect of this matter.

### **Residential land use zoning objectives**

The draft Plan applied a phased approach to residential zoning, with significant areas of Residential (Phase 2) lands. Objectives GCMA 1, SGT 1 and SV 1 provide that these lands are generally not developable for housing within the lifetime of the Plan except under certain conditions, which are more onerous in settlements located outside of the designated Galway metropolitan area (MASP). This approach provided for a reasonable level of flexibility, subject to appropriate safeguards, and was considered generally acceptable to the Office.

However, an extensive number of material amendments were introduced which increased the area zoned Residential (Phase 2) by in excess of 50ha, contrary to the recommendations of the SEA in most cases. Furthermore, all but c.3ha is located in settlements outside of the Galway MASP.

MA Recommendation 2 and MA Recommendation 3 of the Office's submission on the material alterations to the draft Plan required the planning authority to make the plan without several material amendments introducing additional land use zoning objectives for residential (existing/infill and phase 1) and residential reserve (phase 2).

### **MA Recommendation 2- Residential zoning (Phase 1/ Existing/Infill) stated:**

*Having regard to national and regional policy objectives NPO 3c, RPO 3.2 and NPO 18a, the Development Plans, Guidelines for Planning Authorities (2007) and Development Plans, Guidelines for Planning Authorities, Draft for Consultation (August 2021), and section 10(2)(n) of the Planning and Development Act 2000, as amended, the Office considers that the following residential zonings proposed under the material amendments are inconsistent with the Core Strategy and/or contrary to the implementation of compact growth, sequential zoning and the provision of a sustainable settlement and transport strategy. The planning authority is therefore required to make the*

*Plan without the following material amendments to Volume 1 and 2 of the material alterations:*

- *MASP LUZ Baile Chláir 1.2, 1.5 and 1.6*
- *MASP LUZ Bearna 2.2*
- *MASP LUZ Oranmore 3.14*
- *SGT LUZ Oughterard 9.4*
- *SGV LUZ An Cheathrú Rua 11.1a*
- *SGV LUZ An Spidéal 12.2*
- *RSA LUZ Woodlawn 20.1*

**MA Recommendation 3 - Residential (Phase 2)** stated:

*Having regard to national and regional policy objectives NPO 3c, RPO 3.2 and NPO 18a 2, the Development Plans, Guidelines for Planning Authorities (2007) and Development Plans, Guidelines for Planning Authorities, Draft for Consultation (August 2021), and section 10(2)(n) of the Planning and Development Act 2000, as amended, the planning authority is required to make the plan without the following R Residential (Phase 2) proposed in Volume 2 of the material alterations:*

- *MASP LUZ Baile an Chláir 1.4a*
- *MASP LUZ Oranmore 3.1 and 3.5*
- *SGT LUZ Clifden 6.1, 6.2, 6.4a, 6.4b, and 6.5*
- *SGT LUZ Headford 7.2, 7.3, 7.4, 7.7, 7.8, 7.10*
- *SGT LUZ Oughterard 9.5, 9.6a, 9.6b, 9.8 and 9.9*
- *SGV LUZ An Cheathrú Rua 11.1b (and associated open space 11.2), and*
- *SGV LUZ Kinvarra (Cinn Mhara) 15.1.*

**Flood Risk Management**

A number of these sites were also identified in MA Recommendation 8 (Flood Risk Management) given that the making of the Plan with these proposed amendments

would be contrary to the provisions of the *Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) and NPO 57.

**MA Recommendation 8 - Flood Risk Management** stated:

*Having regard to NPO57 and to the provisions of The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) the planning authority is required to make the Plan without the following material amendments in Volume 2 Material Alterations:*

- *MASP LUZ Baile Chláir nos.1.2*
- *MASP LUZ Bearna nos.2.1b and 2.4*
- *MASP LUZ Oranmore no.3.5*
- *SGT LUZ Headford nos.7.4 and 7.10*
- *SGT LUZ Portumna nos.10.2 and 10.4*

The CE's recommendation was to accept the recommendations of the Office and to make the Plan without the zoning amendments listed in MA Recommendation 2 and MA Recommendation 3.

The elected members voted to make the Plan in accordance with the recommendation of the chief executive and the Office for the following zoning amendments listed:

- Recommendation 2 – MASP LUZ Oranmore 3.14
- Recommendation 7 – RSA LUZ Glennascaul 18.1
- Recommendation 8 – MASP LUZ Bearna no 2.4, SGT LUZ Portumna 10.4 and MASP LUZ Baile Chláir 1.3

The elected members voted to amend the zoning objective to exclude lands within flood zones A and B for the following zoning amendments listed:

- Recommendation 8 – Baile Chláir1.2, Headford 7.4 and 7.10

The elected members voted to make the Plan contrary to the recommendation of the chief executive and the Office in respect of the remaining zoning amendments. The section 31AM(6) notice detailed the reasons given by the elected members.

The Office has assessed each of the zoning amendments and considered the reasons provided by the elected members for rejecting the CE’s recommendation in each case.

In respect of the following zoning amendments the Office **accepts** the reasons provided by the elected members in support of the zoning amendments and considers that these changes would not unduly impact on the overall core strategy, or the compact and sequential growth of the aforementioned settlements:

MA Recommendation 2	MA Recommendation 3	MA Recommendation 8
MASP LUZ Baile Chlair 1.2, 1.5, 1.6 MASP LUZ Bearna 2.2 SGV LUZ An Spidéal 12.2	MASP LUZ Baile Chlair 1.4a MASP LUZ Oranmore 3.1 SGT LUZ Clifden 6.2 & 6.4a SGT LUZ Oughterard 9.5, 9.6a, 9.6b, 9.8, 9.9 SGT LUZ Headford 7.3 SGV LUZ Kinvara 15.1 SGV LUZ An Cheathrú Rua 11.2	SGT LUZ Portumna 10.2

In relation to MASP LUZ Bearna 2.1b it is noted that this small area of land is located contiguous to the town centre and has the potential to demonstrate compliance with *The Planning System and Flood Risk Management Guidelines 2009*. Furthermore, the Office considers that Policy Objectives FL1, FL2 and FL8 of the adopted Plan, which require development proposals in areas which are at potential risk of flooding to carry out a Flood Risk Assessment, and the Justification Test where appropriate, will provide a robust policy approach for any proposals for development of these lands. As such, MASP LUZ Bearna 2.1b is considered acceptable and no further action is required.

However, the Office considers that the reasons provided by the elected members in respect of the following zoning amendments do not satisfactorily address MA Recommendations 2 and 3, which identified inconsistencies with NPO 3c and RPO 3.2 (compact growth) and NPO 18a (proportionate growth of rural towns).

<b>MA Recommendation 2</b>	<b>MA Recommendation 3</b>	<b>MA Recommendation 8</b>
SGT LUZ An Cheathrú Rua 11.1a RSA LUZ Woodlawn 20.1 SGT LUZ Oughterard 9.4	MASP LUZ Oranmore 3.5 SGT LUZ Clifden 6.1, 6.4b & 6.5 SGT LUZ Headford 7.2, 7.4, 7.7, 7.8, 7.10 SGV LUZ An Cheathrú Rua 11.1b	MASP LUZ Oranmore 3.5

Further consideration of these zoning amendments, and the reasons provided by the elected members, is addressed in a grouped format under the relevant settlement below.

### **1.3 SEA Environmental Report for Relevant Proposed Material Alterations to the Draft Galway County Development Plan 2022 – 2028.**

With the exception of zoning amendments SGT LUZ Clifden 6.1 and SGT LUZ Headford 7.7 the consideration of the above referenced zoning objectives in the SEA Environmental Report for proposed material alterations to the draft Plan (section 8.8, February 2022) states:

*These alterations would not be consistent with established population targets and/or the proper planning and sustainable development of the County. As a result they would present additional, unnecessary and potentially significant adverse effects on various environmental components, including soil, water, biodiversity, air and climatic factors and material assets.*

*For alterations relating to zoning, much of the zoning proposed is considered to be premature in the context of current population targets. Potentially significant adverse unnecessary effects, would be likely to include:*

- *Effects on non-designated habitats and species*
- *Loss of an extent of soil function arising from the replacement of semi-natural land covers with artificial surfaces*
- *Increased loadings on water bodies*
- *Conflict with efforts to maximise sustainable compact growth and sustainable mobility*

- *Occurrence of adverse visual impacts*

*Where such alterations are further from the centre of settlements, potentially significant unnecessary adverse effects would be likely to include:*

- *Difficulty in providing adequate and appropriate waste water treatment as a result of zoning*
- *outside of established built development envelopes of settlements*
- *Adverse impacts upon the economic viability of providing for public assets and infrastructure*
- *Adverse impacts upon carbon emission reduction targets in line with local, national and European environmental objectives*
- *Conflicts between transport emissions, including those from cars, and air quality*
- *Conflicts between increased frequency of noise emissions and protection of sensitive receptors*
- *Potential effects on human health as a result of potential interactions with environmental vectors.*

The SEA Environmental Report recommends that the Plan is made without these zoning objectives.

In addition, in relation to SGT LUZ Oughterard 9.4 it states:

*Proposed Material Alteration No. Volume 2 - 9.4 relates to land use zoning and an access road to these lands intersects the Lough Corrib SAC and has the potential, if unmitigated, to impact upon the integrity of the SAC.*

## **1.4 Residential Zoning Objectives - Settlements**

### **1.4.1 Clifden**

Under Table 2.9 Core Strategy Table (updated by MA Ref 2.12), the housing land requirement necessary to accommodate the town's housing supply target (271 units) over the plan period is identified as 11.8 ha. The draft Plan provided for 18.5 ha of Residential Phase 1 lands and 21ha of Residential Phase 2 lands. Land zoned primarily for residential use, therefore, exceeds the core strategy requirement.

Six (6) zoning amendments were proposed at material alterations stage which increase the extent of Residential zoned lands (Phase 1 and 2) by 14ha.

While the Office accepts that zoning amendments 6.2, 6.3 and 6.4a are reasonable having regard to their location, scale and characteristics, zoning amendments 6.1, 6.4b and 6.5 are not sequential to the built up footprint of the town, and in particular 6.4b and 6.5 seek to extend the town boundary north in an uncoordinated and piecemeal manner.

SGT LUZ 6.1 amended the zoning of the draft Plan from Agriculture to Residential Phase 2. The site is located to the south of the town centre to the east of the R341. The land parcel extends to 1.45 hectares.

This zoning amendment leapfrogs beyond lands zoned Agriculture (in the development plan, as made) to a peripheral and non-sequential location beyond the CSO boundary.

The elected members rejected the CE's Recommendation to remove this amendment for the following reasons:

*It is expected that most of the Phase 1 lands in Clifden will be developed or not available for development in the lifetime of the Plan. It is therefore important to have Phase 2 lands available for development to ensure that adequate housing is available for people to live in.*

SGT LUZ 6.4b and 6.5 amends the zoning from unzoned land to Residential Phase 2, and to extend the settlement boundary to include the subject land beyond the CSO boundary. Both land parcels are adjacent to each other, and are located outside of the settlement boundary as per the draft Plan and the CSO boundary. The combined area of these land parcels is 9.4 hectares.

The elected members rejected the CE Recommendation to remove material amendment 6.1 following reason:

- *It is expected that most of the Phase 1 lands in Clifden will be developed or not available for development in the lifetime of the Plan. It is therefore important to have R2 lands available for development for development to ensure that there is adequate housing available to meet local demand.*

The elected members rejected the CE Recommendation to remove material amendment 6.4b for the following reasons:

- *The Clifden Local Area Plan 2018 – 2024 adopted in November 2018 and there was an expectation that the plan would be in place for a period of 5 years. As the Clifden LAP now forms part of the CDP it was necessary to ensure that the lands zoned in 2018 remained in place.*

The elected members rejected the CE Recommendation to remove material amendment for 6.5 for the following reasons:

- *They were removed from the current CDP unknown to the landowner*
- *There is a shortage of this type of land in Clifden*
- *There is no flooding designation issues here.*

In relation to the reason given that the zoned land is required to ensure that adequate housing is available to meet demand, the Office notes that the draft Plan provided sufficient land to meet anticipated development requirements in a sequential and coordinated manner. There is, therefore, no evidence based rationale to support the requirement for the subject zoning objective to ensure that adequate housing is available.

In relation to the reason given in respect of SGT LUZ 6.4b and 6.5 that the land was zoned in the *Clifden Local Area Plan 2018 – 2024*, sections 10(8) and 19(6) of the Act provides that there is no presumption in law that any land zoned in a particular development plan or local area plan shall remain so zoned in any subsequent plan.

The reasons given do not, therefore, address the substantive issue in the recommendation that the Plan be made without zoning amendments SGT LUZ Clifden 6.1, 6.4b and 6.5 due to the peripheral location of the land and inconsistency with NPO 3c and RPO 3.2, compact growth and the sequential approach to development, and with the core strategy of the adopted plan.

The SEA Environmental Report recommends that the Plan is made without these zoning objectives SGT LUZ 6.4b and SGT LUZ 6.5.

### **1.4.2 Headford**

Under Table 2.9 Core Strategy Table of the draft Plan (and updated by MA Ref 2.12) the housing land requirement necessary to accommodate the town's housing target (167 units) over the plan period is identified as 7.3 ha.

The draft Plan provides for 7.3 hectares of Residential Phase 1 lands and 13 ha as Residential Phase 2. The material amendments to the draft Plan increased the extent of Residential Phase 2 lands to 27.8 ha. Land zoned primarily for residential use, therefore, exceeds the core strategy requirement.

Six (6) zoning amendments were proposed at material alterations stage which increase the extent of Residential Phase 2 lands from 13 ha to 27.8ha.

While the Office accepts that zoning amendment 7.3 is reasonable having regard to its limited scale and location relative to zoned and developed land, the remaining five (5) zoning amendments are not sequential to the built up footprint of the town, and extend the town boundary to both the southeast and south in an uncoordinated and piecemeal manner. With the exception of SGT LUZ 7.8, the land is also located outside of the CSO boundary.

SGT LUZ 7.2 and 7.7 amended the zoning in the draft Plan from Open Space / Recreation and Amenity to Residential Phase 2.

SGT LUZ 7.4, 7.8 and 7.10 amended the zoning in the draft Plan from unzoned to Residential Phase 2.

SGT LUZ 7.4 and 7.10 are located in an area where the 80kph speed limit applies along the N84 national road and are reliant on direct access to the national road. Furthermore, there are no public footpaths or public lighting provided to these lands.

SGT LUZ 7.2, 7.8 and 7.7 adjoin a small development (Deer Park Woods) which is accessed via single width carriageway that has no footpaths or public lighting along large stretches of the public road in an area where the 80kmph speed limit applies.

The Elected Members rejected the CE's Recommendation to remove these amendments for the following reasons:

- *Cannot accept CER as there is a housing crises in Headford and surrounding area so must plan for future housing need in the area*

In relation to the reason given, the Office notes that the draft Plan provided sufficient land to meet anticipated development requirements in a sequential and coordinated manner. Additional land zoned at material alteration stage further increased the land available for Phase 2 lands. There is, therefore, no evidence based rationale to support the requirement for the subject zoning objective to ensure that adequate housing is available.

The reasons given do not, therefore, address the substantive issue in the recommendation that the Plan be made without zoning amendments SGT LUZ Headford 7.2, 7.4, 7.7, 7.8, and 7.10 due to the peripheral location of the land and inconsistency with compact growth and the sequential approach to development, and with the core strategy of the adopted plan.

With the exception of Headford 7.7, the SEA Environmental report recommends that the Plan is made without these zoning objectives.

In relation to the Business and Enterprise zoning to the south of the existing settlement boundary, the subject of Recommendation 11 of the Office's submission to the draft Plan, the SEA Environmental Report states:

*There is no established planning justification for this Amendment. The addition Business and Enterprise to the south of the existing development envelope would be likely to hinder the achievement of objectives relating to compact sustainable development. The additional zoning would present additional, unnecessary and potentially significant adverse effects on various environmental components.*

The elected members rejected the CE Recommendation to remove the zoning for following reasons:

- *Headford lacks zoning for enterprise despite demand being present for start-up businesses, industry, manufacturing, service industry;*
- *Currently a list of ten candidates seeking warehouses to rent for business development in this area;*
- *This would have a positive impact in terms of employment;*

- *An enterprise zone would be positive step for sustainability of Headford; and*
- *Landowners have large business across the road and have a history of delivering.*

There is 4.2 ha of undeveloped lands zoned in the draft Plan for Business and Enterprise, all of which are located closer proximity to the town centre. The reasons given do not, however, address the substantive issue in the recommendation regarding compact growth and the sequential approach to zoning.

Both on its own and taken together with the Residential Phase 2 lands immediately to the north (Headford 7.4 and 7.10) the extension of the settlement boundary beyond the CSO boundary and outside of the 60 kph speed limit on the N84 national road, and zoning of this land for Business and Enterprise without an evidence based rationale, is not consistent with compact growth and the sequential approach to development.

### **1.4.3 An Cheathrú Rua**

An Cheathrú Rua, with a population of 718 (2016), does not have an existing wastewater treatment plant. Effluent from the network discharges untreated to a sea outfall at Sruffaun Pier at Casla Bay (also known as Costello Bay).

Under Table 2.9 Core Strategy of the draft Plan (and updated by MA Ref 2.12) the housing supply target provides for an additional 86 units, and identifies a housing land requirement of 5.5 ha.

The draft Plan provides for 5.5 hectares of Residential Phase 1 lands and 18 ha/ as Residential Phase 2. The material amendments to the draft Plan increased the extent of Residential Phase 2 lands to 35 ha. Land zoned primarily for residential use, therefore, exceeds the core strategy requirement.

SGV LUZ 11.1a amended the zoning in the draft Plan from unzoned to Residential Existing, and extends the settlement boundary to include the rezoned land. This amendment includes a number of land parcels (16 in total), all of which are dispersed from the settlement and piecemeal in nature.

The Office acknowledges that the majority of the lands are already developed and as such, there is extremely limited potential for further development of residential units on these land parcels. Notwithstanding, the manner in which these lands, which are effectively ribbon development of one off houses which are not part of the built up footprint of the village settlement is unsustainable and adverse to the national and regional policy objectives to deliver on compact growth.

SGV LUZ 11.1b amended the zoning in the draft Plan from unzoned to Residential Phase 2. This amendment includes a number of land parcels which combined extend to 17.2ha, more than 3 times the housing land requirement in the core strategy.

The elected members rejected the CE's Recommendation to remove this amendment for the following reasons:

- *Lands were previously zoned in 2015-2021 plan; Simply asking town boundary is retained as per previous plan.*
- *When government policy is to encourage people to live in towns and villages it is contradictory to reduce the town boundary of the largest Gaeltacht village in Connemara.*
- *Reducing the village boundary could potentially impact the village gaining Gaeltacht service town status where a population of 1000 people is required.*
- *Udaras na Gaeltachta have provided significant funding to develop the village as a Gaeltacht service town.*
- *Development of Gaeltacht hubs has increased number of businesses and workers operating and looking to settle in the village.*
- *Village has all the key services – garda station, fire station, ambulance, schools, shops, nursing home, library, area office and motor tax office for GCC.*
- *Believe projected census and growth of the village is incorrect and significant growth will happen and has already taken place in the village and additional land required to cater for this increase in population and demand.*
- *Village is vibrant and growing with significant potential for growth and development.*
- *ABP recent approval for a heritage centre further highlight potential and growth of the village.*

- *No rationale for reducing the town boundary and condensing same which is a retrograde step and stifle the potential development and growth of the village.*

While the Office fully acknowledges and supports the importance of facilitating An Cheathrú Rua to grow in a sustainable manner, particularly given its role as a Gaeltacht service town, there is more than 7 times the amount of land zoned for development than needed to meet the housing supply target in the planning authority's own core strategy.

Further, there are three designated opportunity sites (combined area of circa 4 hectares) zoned as 'village centre' identified in the draft Plan to '*provide for a mix of uses accommodating village centre/residential*'. These sites have the potential to provide significant opportunities to support the vitality and vibrancy of An Cheathrú Rua and to ensure that the village expands in a sustainable manner in the context of the serious constraints currently experienced in the settlement due to the absence of a waste water treatment plant.

As such, there is no evidence basis for the need to zone the subject lands to meet anticipated development requirements.

The extent of lands zoned must also be considered in the context of the lack of wastewater treatment to serve future development over the plan period in advance of the provision of the planned new waste water treatment plant. This matter is addressed further at section 1.6 of this letter in respect of the An Cheathrú Rua WWTP.

In relation to the reason given that the land was zoned in the An Cheathrú Rua Local Area Plan 2015 - 2021, sections 10(8) and 19(6) of the Act provides that there is no presumption in law that any land zoned in a particular development plan or local area plan shall remain so zoned in any subsequent plan.

The reasons given do not, therefore, address the substantive issue in the recommendation that the Plan be made without zoning amendments An Cheathrú Rua 11.1a and 11.1b due to inconsistency with the core strategy of the adopted plan and the peripheral location of the land.

The SEA Environmental Report recommends that the Plan is made without these zoning objectives.

#### **1.4.4 Oranmore**

MASP LUZ Oranmore 3.5 amended the settlement boundary to include this land parcel and to zone this land as 'Residential Phase 2'. The land parcel extends to 0.48hectares.

The elected members rejected the CE's Recommendation to remove this amendment for the following reasons:

- *The R2 zoning reflects the previous 2006 – 2012 CDP residential zoning as this site has previously (2020) satisfied the 2009 OPW Justification Test for the Planning Section, as the proposed Finished Floor Level of 5m OD is almost 1m above 1:1,000 extreme flood level of 4.06m and will be 1.3m above the recently realigned regional road adjoining the site.*

In relation to the previous zoning objective, the Office notes that these lands are zoned as 'Environmental Management' in the Oranmore Local Area Plan 2012 – 2022, the most recent Local Area Plan for the settlement. Notwithstanding, sections 10(8) and 19(6) of the Act provides that there is no presumption in law that any land zoned in a particular development plan or local area plan shall remain so zoned in any subsequent plan.

In relation to flood risk, the Office notes the reason given by elected members that "*the previous 2006 – 2012 CDP residential zoning as this site has previously (2020) satisfied the 2009 OPW Justification Test for the Planning Section*". However, the Plan Making Justification Test for this land parcel has not been carried out for the adopted Plan and the *Updates to the Strategic Flood Risk Assessment for the Draft Galway County Development Plan 2022 – 2028 (February 2022)* prepared by the planning authority for the proposed material alterations recommends that this zoning amendment not be adopted as it "*would potentially conflict proper flood risk management and not comply with the Flood Risk Management Guidelines*".

*The Planning System and Flood Risk Management - Guidelines for Planning Authorities (2009)* are aimed at ensuring a more consistent, rigorous and systematic

approach to flood risk identification, assessment and management within the planning system. In summary these guidelines provide that:

- development in areas at risk of flooding should be avoided unless there are wider sustainability grounds that justify appropriate development and where the risk to development on site and to other areas can be reduced or managed to an acceptable level;
- a sequential approach must be adopted to flood risk management when assessing the location of new development based on avoidance, reduction and mitigation of flood risk; and
- that where a planning authority is considering (in the plan) the future development (for vulnerable development) of areas at a high or moderate risk of flooding, that would generally be inappropriate under the sequential approach (section 3.2), the planning authority must be satisfied that it can clearly demonstrate on a solid evidence base that the zoning or designation for development will satisfy the Justification Test for the plan making stage (Box 4.1).

These statutory guidelines provide a sound basis for planning authorities to identify, assess and take appropriate steps to manage flood risk in a sustainable manner within their area.

The making of the Plan with the proposed amendment would, therefore, be contrary to NPO 57 of the NPF and the provisions of *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)* to avoid development in areas at risk of flooding. In respect of the guidelines, no or no adequate reasons have been provided to explain why the said guidelines have not been followed.

Furthermore, the site is also within the Galway Bay Complex Special Area of Conservation (SAC). The SEA Environmental report of the Material Alterations to the draft Plan states that “*Proposed Material Alteration No. Volume 2 - 3.5 relate to land use zoning and intersect the Galway Bay Complex SAC and have the potential, if unmitigated, to impact upon the integrity of the SAC*” and “*would present additional, unnecessary and potentially significant adverse effects on various environmental components, including soil, water, biodiversity, air and climatic factors and material assets.*”

Having considered the reasons given by the elected members, the Office remains of the view that the zoning amendment MASP LUZ Oranmore 3.5 comprises inappropriate zoning for development where the land is identified as Flood Zone B in the SFRA.

The SEA Environmental Report recommends that the Plan is made without this zoning objective.

#### **1.4.5 Oughterard**

SGT LUZ Oughterard 9.4 amends the zoning from unzoned land to Residential Infill, and to extend the settlement boundary to include the subject land.

This zoning amendment leapfrogs beyond unzoned land (in the development plan, as made) to a peripheral and non-sequential location, and seeks to extend the town boundary north in an uncoordinated and piecemeal manner.

The elected members rejected the CE's Recommendation to remove this amendment for the following reasons:

- *this is a unique and exceptional case*
- *the land is in a built up residential area and the proposed zoning is in keeping with the area.*

The location of the lands beyond the built up area of the town including the need to extend the settlement boundary to include the local road out of the town to link the site to the settlement boundary, means, however, that the lands are not 'infill' within the settlement context.

The reasons given do not, therefore, address the substantive issue in the recommendation that the Plan be made without zoning amendments Oughterard 9.4 due to the peripheral location of the land and inconsistency with the sequential approach to development.

The SEA Environmental Report recommends that the Plan is made without this zoning objective.

#### 1.4.6 Woodlawn

RSA LUZ Woodlawn 20.1 amended the zoning from unzoned to Residential Phase 1. The land parcel extends to 18.3ha.

The land is undeveloped green field land located outside of any CSO settlement boundary. The closest designated settlements are Ballinasloe, some 15 km to the east and Athenry 18km to the west.

There is a farmhouse and farm buildings located on a part of the land and the R359 runs along the boundary. Although the lands are circa 500metres south of Woodlawn train station this is essentially a rural area with a pattern of dispersed one off rural dwellings in a linear pattern along the regional road. A rural national school (Woodlawn NS) and a church lie further along the regional road to the south. There is, however, no footpath along any part of the regional road.

Furthermore, the lands are unserviced and lack the basic economic, physical and social infrastructure to support the development of these lands in a manner consistent with the proper planning and sustainable development of the area.

The elected members rejected the CE's Recommendation to remove this amendment for the reasons which are summarised as follows:

- *The proposed development is adjacent to Dublin Galway Mainline Rail, will represent compact growth and tick boxes against climate change.*
- *Water capacity is available from New Inns GWS which is part of Bundle No 1 and this scheme has the same status and is equivalent in its Quality standards as any public supply from Irish Water.*
- *The site will be serviced via a group water supply and an integrated constructed wetland (reference is made to a similar one permitted in Lixnaw, Co Kerry).*
- *In zoning land beside the train station the members are carrying out their role to 'make a development plan that must have regard to Government policies and objectives.*
- *Development is about implementation of sustainable transport strategy – what applies to Ballinasloe also applies to Woodlawn and can be clearly seen by the revised rural typologies map*

- *Woodland is strategically located on its mainline train network and commuter times compare with that from Cobh, Malahide and Dundrum to their respective cities with added advantage for Woodlawn that everyone gets a seat.*
- *Not proper or sustainable to fail to make greater use of Woodlawn's great train service*
- *Outlines a number of points as to why the OPR is clearly in conflict with PFG and government policy takes precedence*
- *A second document is attached with the reasons of the Elected Members which sets out the factual position in relation to rezoning of lands at Woodlawn specifically in the areas of;*
  - I. Water supply - Contrary to Irish Water submission the factual position is that water can be supplied by New Inn Group Water Supply*
  - II. Village status – GCC minutes of 10<sup>th</sup> December 2021 shows the councillors decision to restore Woodlawn to village status*
  - III. Government Policy – development at Woodlawn is clearly in line with Programme for Government.*
- *A third document is attached with is titled 'Submission to Galway County Draft Development Plan 2022 – 2028' as submitted to Galway County Council on 23rd July 2021. This submission raises points as per those detailed above and references sections of the draft Plan for which development at the site would be in compliance with the spirit and provisions of the Plan.*

The Office acknowledges that Woodlawn is one of 100 villages listed within Level 7 of the Core Strategy (Table 2.9) and the Settlement Hierarchy (Section 2.4.3) of the Plan, as adopted, wherein it describes this level as '*Rural villages and the wider rural region*'.

Volume 2 of the Plan provides the specific policy context for the Level 7 Small Villages and states that development shall be considered on the basis of its connectivity, capacity and compliance with the Core Strategy and Settlement Hierarchy (SS7), and also to encourage sustainable balanced development in an

incremental manner with the emphasis on small scale development in keeping with the character of the settlement (RC1).

As such, the policy approach for the Level 7 villages, including Woodlawn, is to develop them in a manner that is balanced and supports the rural population in a sustainable manner. The inclusion of 18 hectares of lands for Residential Phase 1 in the rural area has the potential to create a policy conflict within the Plan and the overarching policy objectives of the Core Strategy to achieve compact growth through the delivery of new homes in urban areas within the existing footprint of settlements (CS2) and to support the sustainable development of all settlements in a planned manner with economic, physical and social infrastructure (CS3).

Furthermore, there are no defined village boundaries in the adopted Plan for the Level 7 Villages and it is therefore unclear what lands are actually included within Woodlawn village. The train station, the national school and the church are all located in different locations along a 1.5km stretch of the R359 road.

In relation to the unserviced nature of the site and the proposal for an integrated constructed wetland, Irish Water have confirmed that the Lixnaw scheme is an Irish Water led project and was developed as a site solution model for settlements listed in the development plan as ones which have a deficiency. Irish Water have no such plans in place to develop this type of scheme for Woodlawn.

The reasons given do not, therefore, address the substantive issue in the recommendation that the Plan be made without zoning amendment Woodland 20.1 due to the peripheral location of the land, isolated from any serviced settlement, and inconsistency with compact growth and the sequential approach to development, and with the core strategy of the adopted plan.

The SEA Environmental Report recommends that the Plan is made without this zoning objectives.

## **1.5 Employment Land Use Zoning Objectives**

MA Recommendation 7 of the Office's submission on the material alteration to the draft Plan required the planning authority to make the plan without several material amendments relating to lands zoned for employment uses.

**MA Recommendation 7 - Employment Zoned Land** states:

*Having regard to the requirement to implement objectives for sustainable settlement and transport strategies under section 10(2)(n) of the Act, and to the requirements of the Retail Planning Guidelines for Planning Authorities (2012) and the Spatial Planning and National Roads Guidelines for Planning Authorities (2012), including the implementation of an evidence-based approach, the planning authority is required to make the Plan without the following proposed amendments in Volume 2:*

- *SGT LUZ Oughterard 9.1*
- *RSA LUZ Glennascaul 18.1 (and 5.4 in Volume 1)*
- *SGT LUZ Portumna no. 10.2*
- *SGT LUZ Maigh Cuillinn 8.2a, 8.2b and 8.4*
- *MA 5.4 and RSA LUZ Galway Airport 17.1 which is also considered to be premature pending the preparation of a masterplan for the airport consistent with RPO 3.6.6 and policy EL 4.6 of the draft Plan.*

The CE's recommendation was to accept the recommendation of the OPR and to make the Plan without the seven (7) zoning amendments listed in MA Recommendation 7.

The elected members voted to make the Plan in accordance with the recommendation of the chief executive and the Office for one (1) of the zoning amendments (RSA LUZ Glennascaul 18.1).

The section 31AM(6) notice letter detailed the reasons why the elected members voted to make the Plan contrary to the recommendation of the CE's Report (with the exception of the RSA LUZ Glennascaul 18.1 listed above). The Office has assessed each of the zoning amendments and considered the reasons provided by the elected members in each case.

Having regard to their location and characteristics, with the exception of SGT LUZ Maigh Cuillinn 8.4, the Office accepts the reasons provided by the elected members in support of the remaining zoning amendments.

Zoning amendment *SGT LUZ Maigh Cuillinn S 8.4* amended the zoning in the draft Plan from unzoned to Tourism.

The inclusion of the SGT LUZ Maigh Cuillinn 8.4 lands as 'Tourism' will extend the settlement boundary beyond the N59 bypass and outside the existing built up footprint of the town.

The Elected Members rejected the CE Recommendation to remove this amendment for the following reasons:

- *These lands should be zoned as Tourism as they adjoin a new and very prosperous adventure centre in Maigh Cuilinn which creates a lot of employment in the area. It is also a great economic benefit to the village and by zoning these lands as tourism the opportunity for expansion of this business would increased.*

It is noted, however, that while zoning amendment 8.2a does adjoin the adventure centre to the north, zoning amendment 8.4 does not, and indeed is located on the far side of the route of the proposed N59 bypass which would further exacerbate this disconnect resulting in a piecemeal approach to development.

Further the CE's report stated that there *"is no justification for the zoning of these additional lands on the eastern side of the Maigh Cuilinn Bypass which is currently under construction"*.

The zoning amendment also conflicts with the objective included into the Maigh Cuilinn Land Use Zoning Map<sup>1</sup> to *"protect the route of the proposed N59 Maigh Cuilinn Bypass Scheme which is located within the Plan area from future inappropriate development and prohibit new accesses onto the proposed Bypass route that have not been accommodated in the Bypass design in the interest of traffic safety"*.

Transport Infrastructure Ireland (TII) also recommended that this proposed amendment is not adopted by the Council as they consider *"it is premature to include the proposed zoning amendments in advance of the development of an appropriate evidence base....and in the absence of the development of any appropriate evidence base and access strategy demonstrating compliance with the provisions of official*

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<sup>1</sup> Amendment no Maigh Cuilinn MA2

*policy, in the interests of safeguarding the strategic function of the national road network in the area and safeguarding the significant Exchequer investment in the N59 Moycullen Bypass Scheme”.*

Having regard to the above, the Office does not consider that the reasons provided by the elected members provide an evidence based rationale for zoning amendment SGT LUZ Maigh Cuillinn 8.4 such that would set aside the CE’s recommendation, the policy of the Development Plan in relation to the Bypass, and national roads planning policy including the implementation of an evidence-based approach.

### **1.6 Policy Objective WW 9 An Cheathrú Rua**

Recommendation 16 – An Cheathrú Rua WWTP of the Office’s submission to the draft Plan required the removal of policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathrú Rua.

The CE’s Report (October 2021) recommended the removal of the policy objective from the Plan consistent with the recommendation of the Office.

The reasons given by the elected members for not complying with the recommendation are detailed in the section 12(5)(aa) notice letter as follows:

- *due to the proximity of the proposed WWTP and the site currently identified by Irish Water for a Municipal WWTP and its proximity to the sea shore and coast by not enforcing a 100m set back and projected sea rise due to climate change the current site will be in contravention of Section 10 (1D) as it will pose a risk to the environment and public. There are also alternative sites and options available to Irish Water to develop a WWTP within an Cheathrú Rua.*
- *In relation to section 12 (11) of The Planning Act there is currently no statutory minimum buffer zones set for wastewater treatment plants and therefore it is open to elected representatives to set minimum setbacks in the making of County Development plans. The 100m setback for An Cheathrú Rua WWTP would add to proper planning and sustainable development as the current site identified is not suitable given its close proximity to the sea shore, houses and residents. Irish Water state that there is capacity within the village at present.*

The Office acknowledges the desire of the elected members to protect the sea shore, houses and residents, and to protect the environment and the public against impacts consequent to rising sea levels and due to climate change.

However, there are extensive and reasonable provisions in the plan to protect the environment, as outlined in the Environmental Reports which accompany the Plan.

Notwithstanding the fact that no evidence has been provided to support the claim that the current site will be in contravention of Section 10(1D) as it will pose a risk to the environment and public. Objective WW9 and the 100 m separation distance apply to all potential locations to service An Cheathrú Rua. There is no basis, therefore, to support the generalised assertion that all WWTP within the 100 m separation distance would be in contravention of section 10(1D) of the Act.

It is further noted that the Strategic Environmental Assessment (SEA) prepared for the Plan advised against the inclusion of this policy and states:

*There is no established planning justification for this Amendment. New wastewater treatment plants must comply with existing provisions requiring the protection and management of the environment. The establishment of a setback from all new wastewater treatment plants would prevent development, including that which may be appropriate, in areas adjacent to any such plants. This could hinder the achievement of objectives relating to compact sustainable development.*

The Office also notes that the stated objectives of the Plan with respect to An Cheathrú Rua (CSGV 1, CSGV 2) to promote the development of the village as a sustainable residential community and an accessible environment that provides a range of services, facilities and amenities can only be delivered upon if the necessary infrastructure is in place. The inclusion of this constraint without justification may prejudice the delivery of this key infrastructure and prejudice the planned sustainable growth of An Cheathrú Rua over the plan period.

Irish Water also made a submission to the draft Plan requesting the policy is removed and whilst acknowledging “*the need for appropriate separation between WWTPs and sensitive receptors there is no official policy or guidance in Ireland with regard to such setbacks*”. The submission from Irish Water to the Material Amendments outlined their disappointment at the continued inclusion of Policy

Objective WW9 which causes *“uncertainty over the timeline for the delivery of the ongoing project to provide wastewater treatment for this untreated agglomeration and mean that Irish Water are unable to commit to the provision of a WWTP for An Cheathrú Rua within the lifetime of the Draft Plan”*.

In addition, retaining Policy WW9 could have unintended consequences for considering the proper planning and sustainable development of the area into the future, given that it is not clear from the policy where the 100m separation distance to be applied is taken from, and what type of development may be required to retain a 100m separation distance from any wastewater treatment plants in the vicinity of the site boundary.

Having regard to the above, the Office does not consider that the reasons provided by the elected members provide an evidence based rationale for the inclusion of Objective WW9 and the 100m separation distance such that would set aside the CE’s recommendation, the recommendation of the planning authority’s SEA Environmental Report, and the statutory requirement in section 10(1D) of the Act which requires that that the development objectives in the development plan are consistent, as far as practicable, with the conservation and protection of the environment.

## **1.7 Waste Sludge Hub**

The National Wastewater Sludge Management Plan (NWSMP) which outlines Irish Water’s strategy to ensure a nationwide standardised approach for managing wastewater sludge over the next 25 years, identifies that a Sludge Hub Centre is required for the Galway/Mayo region and that a detailed assessment is required in order to confirm the most economically feasible treatment option and to confirm the most appropriate site. This assessment has not yet been finalised.

The following three (3) material amendments were introduced to amend the draft Plan in respect of the location of such a facility, specifically to identify Ballinasloe and Tuam as being unsuitable locations for a regional waste management facility and/or sludge hub centre:

- MA 7.8 s to amend text in Section 7.5.10 (Sludge Management),

- MA 7.9 to amend Policy Objective WW1 Enhancement of Wastewater Supply Infrastructure), and
- MA 7.10 to amend Policy Objective WW 2 Delivery of Wastewater Infrastructure.

**MA Recommendation 10 - Wastewater Management Infrastructure** states:

*Having regard to national and regional policy objectives promoting circular economy principles to maximise waste as a resource namely NPO 56 and RPO 8.17, and the provisions of NPO 63 and RPO 8.12 which seek to ensure that sustainable water services infrastructure is in place to meet demands of continuing population growth and the developing economy, and the Strategic Environmental Assessment Report, the planning authority is required to make the Plan without the following amendments:*

- *MA 7.8 Amendment to Section 7.5.10 Sludge Management*
- *MA 7.9 Amendment to policy objective WW 1*
- *MA 7.10 Amendment to policy objective WW 2”*

The CE’s Report (dated March 2022) recommended that the text of section 7.5.10, Policy WW1 and Policy WW2 would revert back to that of the draft Plan consistent with the recommendation of the Office.

The Elected Members rejected the CE’s Recommendation to remove this amendment for the reasons which are summarised as follows:

- *both Tuam and Ballinasloe are not suitable locations. The Key towns are already under severe pressure as regards dealing with legacy issues.*
- *Galway County Council adopts the Principles of Environmental Justice in its decision-making processes and strives to ensure a ‘fair’ distribution of environmental benefits and burdens within the county in its application of environmental policy, planning, implementation and governance. This includes ensuring that no one town within Galway county is continually subjected to large-scale waste facility developments and commercial waste operations which can impact negatively upon that community in terms of environment, quality of life, health wellbeing, placemaking, and/or future economic growth opportunities including attracting investment & sustainable tourism.*

The Office acknowledges the reasons given by elected members in terms of the protection of the environment and amenities of Tuam and Ballinalsoe. However, there are extensive and reasonable provisions in the plan to protect the environment and amenities of the county, as outlined in the Environmental Reports which accompany the Plan.

Furthermore, there is no evidence basis to support the reason that both settlements are unsuitable locations, particularly having regard to the provisions in the plan to protect the environment and amenities of the county.

The reasons given do not, therefore, address the substantive issue in the recommendation that the Plan be made without material amendments MA 7.8, MA 7.9 and MA 7.10 which are inconsistent with national and regional policy to promote circular economy principles to maximise waste as a resource and to ensure that sustainable water services infrastructure is in place to meet the demands of continuing population growth and the developing economy.

It is further noted that the SEA Environmental Report prepared for the Plan states that there is no policy or evidence basis for the inclusion of the material amendments and recommends that the Plan is made without these zoning objectives.

The Office also notes the submission from Irish Water to the Material Alterations which recommends that MAs 7.8, 7.9 and 7.10 are not adopted as they would negatively impact on the achievement of objectives of the National Sludge Management Plan (NWSMP) and that the site selection process for a sludge hub site in the region, which is influenced by multiple factors, is ongoing.

## **2. Opinion of the Office and Reasons**

Having considered the adopted Development Plan, the Office notes, under section 31 AM(7) of the Act, that the said Development Plan has not been made in a manner consistent with the recommendations of the Office.

Further, the Office does not accept that the reasons given for not implementing the Office's recommendations in the notice letters dated 21<sup>st</sup> January and 16<sup>th</sup> May 2022 issued under section 12(5)(aa) and section 31AM(6) respectively, adequately justify the failure to implement those recommendations or explain how, notwithstanding that failure, the Development Plan as adopted sets out an overall strategy for the proper

planning and sustainable development of the area as required by section 10(1) of the Act.

As you will be aware, under section 31AM(1)(a-e) of the Act, the Office has a statutory duty to evaluate and assess local authority development plans.

The following provisions of the Act are relevant in terms of the evaluation and assessment of local authority development plans such as this Development Plan:

- The provisions of section 31AM(2) in relation to the legislative and policy matters to be addressed by the Office in assessing and evaluating the draft Development Plan and Material Alterations of a Development Plan.
- Under section 31AM(3)(a), the Office shall make such recommendations in relation to the Office's evaluation and assessments to those authorities as it considers necessary in order to ensure effective co-ordination of national, regional and local planning requirements by the relevant planning authority in the discharge of its development planning functions.
- In performing its functions, the Office must, under section 31P(3), take account of the objective for contributing to proper planning and sustainable development and the optimal functioning of planning under the Act.
- Under section 31S, the Office must, in performing its functions, have regard to:
  - a) the policies and objectives for the time being of the Government, a State authority (including Ministerial guidelines, policy directives and directions issued under *Chapter IV of Part II*), planning authorities and any other body which is a public authority whose functions have, or may have, a bearing on the proper planning and sustainable development of cities, towns, villages or other areas, whether urban or rural;
  - b) the public interest and any effect the performance of the Office's functions may have on issues of strategic, economic or social importance to the State;
  - c) the National Planning Framework (or, where appropriate, the National Spatial Strategy) and any regional spatial and economic strategy for the time being in force; and

- d) the requirements of relevant acts of the European Union, in particular, those relating to—
- (i) the Environmental Impact Assessment Directive;
  - (ii) Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment;
  - (iii) the Habitats Directive; and
  - (iv) the Birds Directives;

in so far as those requirements relate to planning authorities by virtue of being designated competent authorities for the purposes of those acts.

Accordingly, having considered the Development Plan in light of section 31AM(1)(a-e), section 31AM(2), section 31AM(3)(a), section 31P(3) and section 31S, and the notice letters from the planning authority issued on 21<sup>st</sup> January and 16<sup>th</sup> May 2022 under sections 12(5)(aa) and 31AM(6) respectively, the Office is of the opinion that the Development Plan has not been made in a manner consistent with the recommendations of the Office under section 31AM (7).

The Development Plan as made includes material amendments to the draft Plan which include individual instances of piecemeal residential zoning where the Office has identified inconsistency with national and regional policy and where the plan has failed to have regard to section 28 Guidelines including:

- (i) land zoned for Residential Phase 1 and Residential Phase 2 significantly in excess of the housing land requirement necessary to accommodate the town's housing supply target in the adopted Plan (Table 2.9 Core Strategy) and where Objectives GCMA 1, SGT 1 and SV 1 provide that such lands are developable for housing within the lifetime of the Plan albeit under certain specified conditions. (Clifden SGT LUZ 6.1, 6.4b, 6.5; and Headford 7.2, 7.4, 7.7, 7.8, 7.10; and An Cheathrú Rua SGV LUZ 11.1b; and Woodlawn RSA LUZ 20.1)

In making the Development Plan with residential zoning in excess of that determined to be required under the Core Strategy, the planning authority has failed to have regard to the requirement under section 4.5 of the *Development Plan Guidelines for Planning Authorities (2007)* and section

4.4 of the *Development Plans, Guidelines for Planning Authorities - Draft for Consultation (2021)* to ensure enough land is zoned and to avoid zoning too much land;

- (ii) land zoned for development (Residential Phase 1 and 2) located in peripheral locations outside the CSO settlement boundary for the settlement, or in the case of Woodlawn any existing settlement, inconsistent with the requirements for compact growth in NPO 3c and RPO 3.2. (Clifden SGT LUZ 6.1, 6.4b, 6.5; and Headford 7.2, 7.4, 7.7, 7.10; and Woodlawn RSA LUZ 20.1)
- (iii) land zoned for development located in non-sequential and peripheral locations at a distance from the centre and beyond undeveloped greenfield lands, or in the case of Woodlawn detached from any existing settlement. (Clifden SGT LUZ 6.1, 6.4b, 6.5; and Headford 7.2, 7.4, 7.7, 7.8, 7.10; and An Cheathrú Rua SGV LUZ 11.1a; Oughterard SGT LUZ 9.4; and Woodlawn RSA LUZ 20.1; and land zoned Business and Enterprise to the south of Headford on the N84)

The specified zoning amendments therefore fail to have regard to the requirement to implement or adopt the sequential approach to zoning under the *Development Plans, Guidelines for Planning Authorities (2007)* issued under Section 28 of the Act, except in exceptional circumstances (which ‘*must be clearly justified ... in the written statement*’), and under section 6.2.3 of the *Development Plans, Guidelines for Planning authorities - Draft for Consultation (2021)* and no or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why the said guidelines have not been followed;

- (iv) Land proposed for development despite the recommendation the *SEA Environmental Report for Relevant Proposed Material Alterations to the Draft Galway County Development Plan 2022 – 2028* ‘to not adopt as part of the Draft Plan’ (all material amendments the subject of this recommendation with the exception of SGT LUZ Clifden 6.1, SGT LUZ Headford 7.7 and SGT LUZ Maigh Cuillin);

- (v) land zoned for development vulnerable to flood risk in areas known to be at risk of flooding contrary to NPO 57 and fails to have regard to the statutory guidelines of the Minister *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), as revised and where the Strategic Flood Risk Assessment recommends that the zoning amendment not be adopted (MASP LUZ Oranmore 3.5).

In making the Development Plan with the subject amendment, the planning authority has made the plan inconsistent with the requirements of section 10(2A)(d)(ii) of the Act which requires the development plan to provide details of how the zoning proposals in respect of lands zoned for residential and for a mixture of residential and other uses accords with national policy that development of land shall take place on a phased basis.

The statement under section 28(1A)(b) attached to Development Plan as made fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives contained in the *Development Plan Guidelines for Planning Authorities* (2007) and / or in the *Development Plan Guidelines for Planning Authorities - Draft for Consultation* (2021), and / or *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009), because of the nature and characteristics of the area, in addition to the reasons for the forming of that opinion contrary to section 28(1B)(b).

Material amendment SGT LUZ Maigh Cuillinn 8.4 is located adjacent to the route of the N59 Maigh Cuillinn by-pass, and has the potential to negatively impact the delivery of the planned national road network in the area, undermine Government investment in the N59 Moycullen Bypass Scheme and fails to have regard to Ministerial Guidelines issued under section 28 of the Act, specifically the requirement under section 2.9 of the *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012) in respect of compromising the route selection process and the broader public interest. :

The statement under section 28(1A)(b), attached to Development Plan as made, fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives contained in the *Spatial Planning and National Roads Guidelines for Planning Authorities* (2012)

because of the nature and characteristics of the area, in addition to the reasons for the forming of that opinion contrary to the requirements of section 28(1B)(b).

The Development Plan as made with policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathrú Rua may unreasonably and significantly prejudice the delivery of this key infrastructure and prejudice the planned sustainable growth of An Cheathrú Rua over the plan period inconsistent with the statutory requirement in section 10(1D) of the Act that that the development objectives in the development plan are consistent, as far as practicable, with the conservation and protection of the environment.

The Development Plan as made with material amendments MA 7.8, 7.9 and 7.10, which specifically identifies Ballinasloe and Tuam as being unsuitable locations for a regional waste management facility and/or sludge hub centre contrary to the recommendation of the SEA Environmental Report is inconsistent with national and regional policy objectives promoting circular economy principles to maximise waste as a resource namely NPO 56 and RPO 8.17, and the provisions of NPO 63 and RPO 8.12 which seek to ensure that sustainable water services infrastructure is in place to meet demands of continuing population growth and the developing economy.

Moreover, neither policy WW9 and reference to the minimum 100 metre separation distance, nor MA 7.8, 7.9 and 7.10, are considered to be necessary or reasonable having regard to the comprehensive provisions within the Development Plan for the protection of the environment, heritage, character and amenities of the planning authority's functional area.

The Development Plan has not been made in a manner consistent with and has failed to implement the recommendations of the Office under section 31 AM.

Having regard to the matters set out above, the Office is therefore of the opinion that the Development Plan has not been made in a manner consistent with its recommendations and that the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area and is not in compliance with the requirements of the Act.

The factors that the Office has taken into account in forming this opinion are as follows:

- i. The Development Plan Guidelines for Planning Authorities (2007) which state:

*The process of setting objectives for the zoning of land must seek to get the right balance between:*

*(a) Making sure that enough land is being zoned so that the development needs of the economy and society in the area in question over the plan period and for a reasonable period beyond can be met; and*

*(b) Avoiding the zoning of too much land and thereby creating a situation where priorities for development are not clear and where as a result it is difficult to secure an orderly and progressive approach to the development of that area, particularly in the matter of providing essential services such as roads, drainage, social infrastructure and amenities.*

*In order to maximise the utility of existing and future infrastructure provision and promote the achievement of sustainability, a logical sequential approach should be taken to the zoning of land for development:*

*(i) Zoning should extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public transport routes being given preference (i.e. 'leapfrogging' to more remote areas should be avoided);*

*(ii) A strong emphasis should be placed on encouraging infill opportunities and better use of under-utilised lands; and*

*(iii) Areas to be zoned should be contiguous to existing zoned development lands.*

*Only in exceptional circumstances should the above principles be contravened, for example, where a barrier to development is involved such as a lake close to a town. Any exceptions must be clearly justified by local circumstances and such justification must be set out in the written statement of the development plan.*

- ii. The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) which:

*require the planning system at national, regional and local levels to:*

*Avoid development in areas at risk of flooding, particularly floodplains, unless there are proven wider sustainability grounds that justify appropriate development and where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere;*

*Adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk.;*

- iii. *The Spatial Planning and National Roads Guidelines for Planning Authorities* (2012), which state:

*Development objectives including the zoning of land, must not compromise the route selection process, particularly in circumstances where road scheme planning is underway and potential route corridors or upgrades have been identified and brought to the attention of the planning authority*

*Inappropriate zonings are contrary to the broader public interest concerning the achievement of value for money for the taxpayer and can significantly increase the cost of land to be acquired for national road schemes. Such zoning decisions could make the road project uneconomic, potentially leading to significant material alterations to the project or even the abandonment of the scheme as well as negating the planning work undertaken and the investment made in the proposed road scheme.*

- iv. Section 10(1D) of the Act which states:

*The written statement referred to in subsection (1) shall also include a separate statement which shows that the development objectives in the development plan are consistent, as far as practicable, with the conservation and protection of the environment.*

- v. Directive 2001/42/EC of the European Parliament and Council of 27 June 2001 on the assessment of the effects of certain plans and programmes on the environment.
- vi. National Policy Objective NPO3(c), NPO 54, NPO 53, and NPO 57, and Regional Policy Objective 3.2 which state:

**NPO3(c)**

*Deliver at least 30% of all homes that are targets in settlements other than the five Cities and the suburbs, within existing built-up footprints.*

**NPO 56**

*Sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society.*

**NPO 63**

*Sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society.*

**NPO 57**

*Enhance water quality and resource management by:*

- *Ensuring flood risk management informs place-making by avoiding inappropriate development in areas at risk of flooding in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities;*
- *Ensuring that River Basin Management Plan objectives are fully considered throughout the physical planning process;*

- *Integrating sustainable water management solutions, such as Sustainable Urban Drainage (SUDS), nonporous surfacing and green roofs, to create safe places.*

### **RPO 3.2**

- (a) Deliver at least 50% of all new city homes targeted in the Galway MASP, within the existing built-up footprint of Galway City and suburbs.
- (c) Deliver at least 30% of all new homes that are targeted in settlements with a population of at least 1,500 (other than the Galway MASP and the Regional Growth Centres), within the existing built-up footprints.
- vii. The Core Strategy population in Table 2.9 of the adopted Development Plan.
- viii. The Chief Executive's reports on submissions on the draft Development Plan and material alterations to the draft Development Plan.
- ix. The requirements of sections 10(1), 10(1A), 10(1D), 10(2A), 11(1A), 12(11), 12(18), 28(1), 28(1A), 28(1B) of the Act.

### **3. Recommendation to the Minister**

Having regard to section 31AM(8) of the Act, the Office recommends the exercise of your function under the relevant provisions of section 31 of the Act taking such steps as to rectify the matter as set out in the draft direction to the planning authority accompanying this notice, i.e:

- a. Reinstate the following zoning objectives to that of the draft Plan:
  - i. Clifden SGT LUZ 6.1 - i.e. the subject land reverts to Agriculture from Residential Phase 2
  - ii. Clifden SGT LUZ 6.4b - i.e. the subject land reverts to unzoned from Residential Phase 2
  - iii. Clifden SGT LUZ 6.5 - i.e. the subject land reverts to unzoned from Residential Phase 2

- iv. Headford SGT LUZ 7.2 - i.e. the subject land reverts to Open Space/Recreation and Amenity from Residential Phase 2
  - v. Headford SGT LUZ 7.4 - i.e. the subject land reverts to unzoned from Residential Phase 2
  - vi. Headford SGT LUZ 7.7- i.e. the subject land reverts to Open Space/Recreation and Amenity from Residential Phase 2
  - vii. Headford SGT LUZ 7.8 - i.e. the subject land reverts to unzoned from Residential Phase 2
  - viii. Headford SGT LUZ 7.10 -- i.e. the subject land reverts to unzoned from Residential Phase 2
  - ix. An Cheathrú Rua SGV LUZ 11.1a - i.e. the subject land reverts to unzoned from Residential Existing
  - x. An Cheathrú Rua SGV LUZ 11.1b - i.e. the subject land reverts to unzoned from Residential Phase 1
  - xi. Oranmore MASP LUZ 3.5 - i.e. the subject land reverts to unzoned from Residential Phase 2
  - xii. Oughterard SGT LUZ 9.4 - i.e. the subject land reverts to unzoned from Residential Infill
  - xiii. Woodlawn RSA LUZ 20.1 - i.e. the subject land reverts to unzoned from Residential Phase 1
  - xiv. Maigh Cuillinn SGT 8.4 - i.e. the subject land reverts to unzoned from Tourism
- b. Delete the Business and Enterprise zoning objective on lands south of Headford, on the eastern side of the N84 road to Galway
  - c. Delete policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathrú Rua

- d. Delete the amended and additional provisions inserted under:
- (i) MA 7.8 to amend text in Section 7.5.10 (Sludge Management);
  - (ii) MA 7.9 to amend Policy Objective WW1 Enhancement of Wastewater Supply Infrastructure;, and
  - (iii) MA 7.10 to amend Policy Objective WW 2 Delivery of Wastewater Infrastructure.

Please do not hesitate to contact the Office should you have any queries in relation to the above. Contact can be initiated through the undersigned or a.

Yours sincerely,



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**Niall Cussen**

Planning Regulator

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[niall.cussen@OPR.ie](mailto:niall.cussen@OPR.ie)

**DRAFT DIRECTION IN THE MATTER OF SECTION 31**

**OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)**

**Galway County Development Plan 2022 -2028**

“Development Plan” means the Galway County Development Plan 2022 - 2028

“Planning Authority” means Galway County Council

WHEREAS the powers and duties of the Minister for Housing, Local Government and Heritage under the Planning and Development Act 2000 (as amended), other than the power to prosecute an offence, have been delegated to the Minister of State at the Department of Housing, Local Government and Heritage pursuant to the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2020 (S.I. 559 of 2020). **WHEREAS** the Minister of State at the Department of the Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Act 2000, and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AM(8) of the Act hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Galway County Development Plan 2022 - 2028) Direction 2022.
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Development Plan :
  - a. Reinstate the following zoning objectives to that of the draft Plan:
    - i. Clifden SGT LUZ 6.1 - i.e. the subject land reverts to Agriculture from Residential Phase 2.

- ii. Clifden SGT LUZ 6.4b - i.e. the subject land reverts to unzoned from Residential Phase 2.
- iii. Clifden SGT LUZ 6.5 - i.e. the subject land reverts to unzoned from Residential Phase 2.
- iv. Headford SGT LUZ 7.2 - i.e. the subject land reverts to Open Space/Recreation and Amenity from Residential Phase 2.
- v. Headford SGT LUZ 7.4 - i.e. the subject land reverts to unzoned from Residential Phase 2.
- vi. Headford SGT LUZ 7.7- i.e. the subject land reverts to Open Space/Recreation and Amenity from Residential Phase 2.
- vii. Headford SGT LUZ 7.8 - i.e. the subject land reverts to unzoned from Residential Phase 2.
- viii. Headford SGT LUZ 7.10 -- i.e. the subject land reverts to unzoned from Residential Phase 2.
- ix. An Cheathrú Rua SGV LUZ 11.1a - i.e. the subject land reverts to unzoned from Residential Existing.
- x. An Cheathrú Rua SGV LUZ 11.1b - i.e. the subject land reverts to unzoned from Residential Phase 1.
- xi. Oranmore MASP LUZ 3.5 - i.e. the subject land reverts to unzoned from Residential Phase 2.
- xii. Oughterard SGT LUZ 9.4 - i.e. the subject land reverts to unzoned from Residential Infill.
- xiii. Woodlawn RSA LUZ 20.1 - i.e. the subject land reverts to unzoned from Residential Phase 1.
- xiv. Maigh Cuillinn SGT 8.4 - i.e. the subject land reverts to unzoned from Tourism.

- b. Delete the Business and Enterprise zoning objective on lands south of Headford, on the eastern side of the N84 road to Galway ..
- c. Delete policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathrú Rua
- d. Delete the amended and additional provisions inserted under:
  - (i) MA 7.8 to amend text in Section 7.5.10 (Sludge Management);
  - (ii) MA 7.9 to amend Policy Objective WW1 Enhancement of Wastewater Supply Infrastructure; and
  - (iii) MA 7.10 to amend Policy Objective WW 2 Delivery of Wastewater Infrastructure.

## STATEMENT OF REASONS

- I. The Galway County Development Plan 2022 – 2028 as made includes material amendments to the draft Plan, that are inconsistent with the evaluation of the Strategic Environmental Assessment and which individually and cumulatively are not consistent with the Core Strategy, national and regional planning policy, and the proper planning and sustainable development of the area, including:
  - a. Land zoned for residential development that is not consistent with the Development Plan's own Core Strategy for Clifden, Headford, An Cheathrú Rua and Woodlawn, in the adopted Plan. In making the Development Plan with residential zoning in excess of that determined to be required under the Core Strategy, the Planning Authority fails to have regard to the requirements of section 4.5 of the *Development Plan Guidelines for Planning Authorities (2007)* and section 4.4 of the *Development Plans, Guidelines for Planning Authorities - Draft for Consultation (2021)* to ensure enough land is

zoned and to avoid zoning too much land and the Planning Authority provides no or no adequate reasons relating to the proper planning and sustainable development of the area to explain why the guidelines have not been followed;

- b. Land zoned for residential development located in peripheral locations outside the CSO settlement boundary in the case of Clifden, and Headford, and in the case of Woodlawn where no CSO boundary exists, inconsistent with the requirements for compact growth in NPO 3c and RPO 3.2;
- c. Land zoned for development located in non-sequential and peripheral locations at a distance from the centre and beyond undeveloped greenfield lands in Clifden and Headford, An Cheathrú Rua, and Oughterard, or in the case of Woodlawn detached from any existing settlement, which fails to have regard to the requirement to implement or adopt the sequential approach to zoning under the *Development Plans, Guidelines for Planning Authorities (2007)* issued under Section 28 of the Act, except in exceptional circumstances (which '*must be clearly justified ... in the written statement*'), and under section 6.2.3 of the *Development Plans, Guidelines for Planning authorities - Draft for Consultation (2021)* and the Planning Authority provides no or no adequate reasons relating to the proper planning and sustainable development of the area to explain why the guidelines have not been followed;
- d. Land zoned for development in Oranmore vulnerable to flood risk in areas known to be at risk of flooding contrary to NPO 57 and which fails to have regard to the statutory guidelines of the Minister *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*, as revised and where the Strategic Flood Risk Assessment recommends that the zoning amendment not be adopted;

- e. Land zoned for development in Maigh Cuillinn adjacent to the route of the N59 Maigh Cuillinn by-pass, which has the potential to negatively impact the delivery of the planned national road network in the area, undermine Government investment in the N59 Moycullen Bypass Scheme and fails to have regard to the statutory guidelines of the Minister *The Spatial Planning and National Roads Guidelines for Planning Authorities* (2012).

Further, the residential zoning amendments are also inconsistent with the requirements of section 10(2A)(d)(ii) of the Act which requires the development plan to provide details of how the zoning proposals in respect of lands zoned for residential and for a mixture of residential and other uses accords with national policy that development of land shall take place on a phased basis.

Further, the statement under Section 28(1A)(b) attached to the Development Plan as made fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives outlined at (I), above, as contained in the Guidelines, because of the nature and characteristics of the area and to give reasons for the forming of that opinion contrary to Section 28(1B)(b).

- II. The Development Plan as made includes policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathrú Rua which may unreasonably and significantly prejudice the delivery of this key infrastructure and prejudice the planned sustainable growth of An Cheathrú Rua over the plan period inconsistent with the statutory requirement in section 10(1D) of the Act that the development objectives in the development plan are consistent with the conservation and protection of the environment.

- III. The Development Plan as made includes material amendments to identify Ballinasloe and Tuam as being unsuitable locations for a regional waste management facility and/or sludge hub centre inconsistent with NPO 56 and RPO 8.17 to promote circular economy principles to maximise waste as a resource namely, and the provisions of NPO 63 and RPO 8.12 to ensure that sustainable water services infrastructure is in place to meet demands of continuing population growth and the developing economy.
- IV. The Development Plan as made includes policies and material amendments to the draft Plan that are inconsistent with the evaluation of the Strategic Environmental Assessment.
- V. The Development Plan has not been made in a manner consistent with and has failed to implement the recommendations of the Office of the Planning Regulator under Section 31 AM.
- VI. By virtue of the matters set out at I to IV, above, the Development Plan fails to set out an overall strategy for the proper planning and sustainable development of the area.
- VII. By virtue of the matters set out at I to IV, above, the Development Plan is not in compliance with the requirements of the Act.

GIVEN under my hand,

Minister for Housing, Local Government and Heritage

day of Month, year.

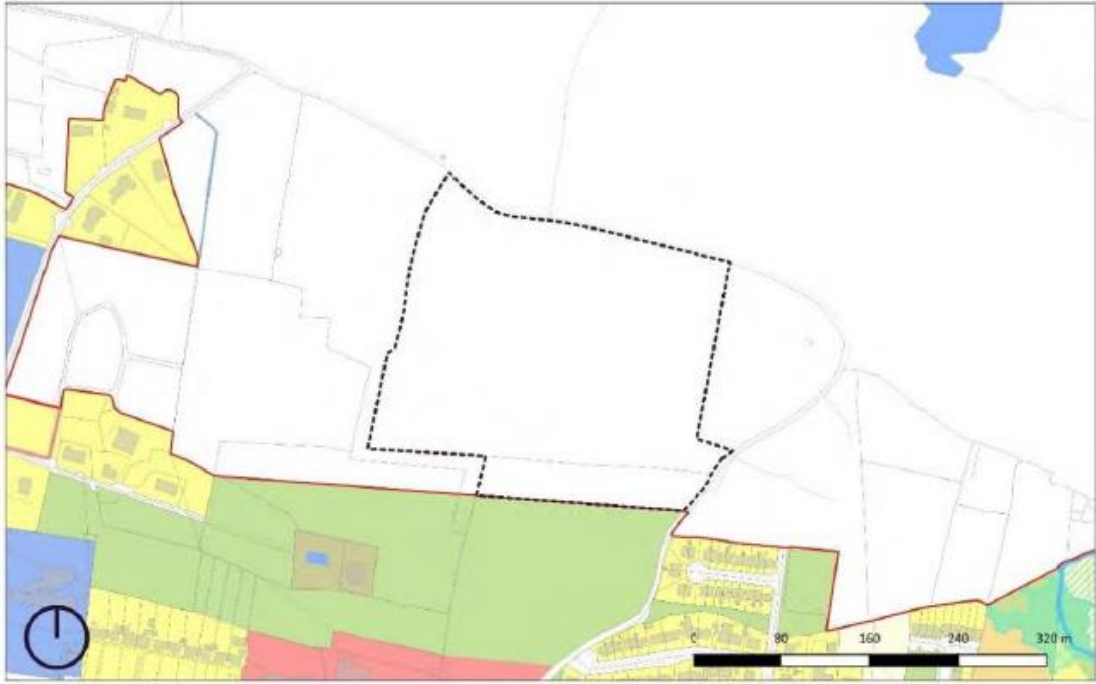
**Appendix to Notice Pursuant to section 31AM(8) of the Planning and Development Act 2000 (as amended) – Galway County Development Plan 2022-2028**

[Clifden land use zoning objectives](#)

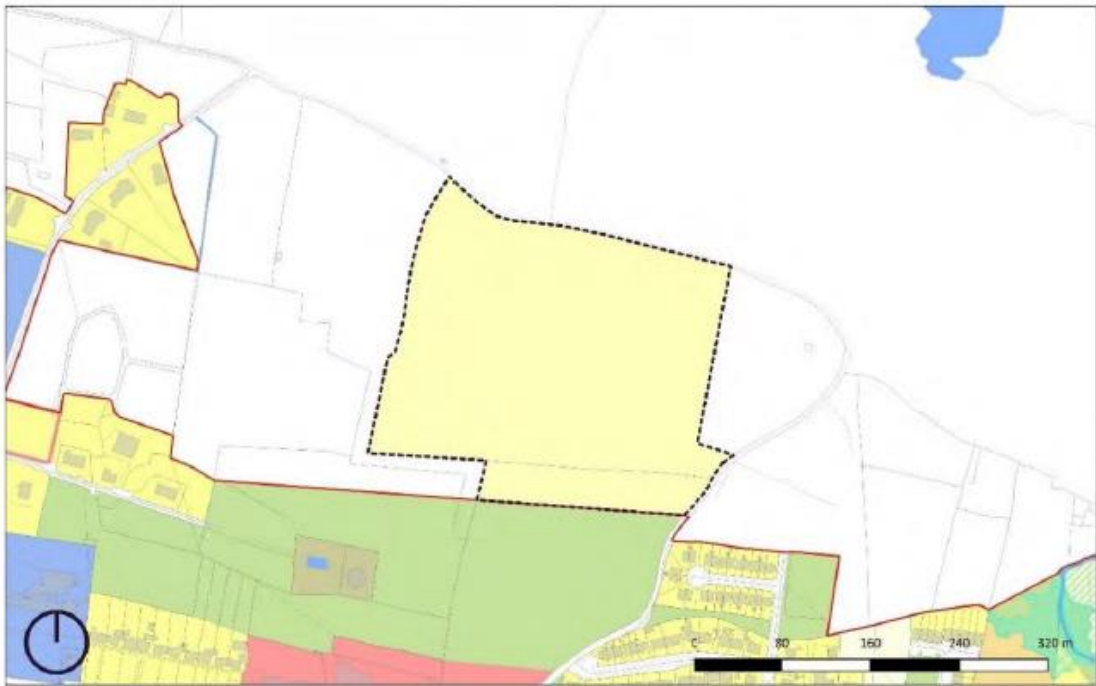


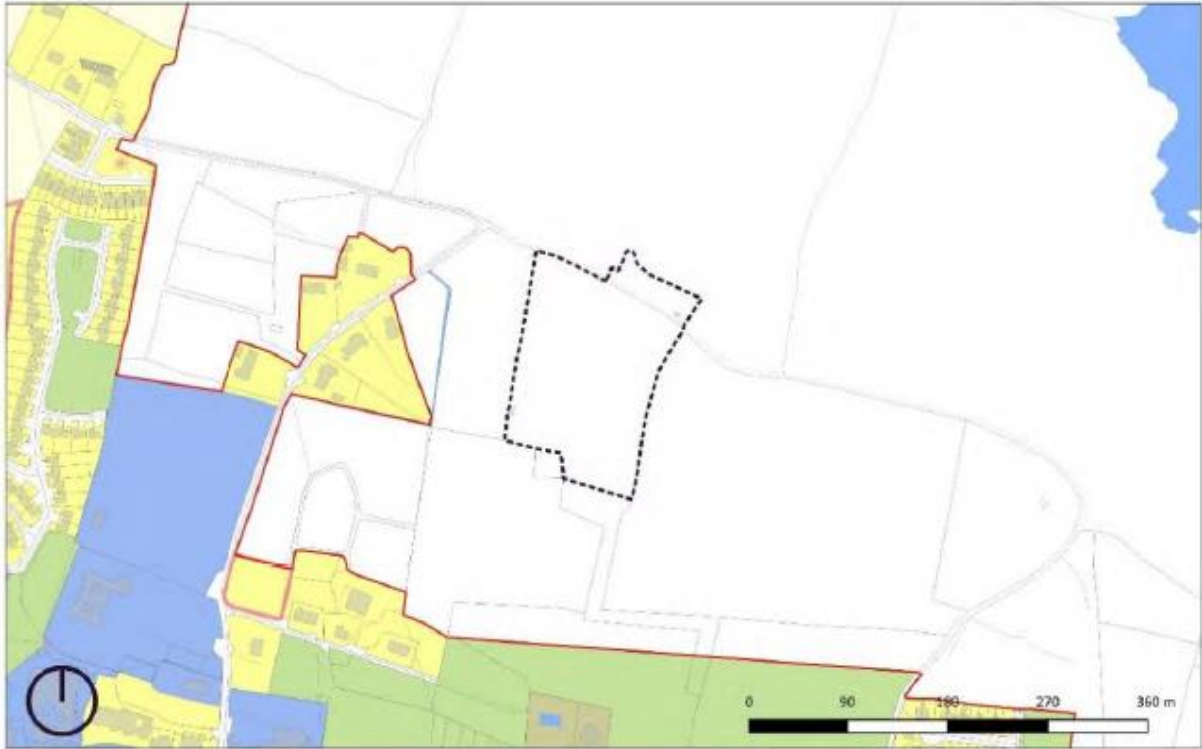
**Amendment No SGT LUZ Clifden 6.1 – Change of zoning from Agriculture to Residential Phase 2**



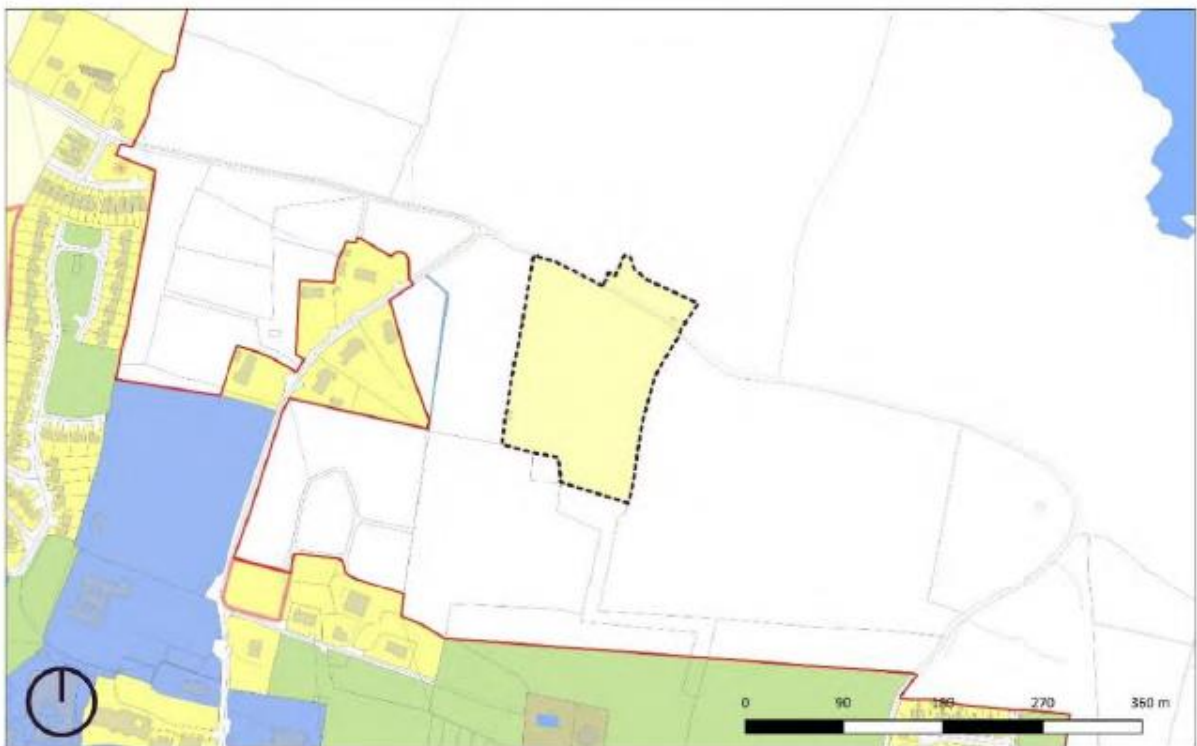


**Amendment No SGT LUZ Clifden 6.4b – Change of zoning from unzoned to Residential Phase 2**





**Amendment No SGT LUZ Clifden 6.5 – Change of zoning from unzoned to Residential Phase 2**



**Clifden - Aerial photograph detailing three amendments in Red**



6.1

6.5

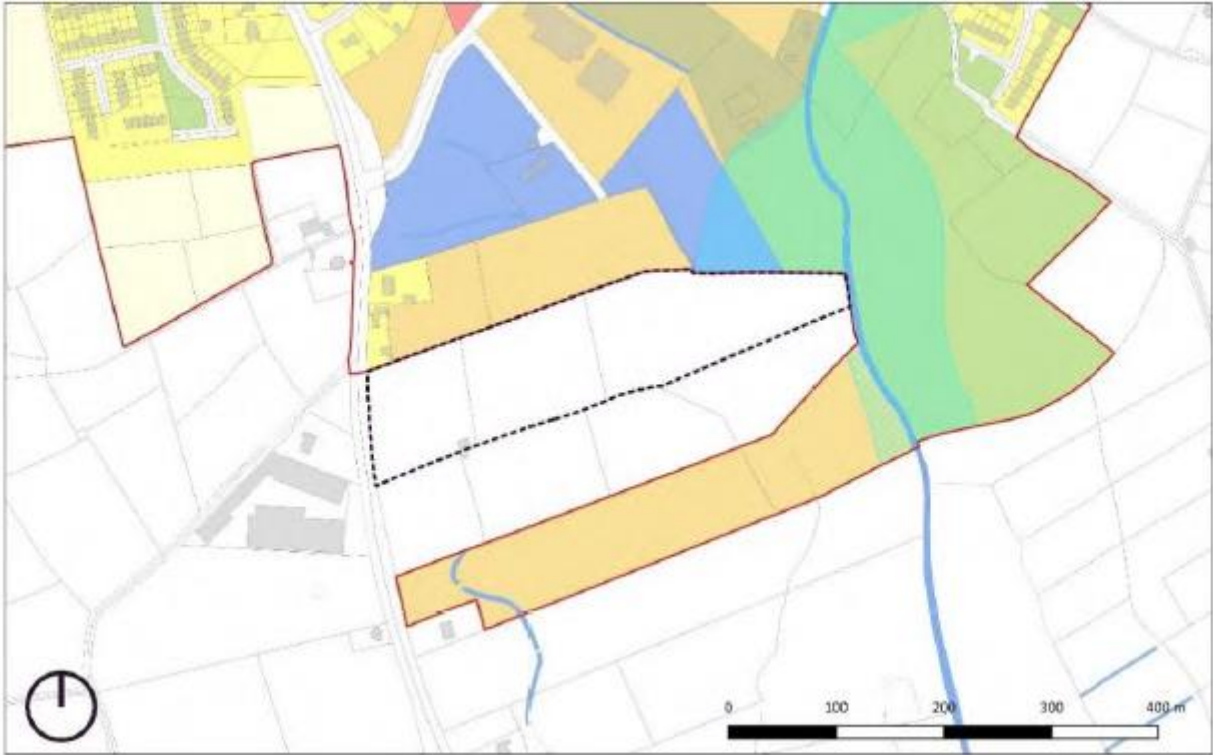
6.4b

Headford land use zoning objectives

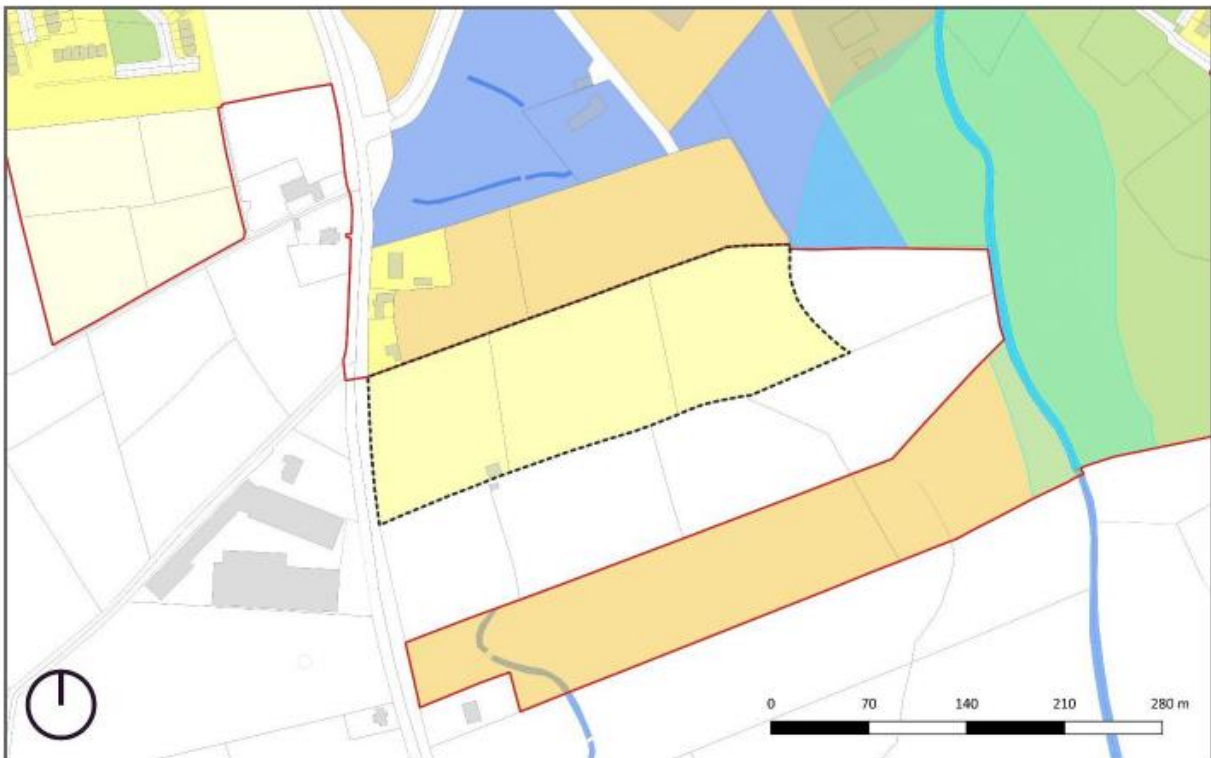


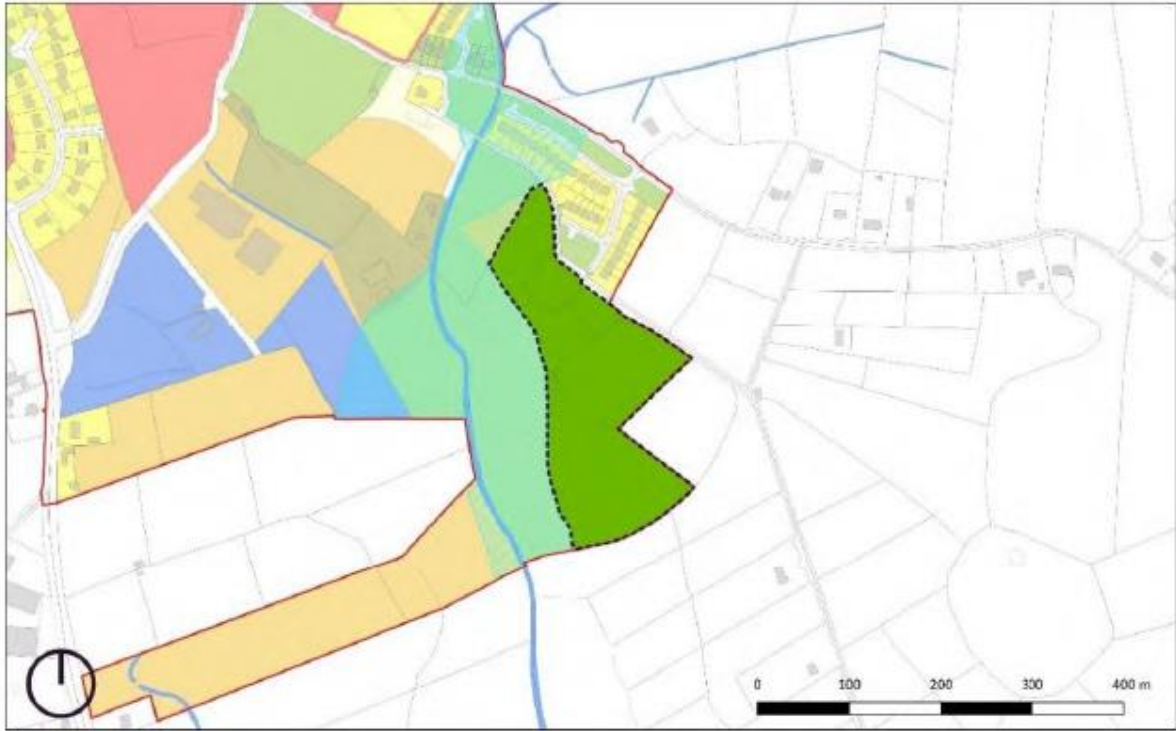
**Amendment No SGT LUZ Headford 7.2 – Change of zoning from Open Space/Recreation & Amenity to Residential Phase 2**



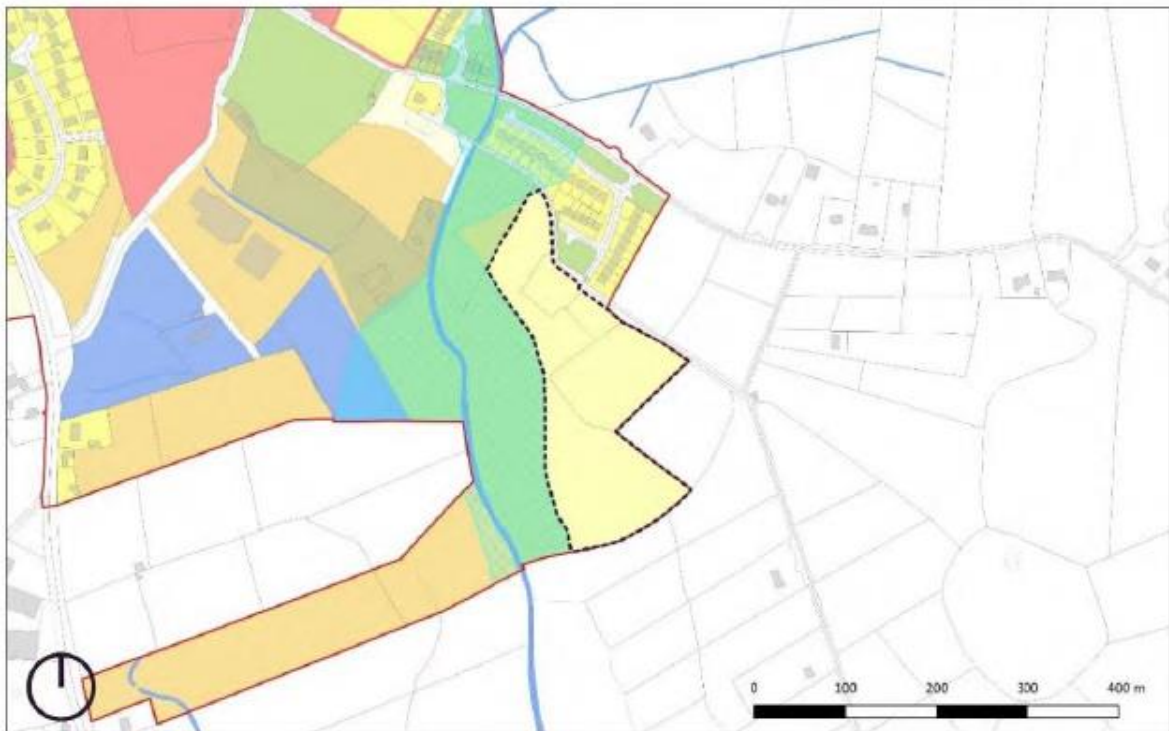


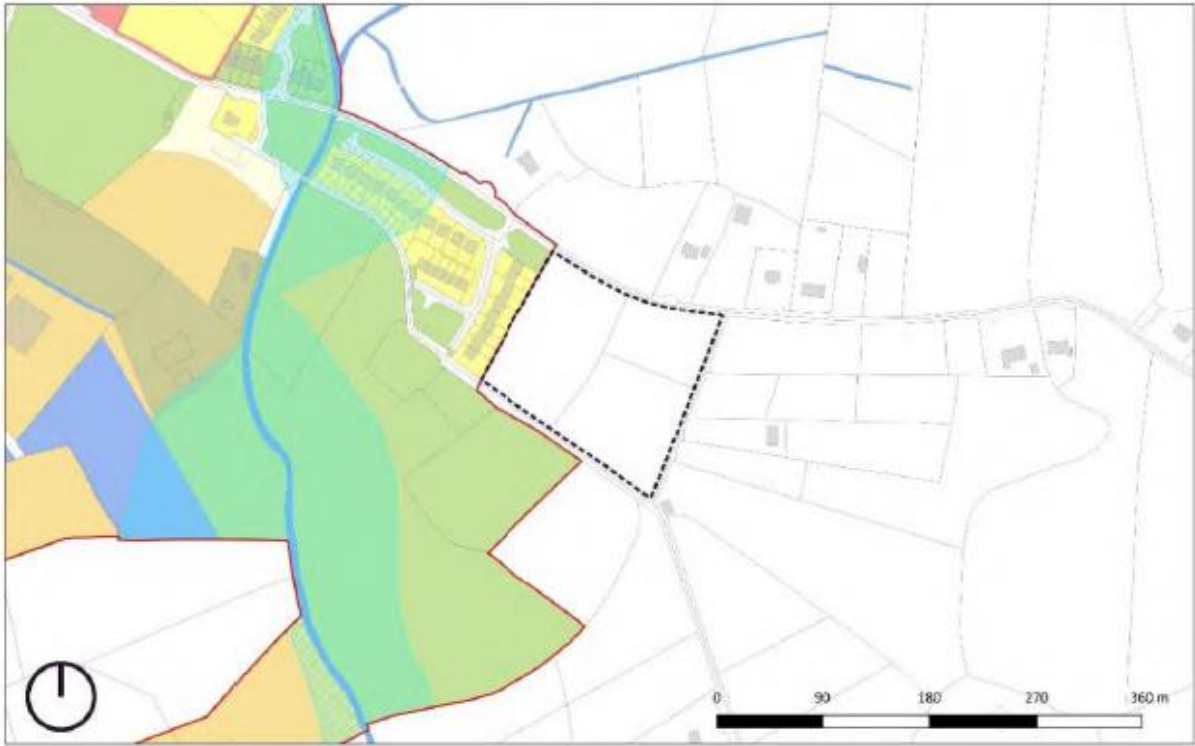
**Amendment No SGT LUZ Headford 7.4 – Change of zoning from Unzoned to Residential Phase 2**



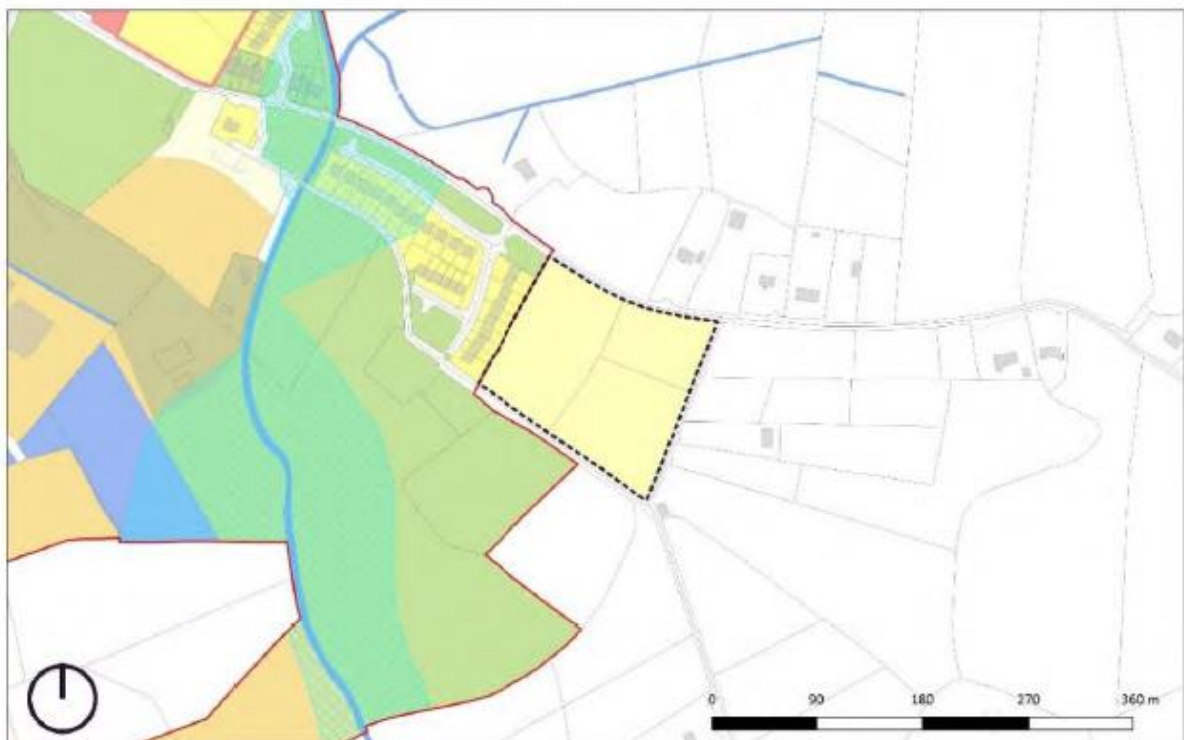


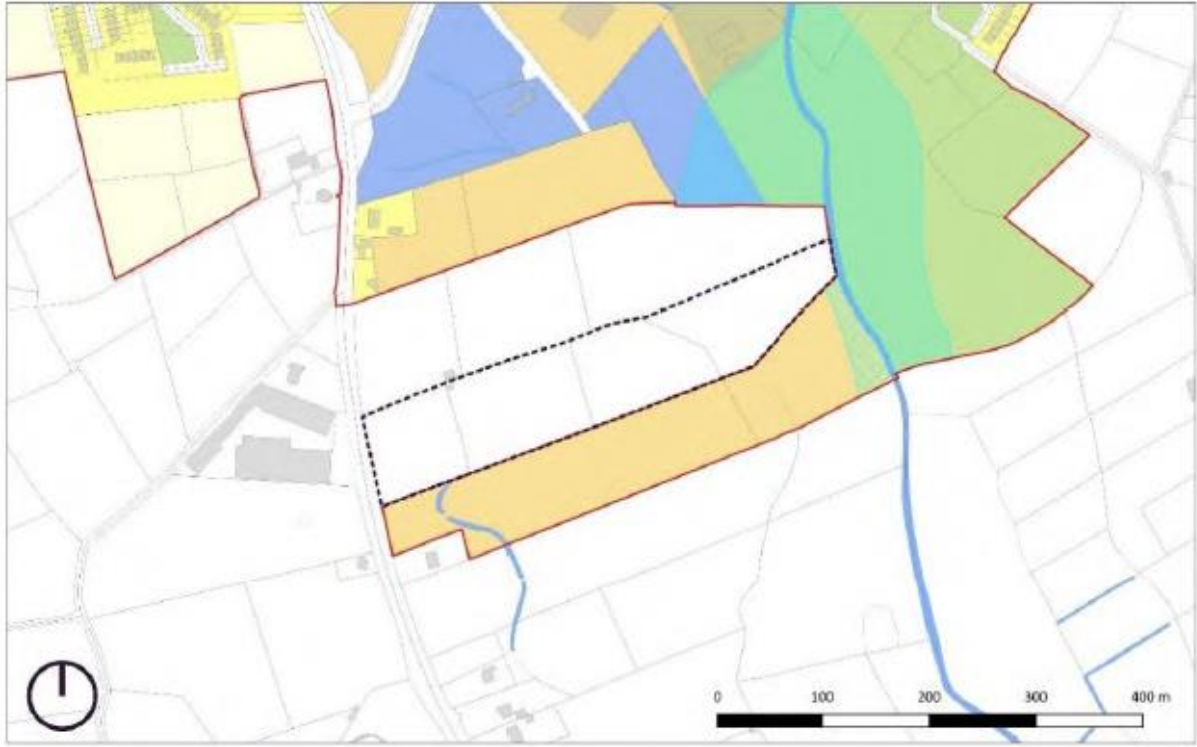
**Amendment No SGT LUZ Headford 7.7 – Change of zoning from Open Space/Recreation & Amenity to Residential Phase 2**



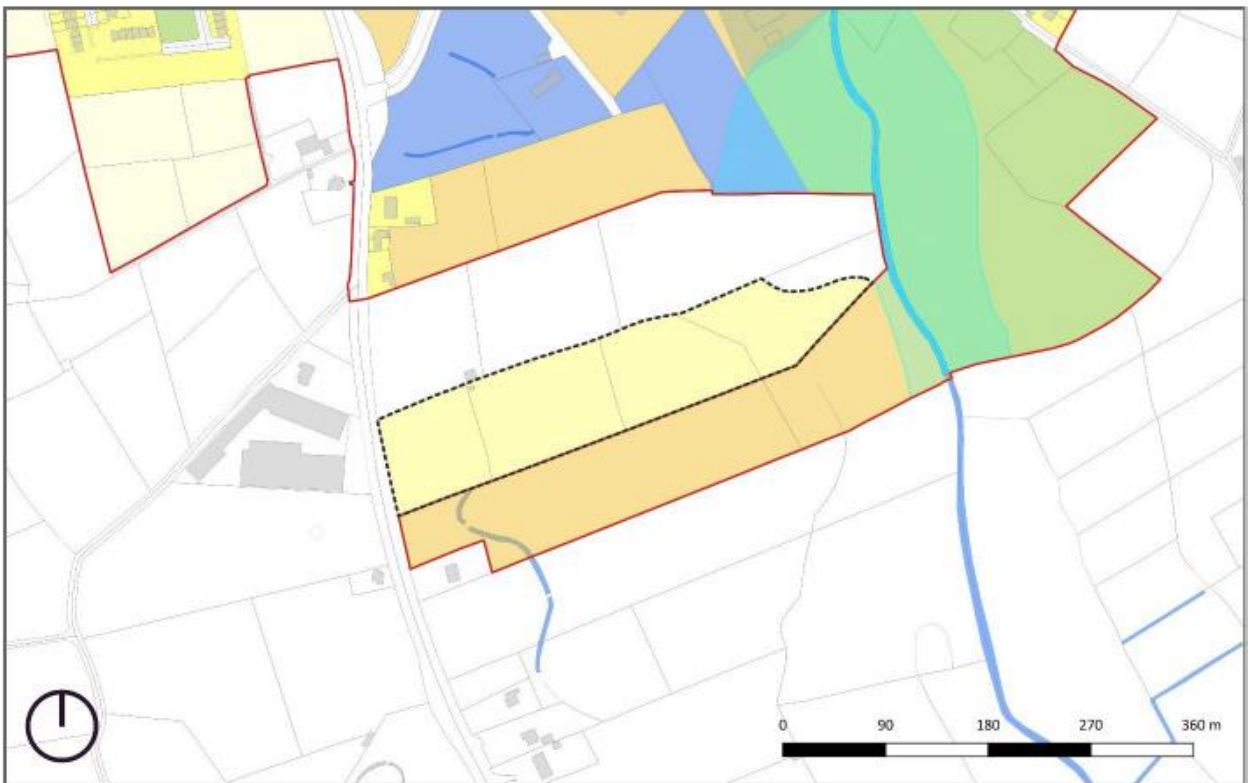


**Amendment No SGT LUZ Headford 7.8 – Change of zoning from Unzoned to Residential Phase 2**

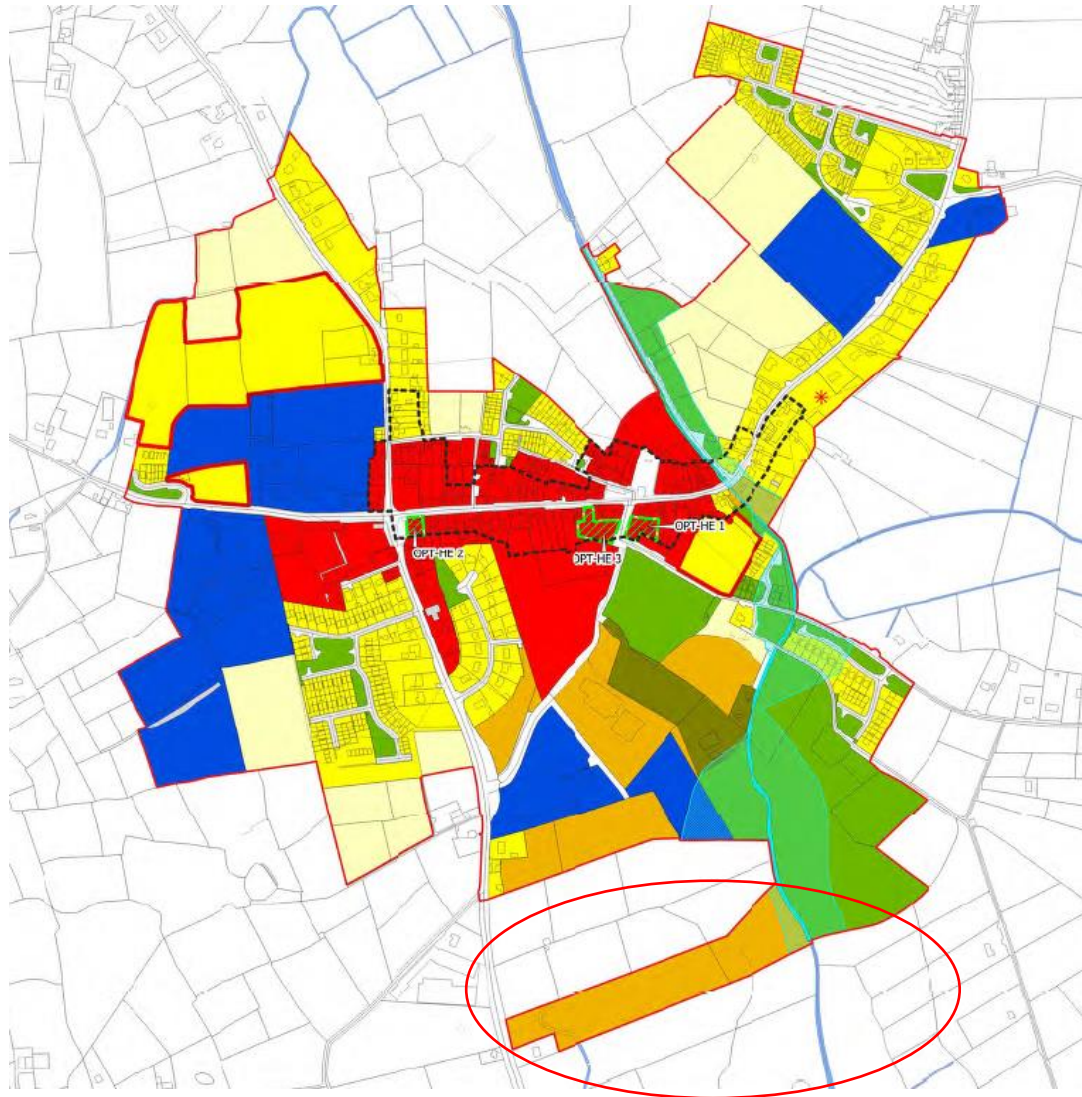




**Amendment No SGT LUZ Headford 7.10 – Change of zoning from Unzoned to Residential Phase 2**



**Business and Enterprise Zoning highlighted in Red as per Recommendation 11 (i) of the OPR submission to the Draft Plan**



**Headford - Aerial photograph detailing six zoning amendments in Red**



7.4

7.10

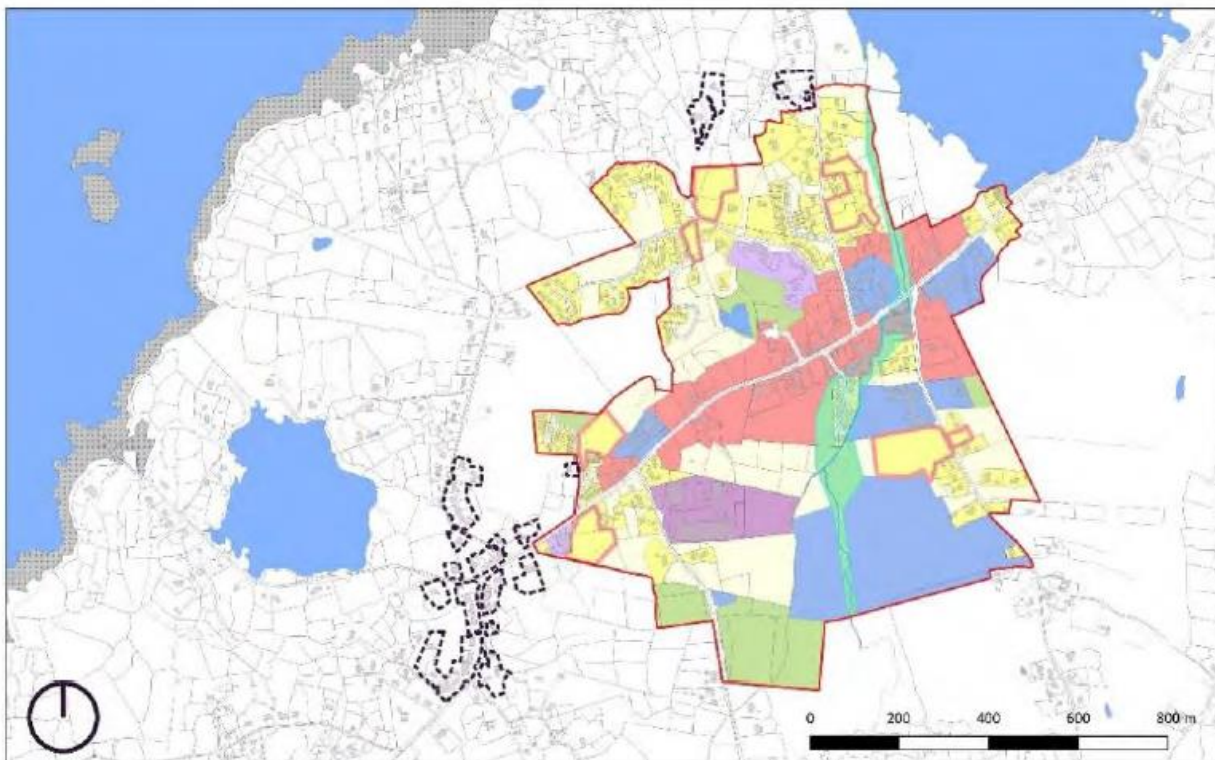
Rec 11(i)

7.2

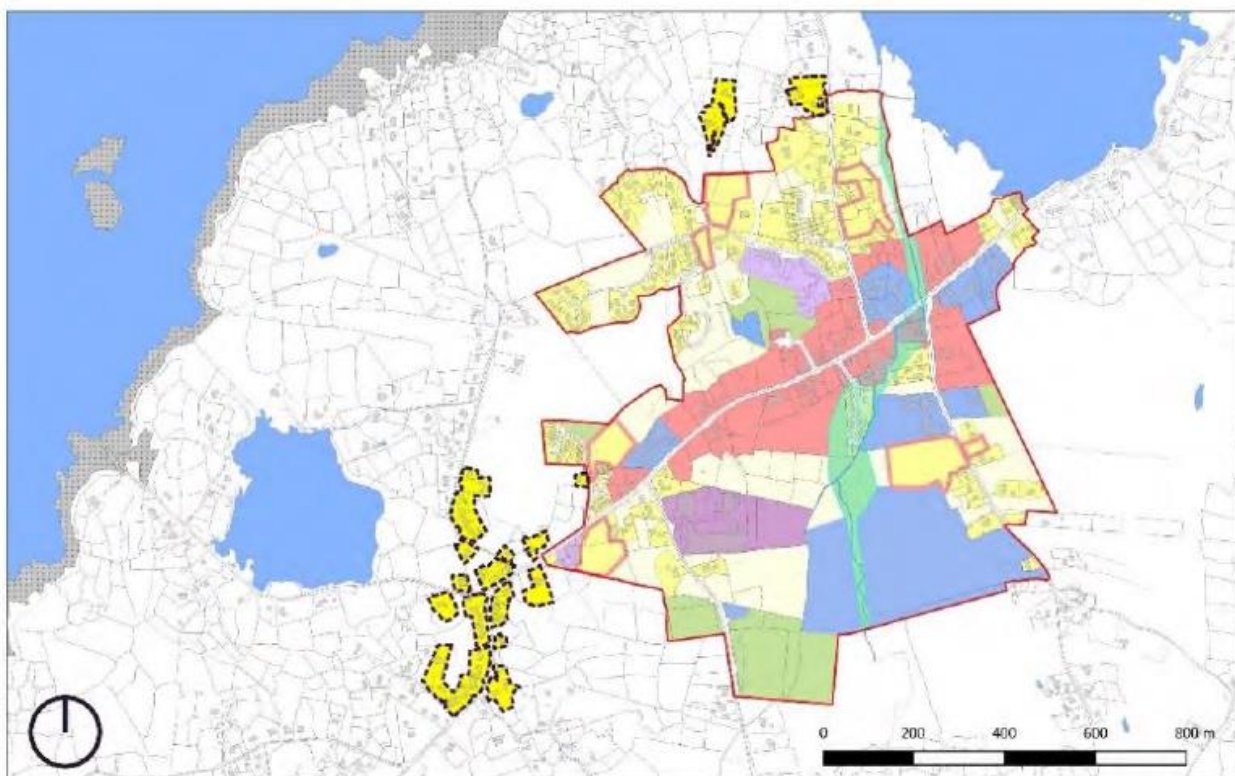
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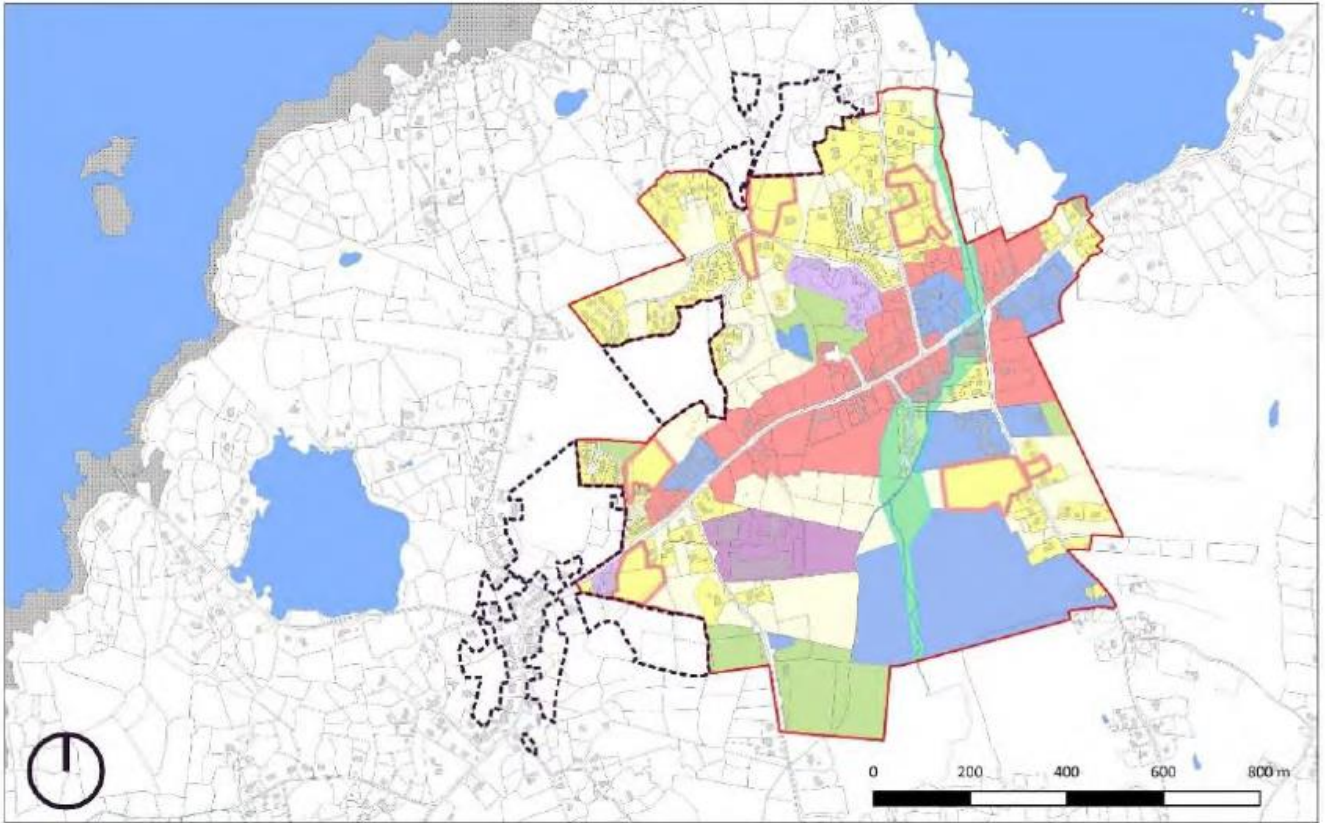
7.8

## An Cheathrú Rua land use zoning objectives

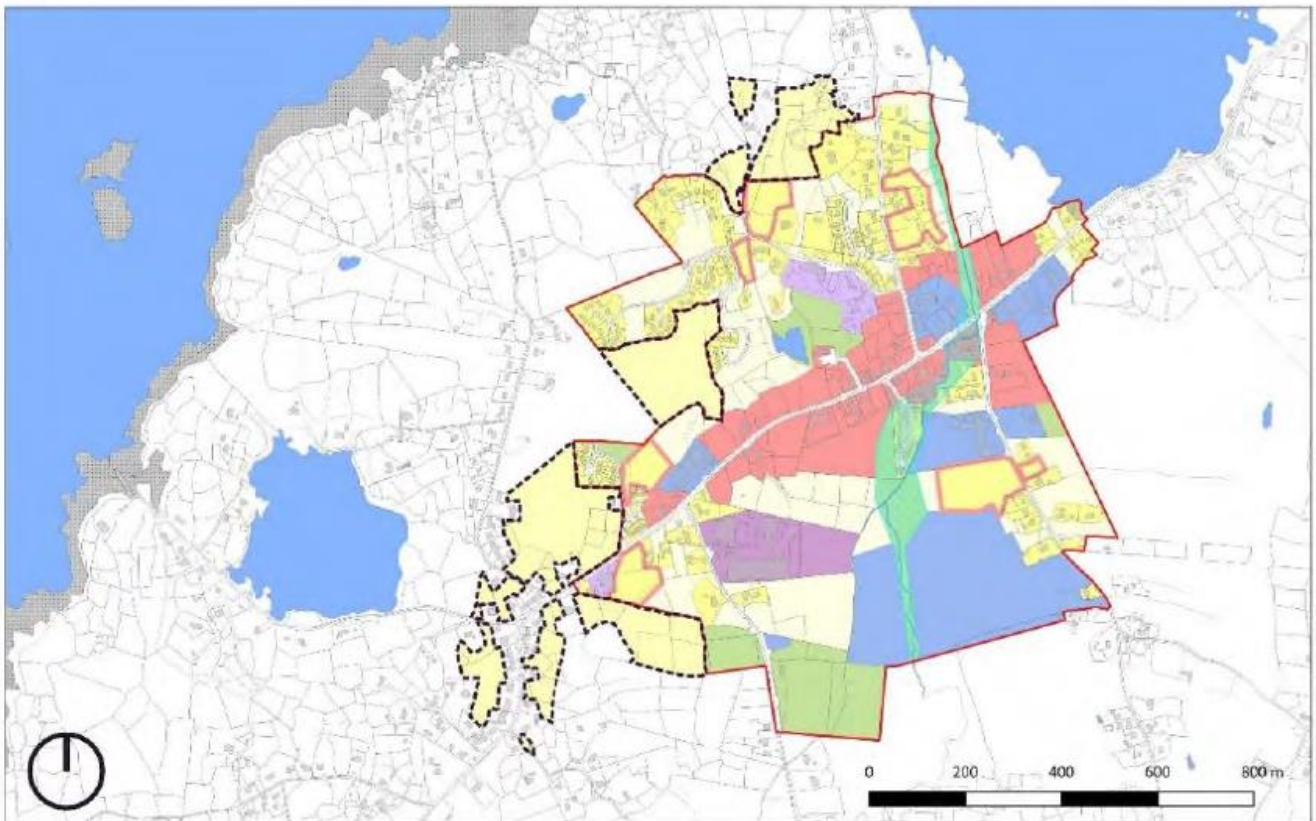


**Amendment No SGV LUZ An Cheathrú Rua 11.1a – Change of zoning from Unzoned to Residential Existing (17 land parcels)**





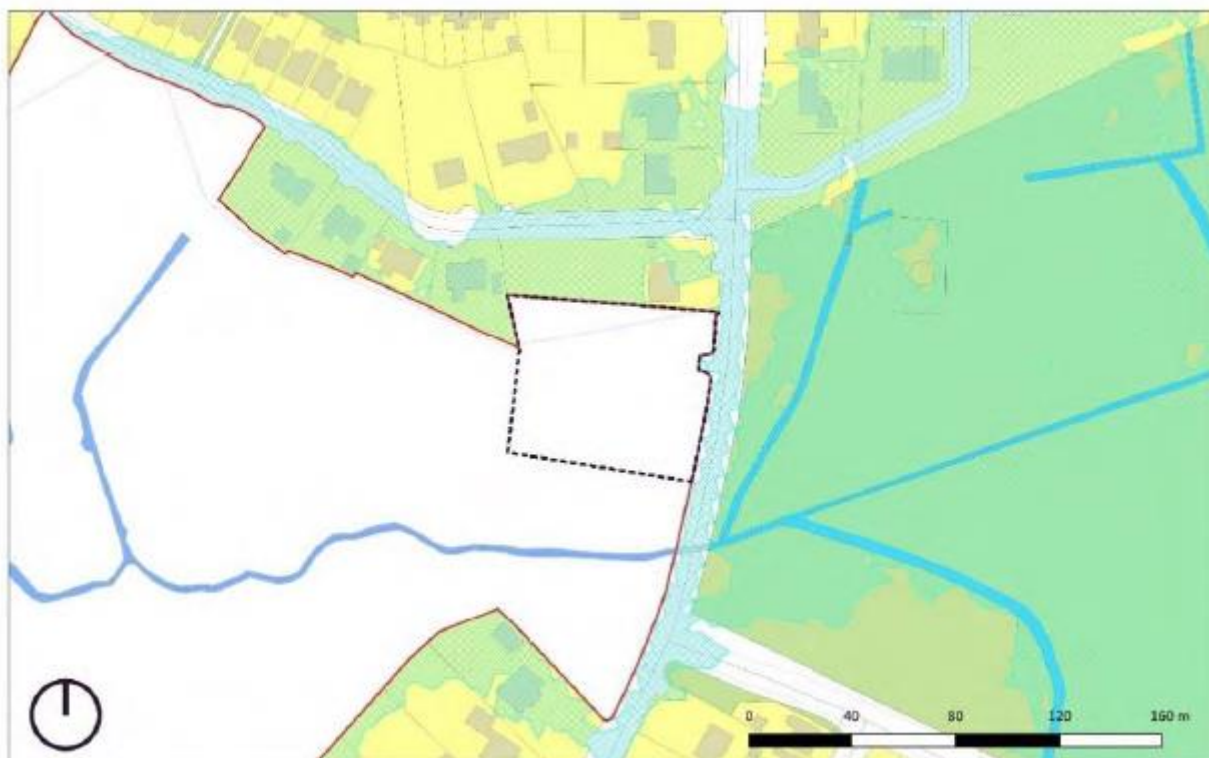
**Amendment No SGV LUZ An Cheathrú Rua 11.1b – Change of zoning from Unzoned to Residential Phase 2 (10 land parcels)**



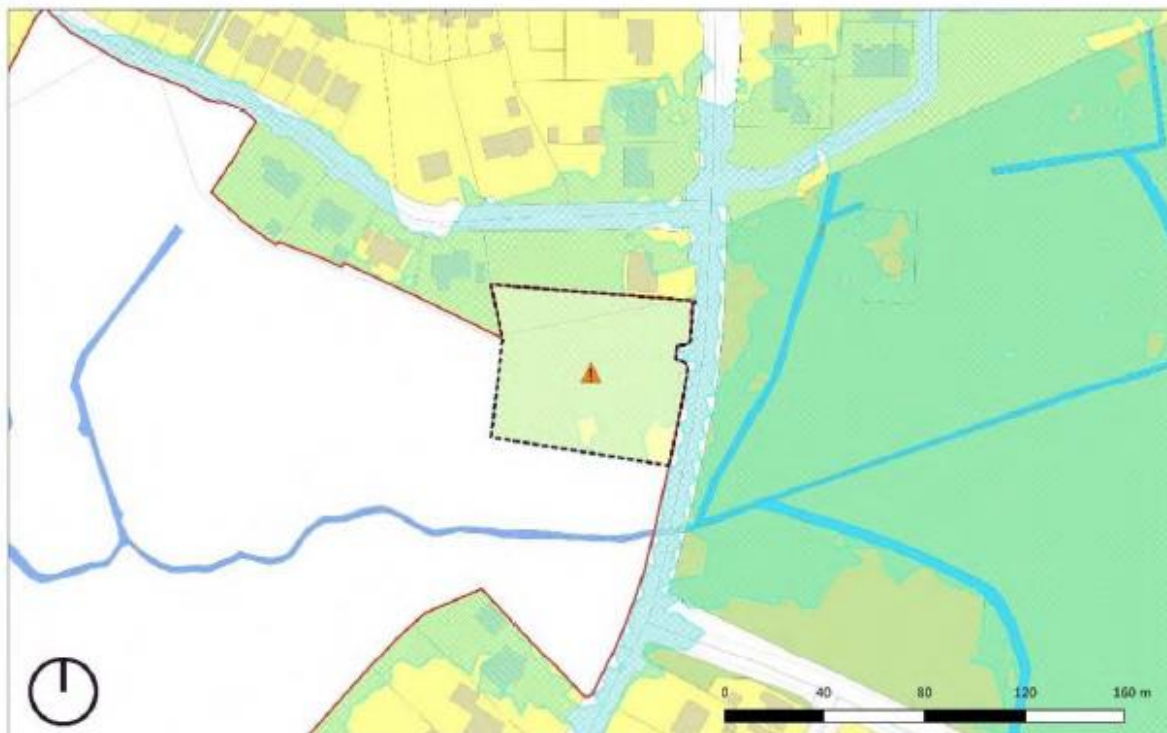
**An Cheathrú Rua - Aerial photograph detailing zoning amendments in Red**



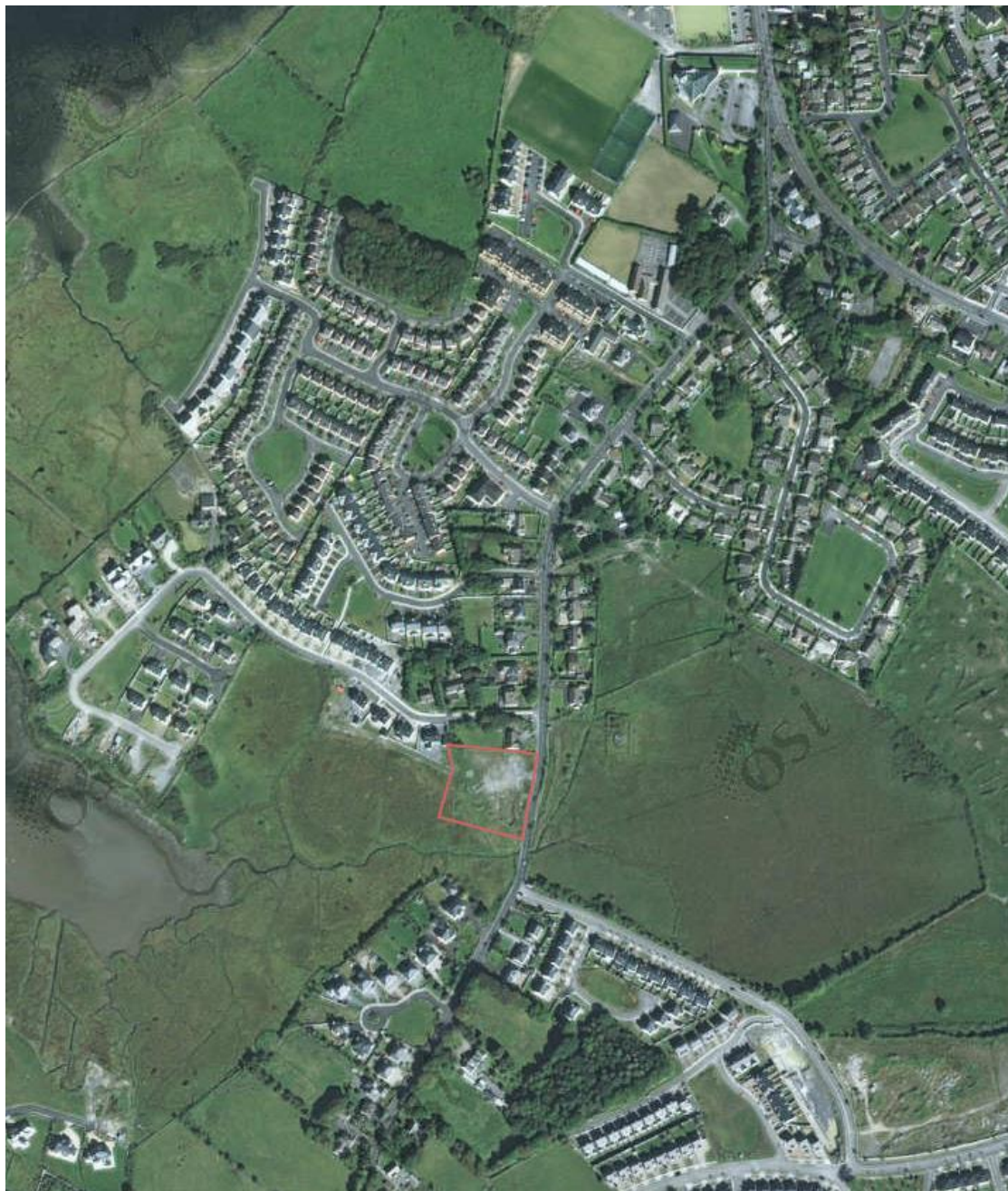
Oranmore land use zoning objectives



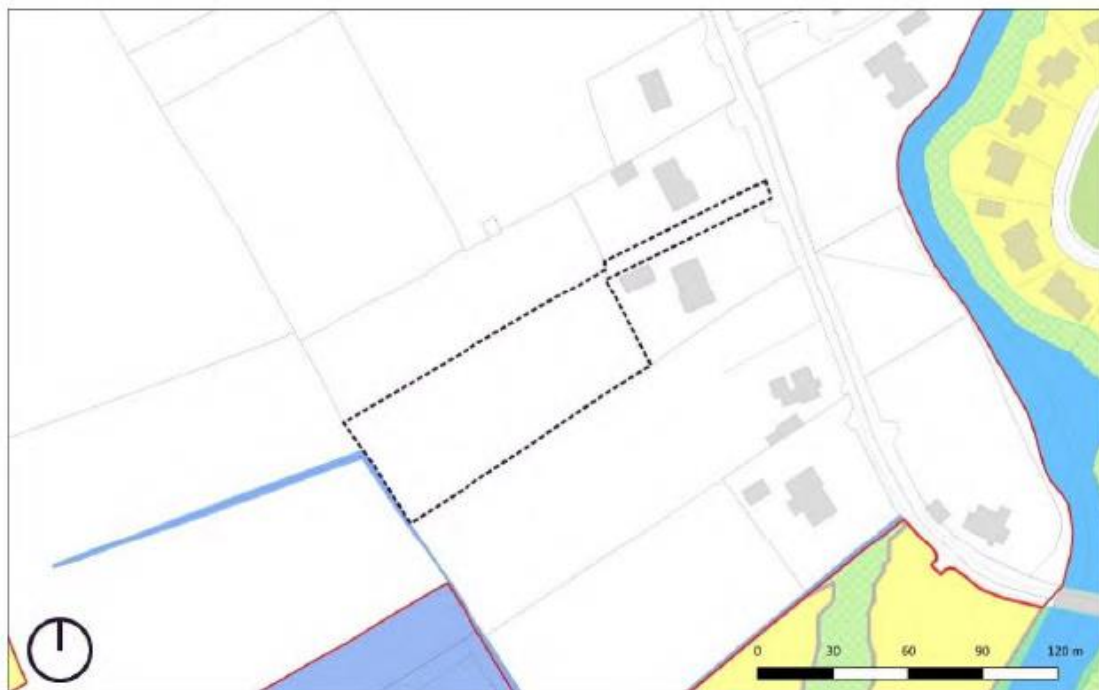
**Amendment No MASP LUZ Oranmore 3.5 – Change of zoning from Unzoned to Residential Phase 2**



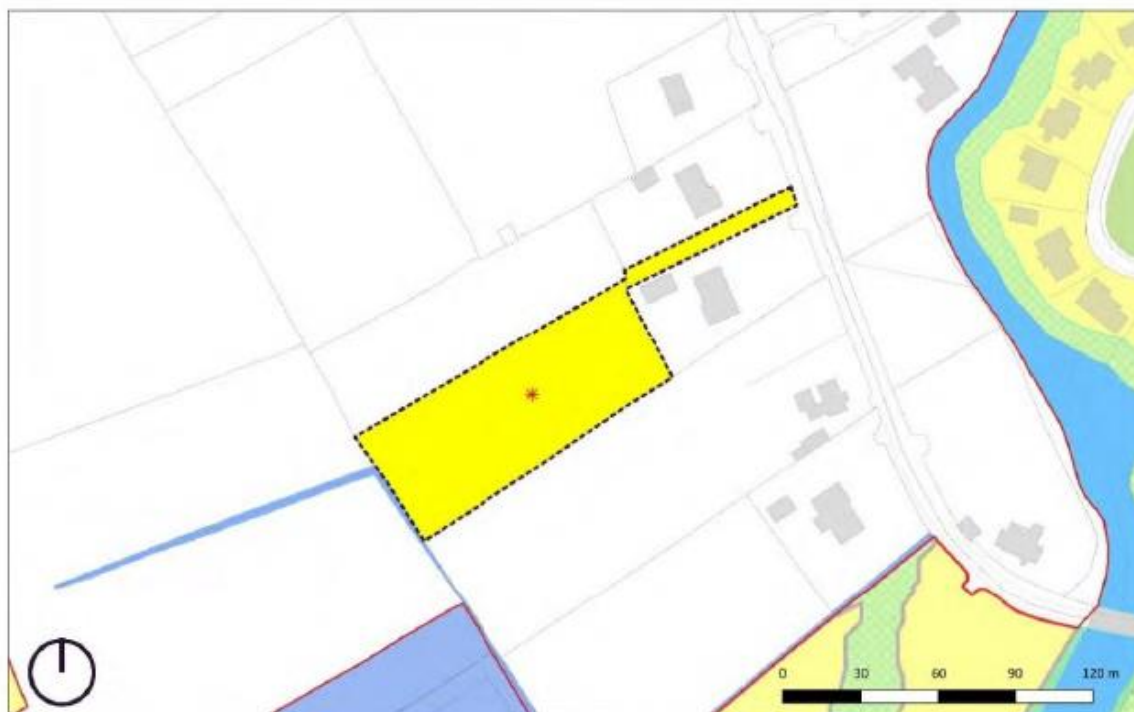
**Oranmore - Aerial photograph detailing zoning amendment outlined in Red**



Oughterard land use zoning objectives



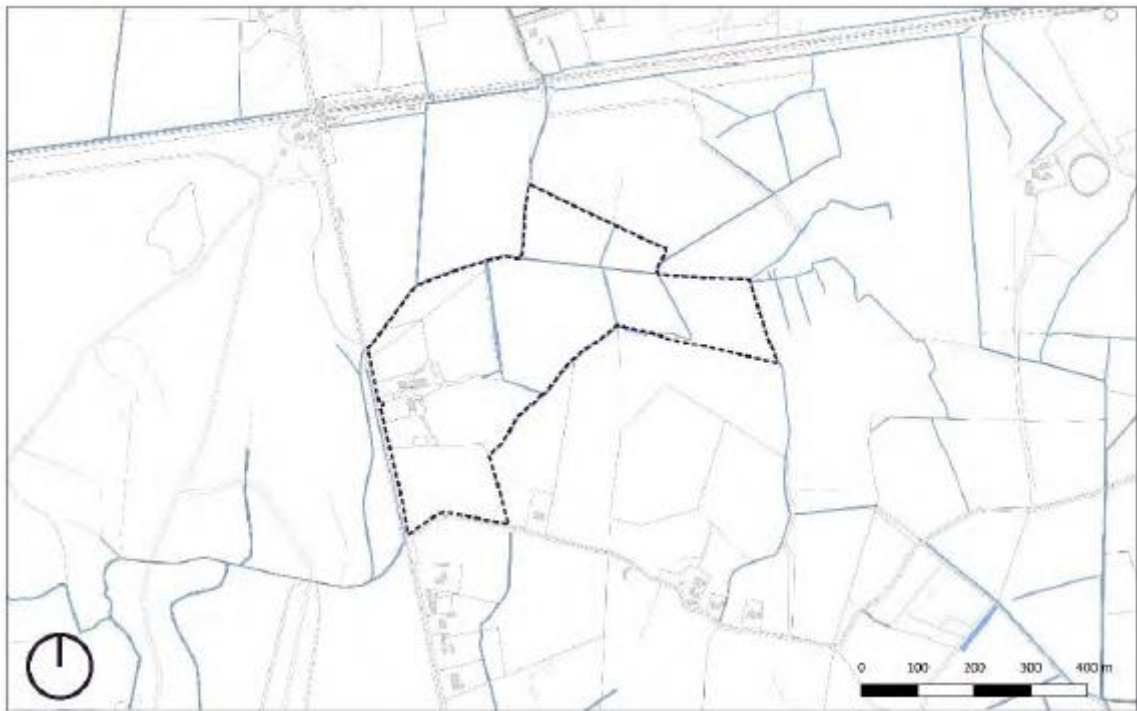
**Amendment No SGT LUZ Oughterard 9.4 – Change of zoning from Unzoned to Residential Phase 2**



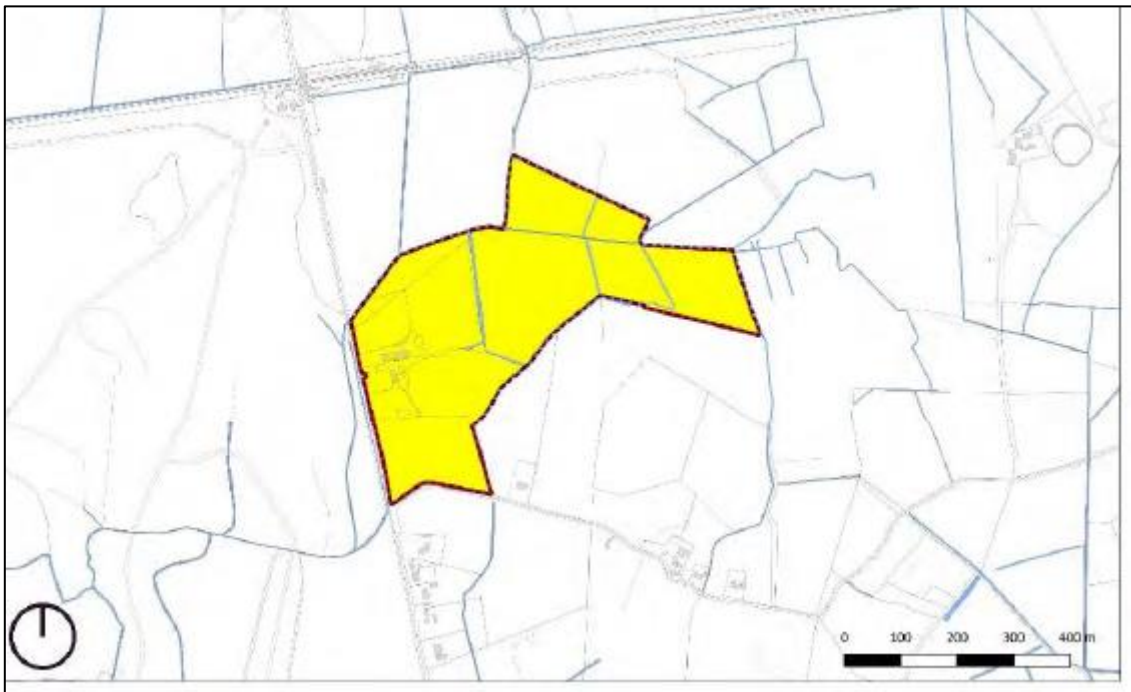
**Oughterard - Aerial photograph detailing zoning amendment outlined in Red**



## Woodlawn land use zoning objectives



### **Amendment No RSA LUZ Woodlawn 20.1 – Change of zoning from Unzoned to Residential Phase 1**



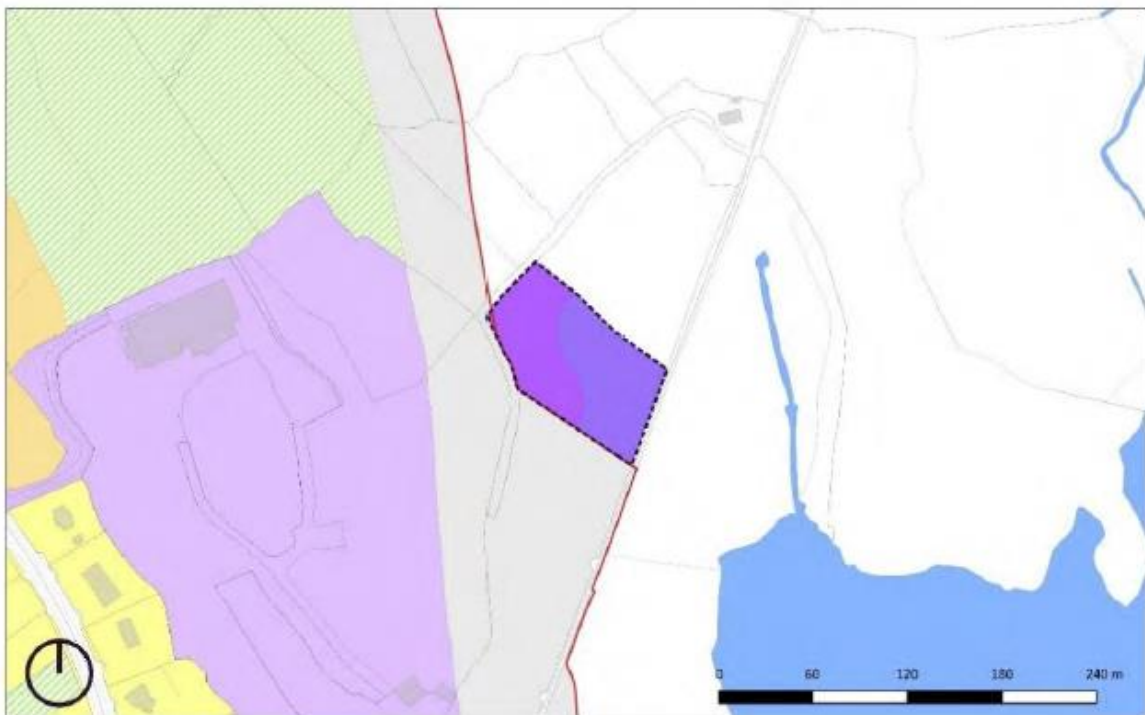
**Woodlawn - Aerial photograph detailing zoning amendment outlined in Red**



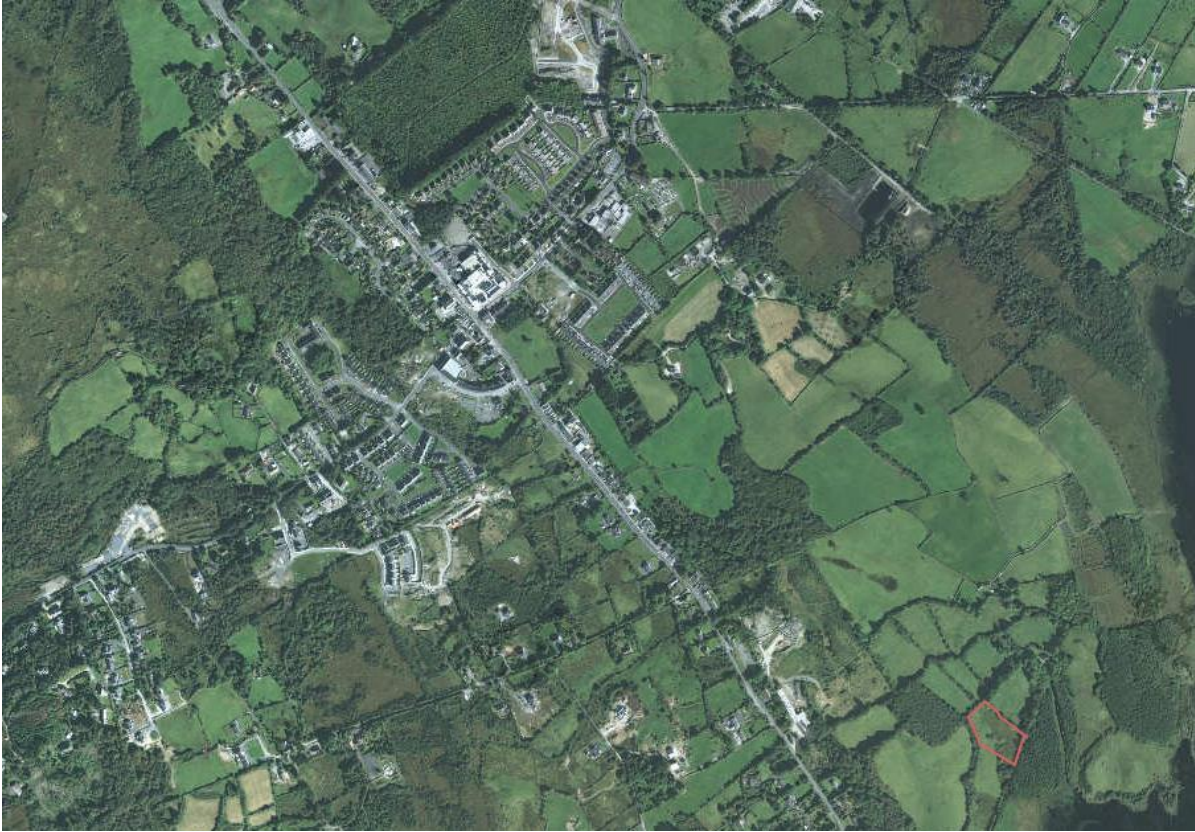
Maigh Cuilinn land use zoning objectives



**Amendment No SGT LUZ Maigh Cuilinn 8.4 – Change of zoning from Unzoned to Tourism**



**Maigh Cuilinn - Aerial photograph detailing zoning amendment outlined in Red**



**Appendix 2**

**Letter of 16 June 2022 from DHLGH to GCC**



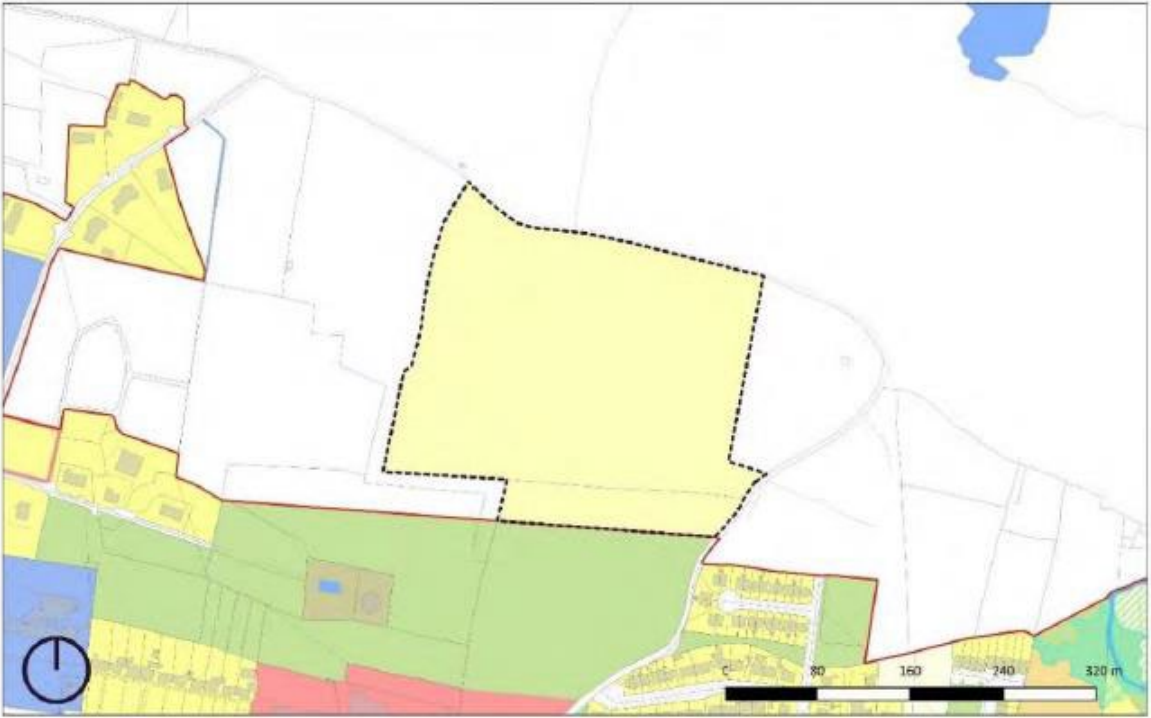
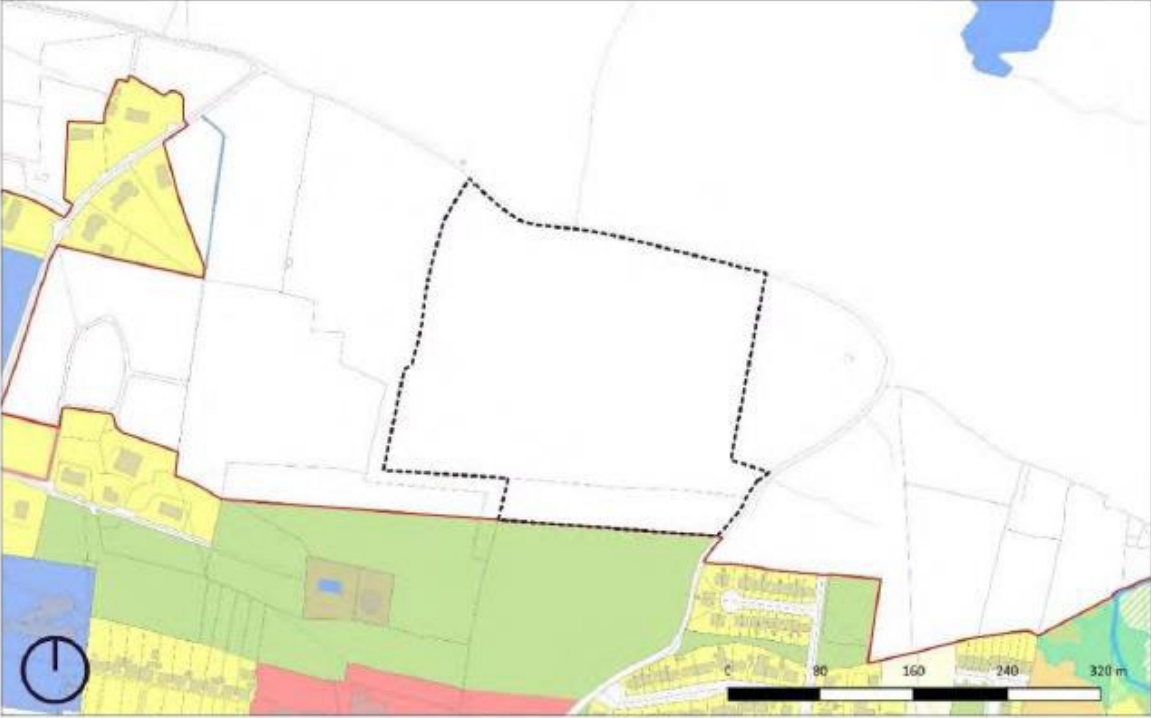
# Particulars of Draft Direction June 2022

**Clifden Land Use Zoning Objectives**

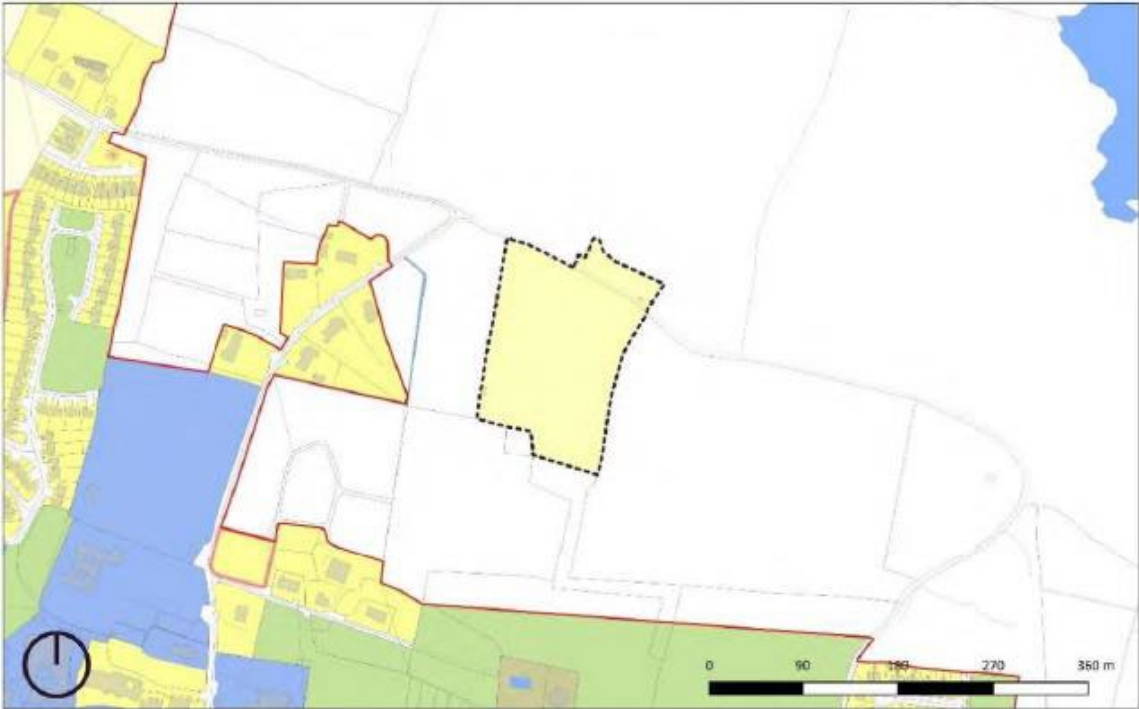
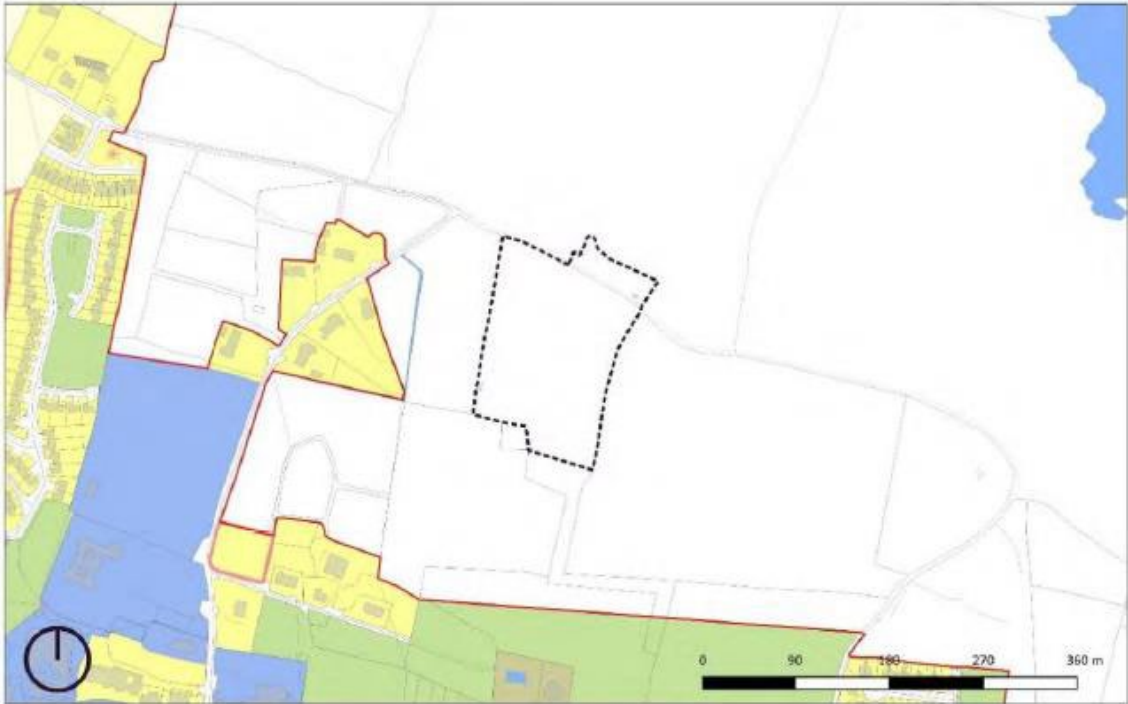
**i Clifden SGT LUZ 6.1 – i.e. the subject land reverts to Agriculture from Residential Phase 2.**



ii Clifden SGT LUZ 6.4b – i.e. the subject land reverts to unzoned from Residential Phase 2.



iii Clifden SGT LUZ 6.5 - i.e. the subject land reverts to unzoned from Residential Phase 2.



**Clifden - Aerial photograph detailing three amendments in Red**

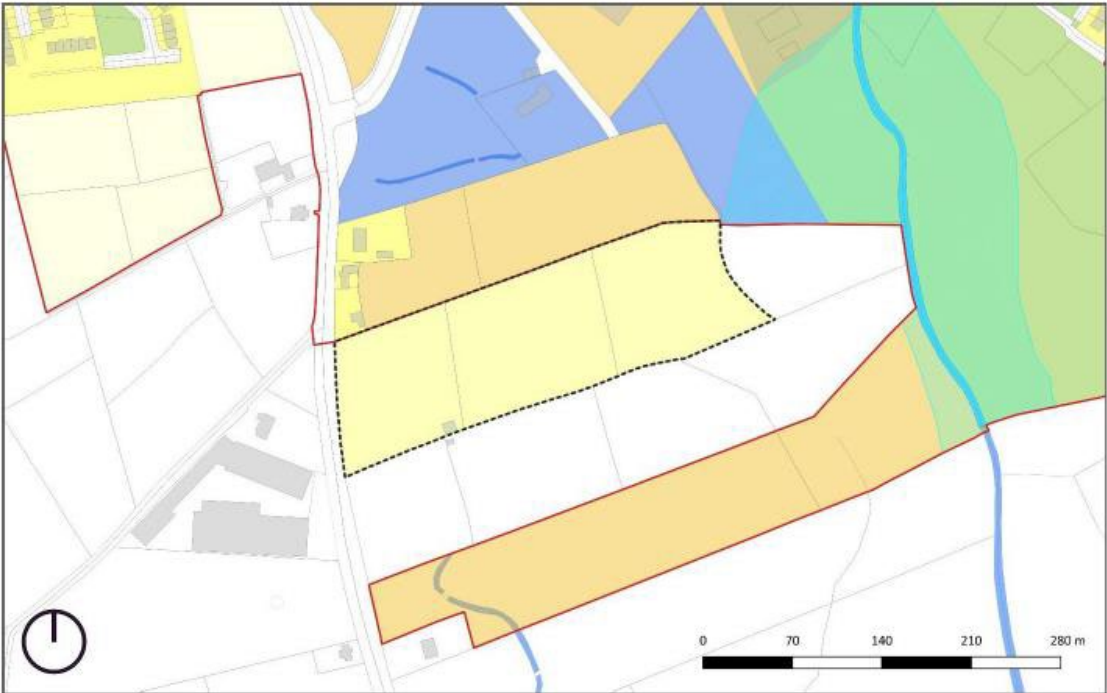
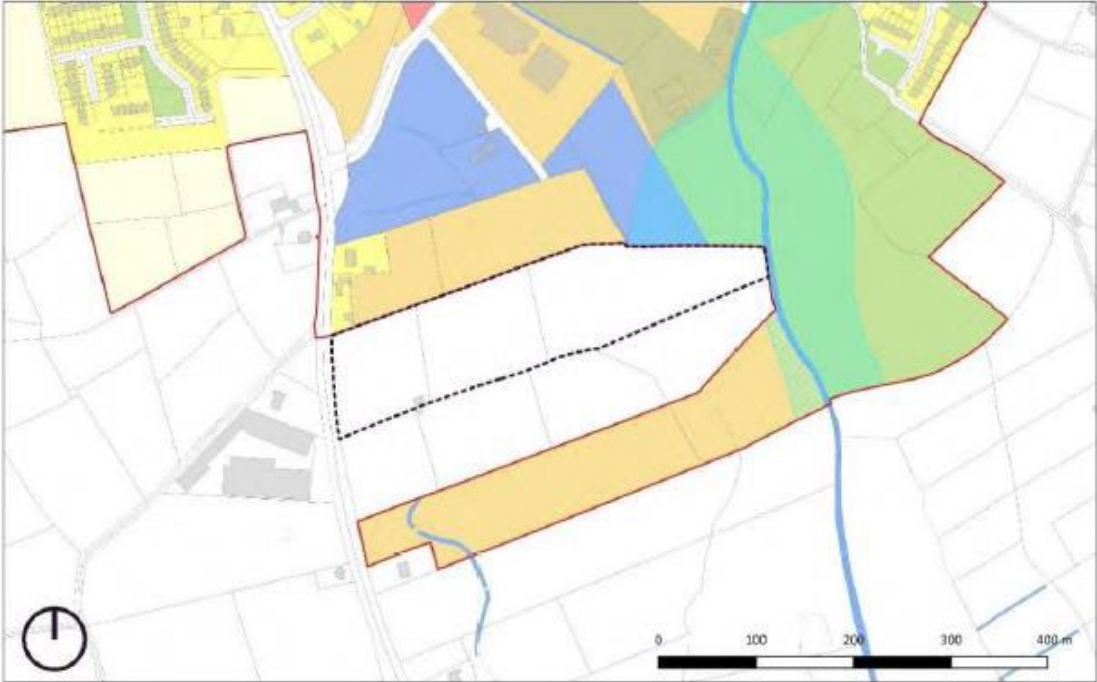


## Headford land use zoning objectives

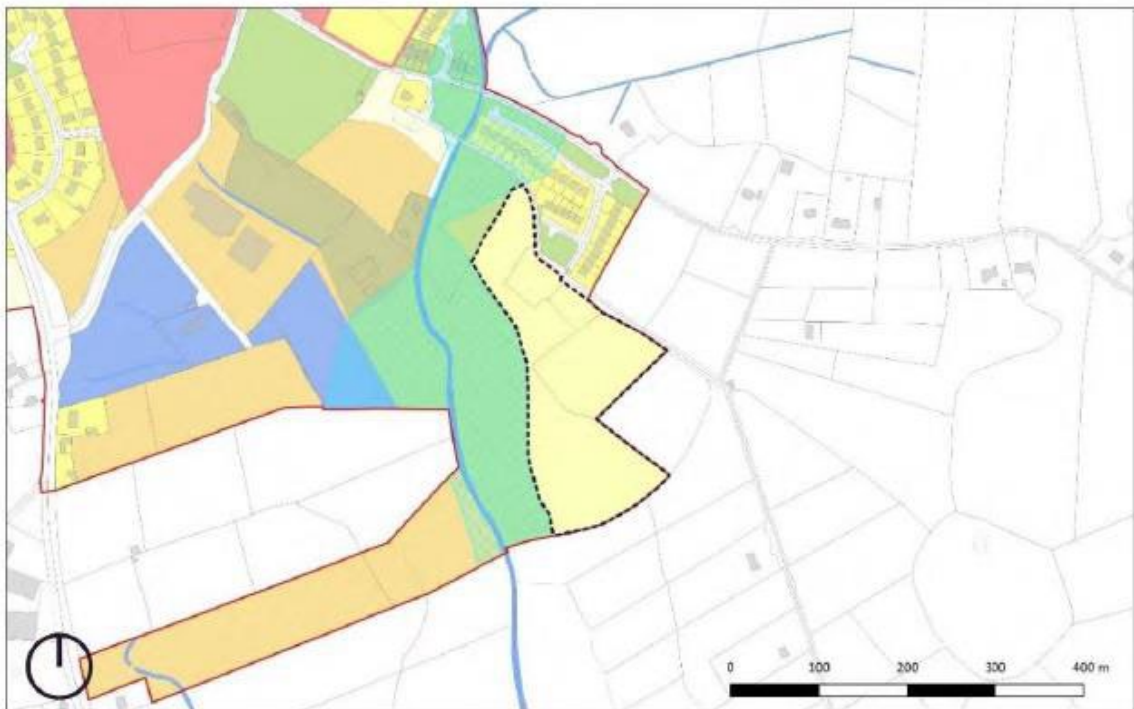
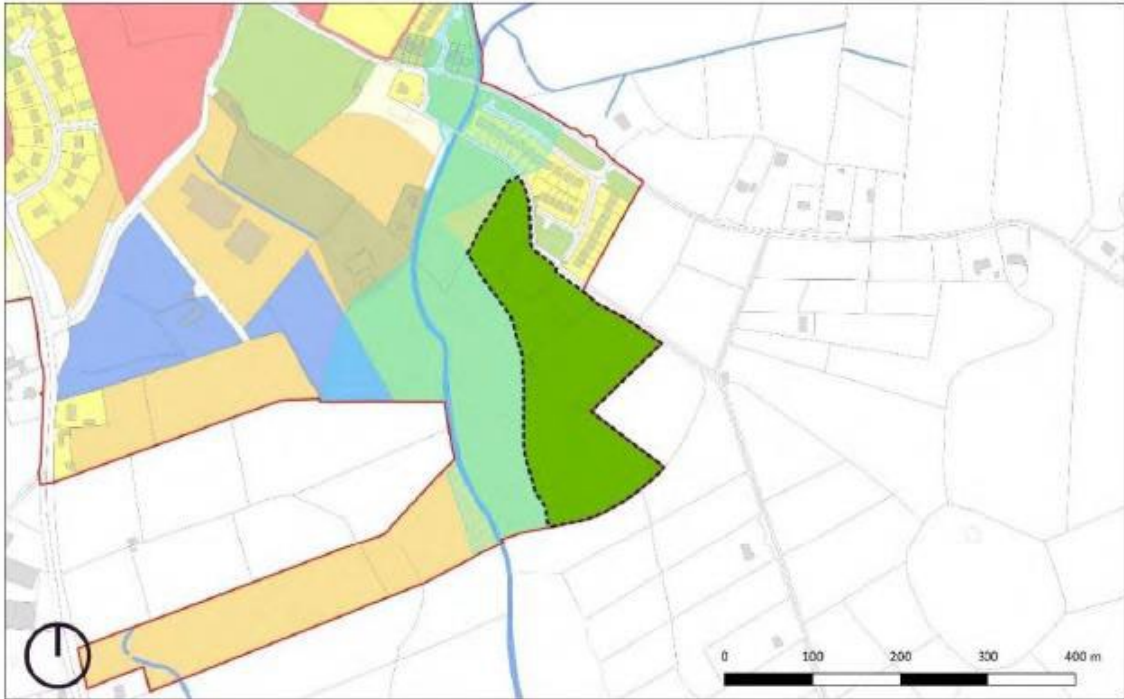
iv Headford SGT LUZ 7.2 - i.e. the subject land reverts to Open Space/Recreation and Amenity from Residential Phase 2.



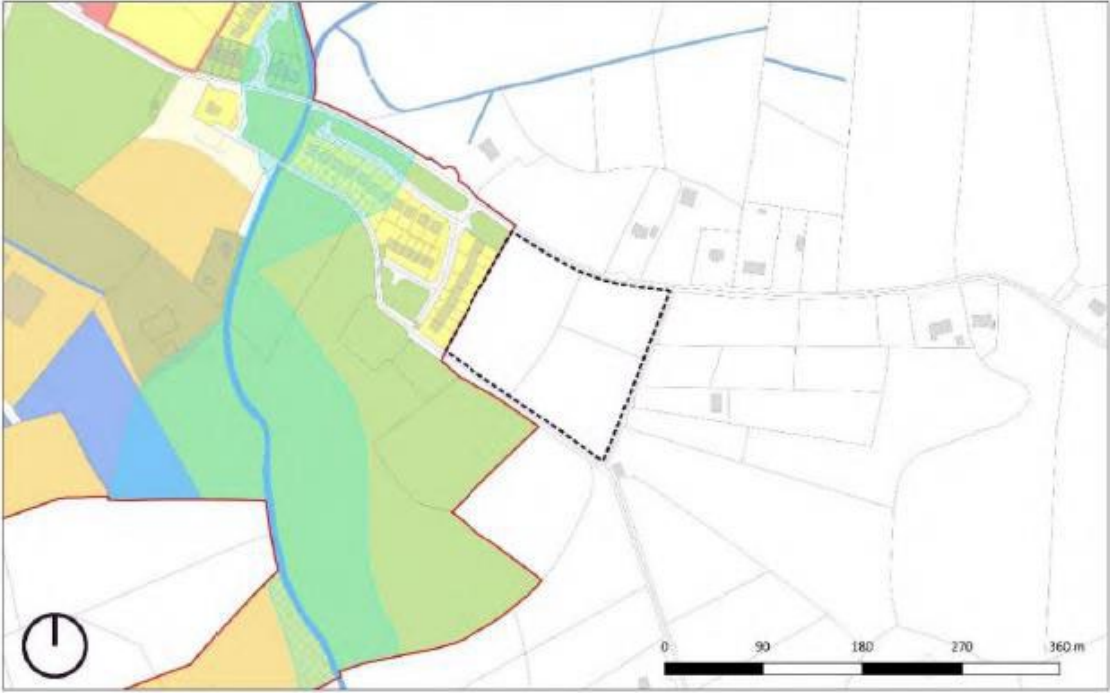
v Headford SGT LUZ 7.4- i.e. the subject land reverts to unzoned from Residential Phase 2.



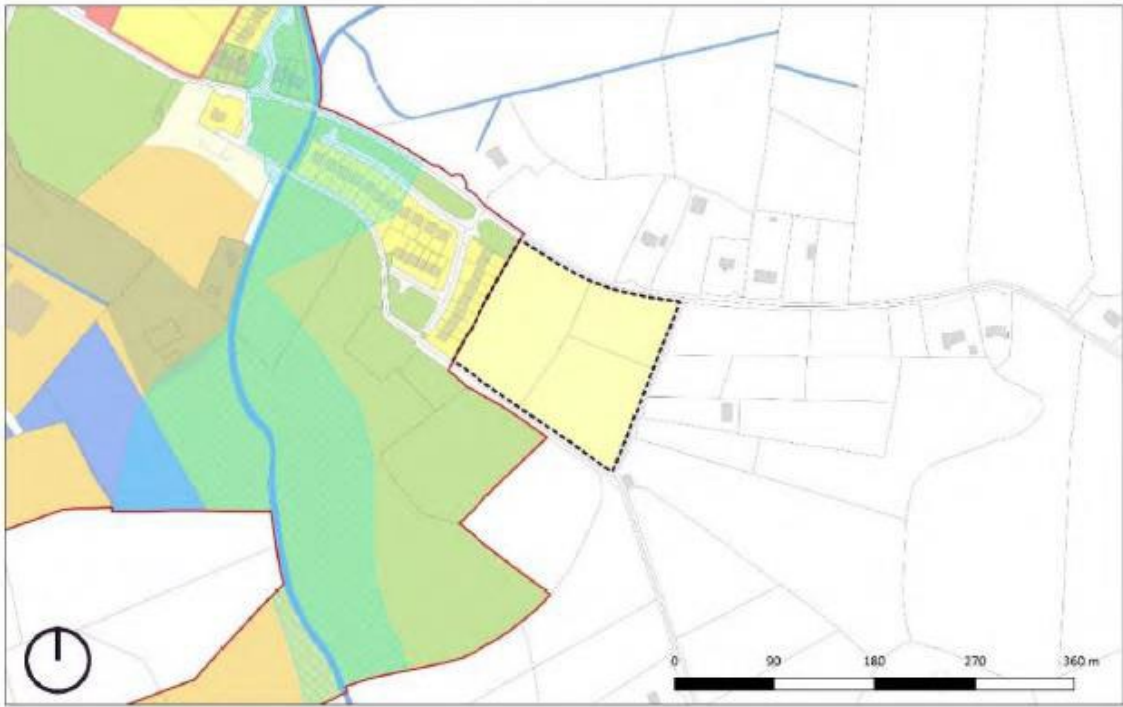
vi. Headford SGT LUZ 7.7- i.e. the subject land reverts to Open Space/Recreation and Amenity from Residential Phase 2.



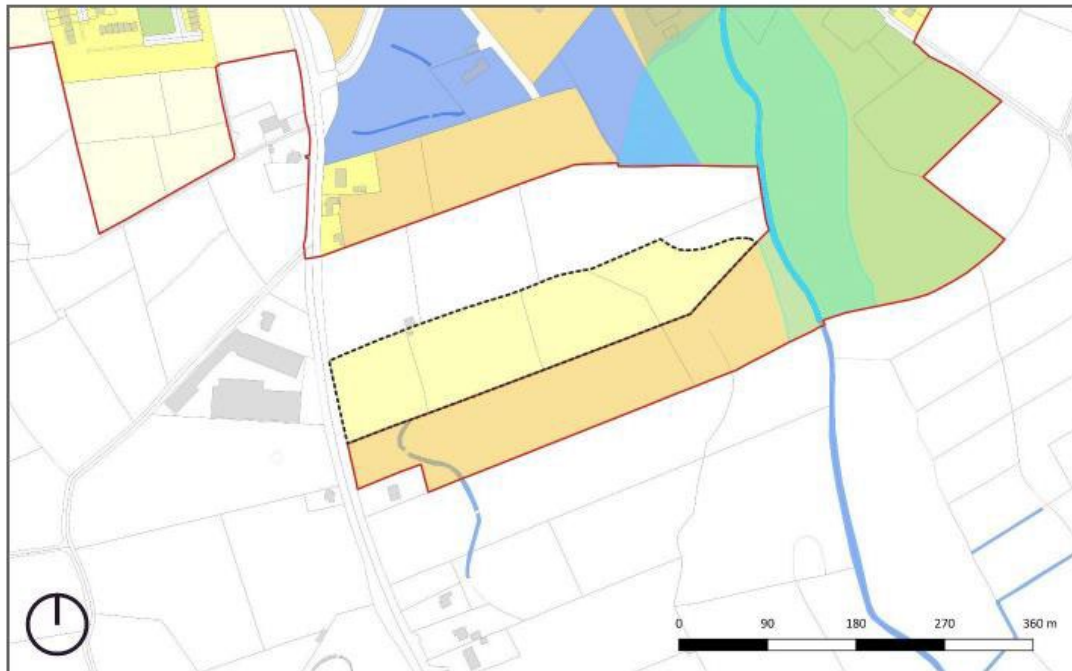
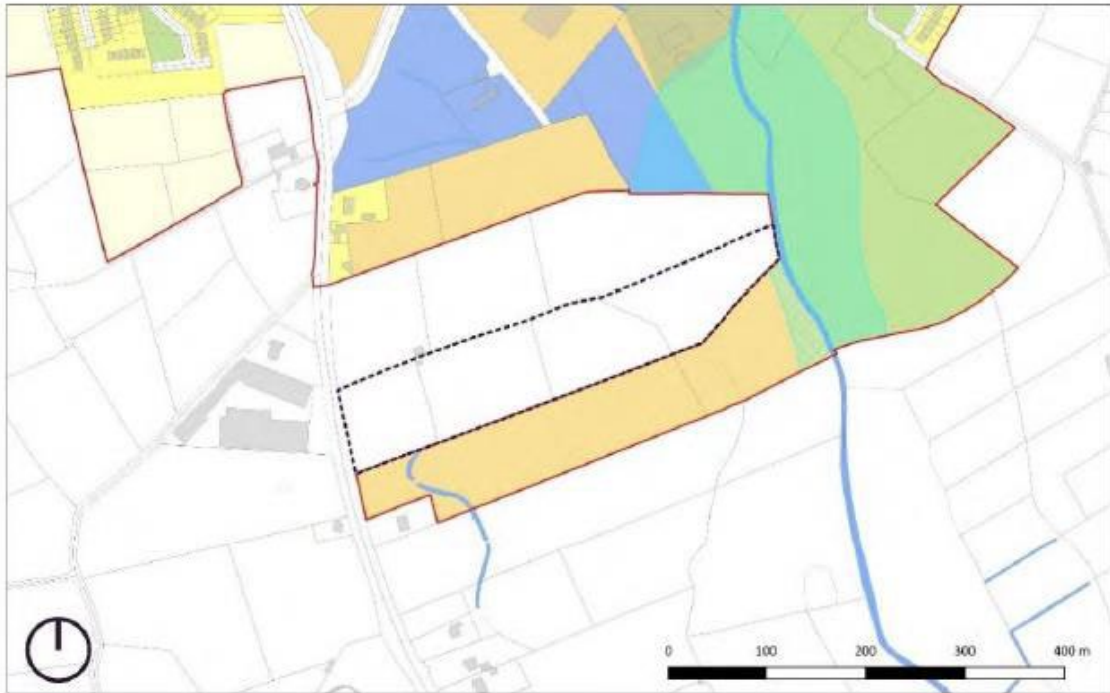
vii. Headford SGT LUZ 7.8 - i.e. the subject land reverts to unzoned from Residential Phase 2.



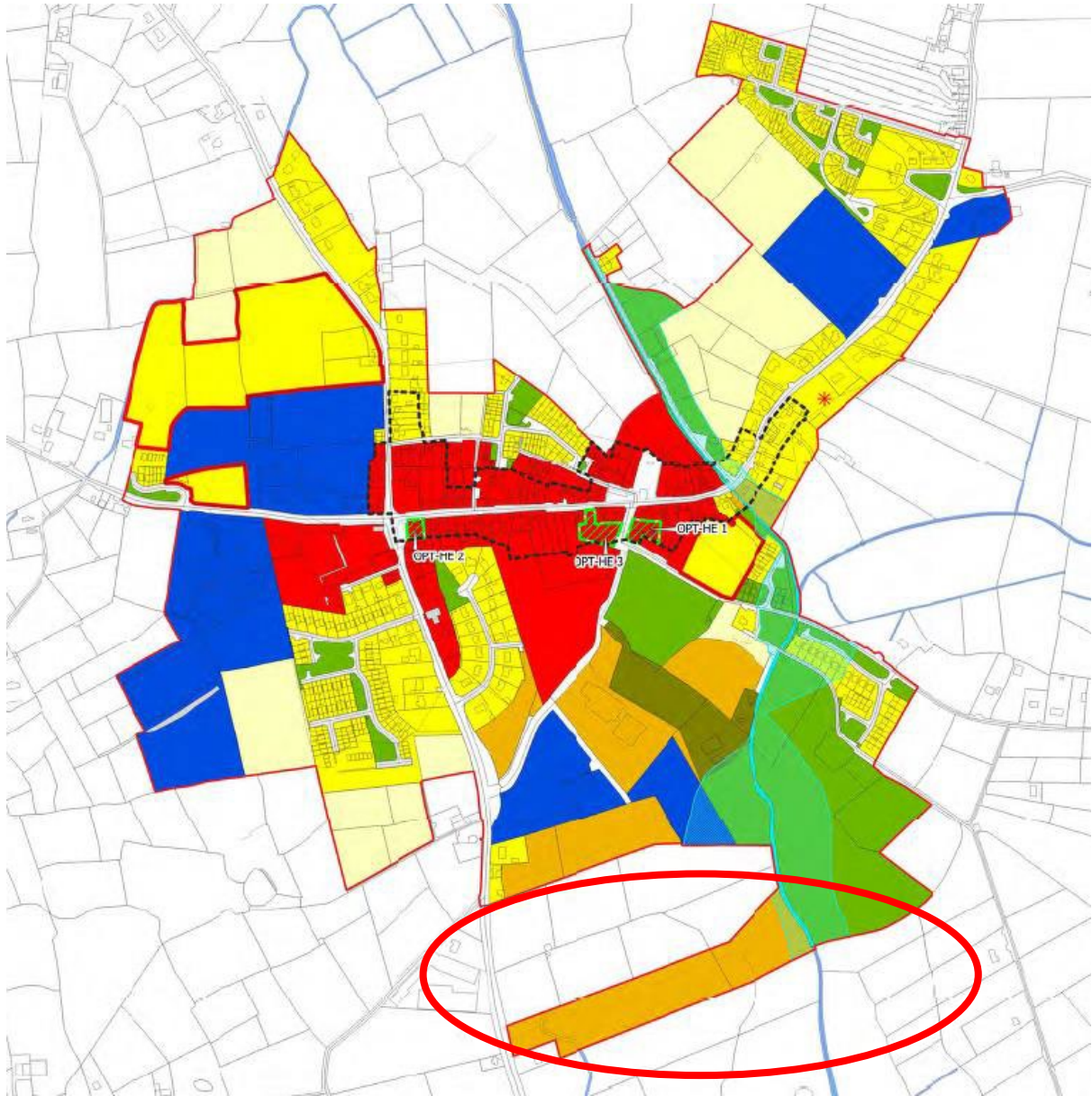
Amendment No SGT LUZ Headford 7.8 – Change of zoning from Unzoned to Residential Phase 2



viii. Headford SGT LUZ 7.10-- i.e. the subject land reverts to unzoned from Residential Phase 2.



**Delete the Business and Enterprise zoning objective on lands south of Headford, on the eastern side of the N84 road to Galway. (Business and Enterprise Zoning highlighted in Red as per Recommendation 11 (i) of the OPR submission to the Draft Plan)**

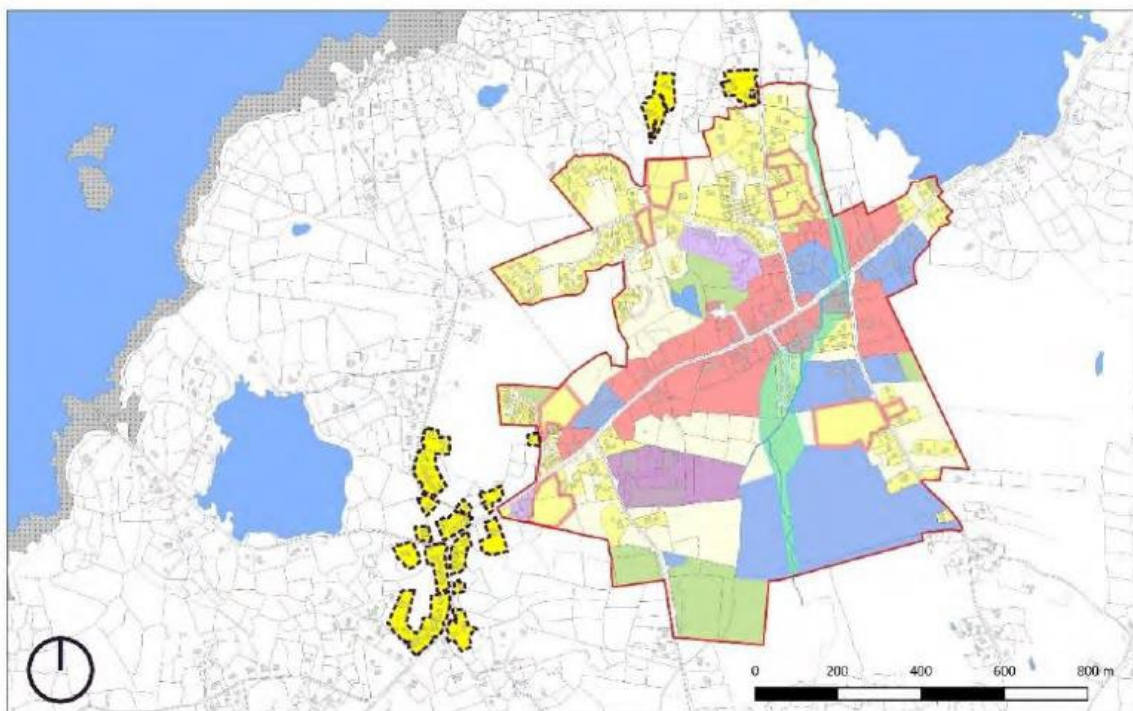
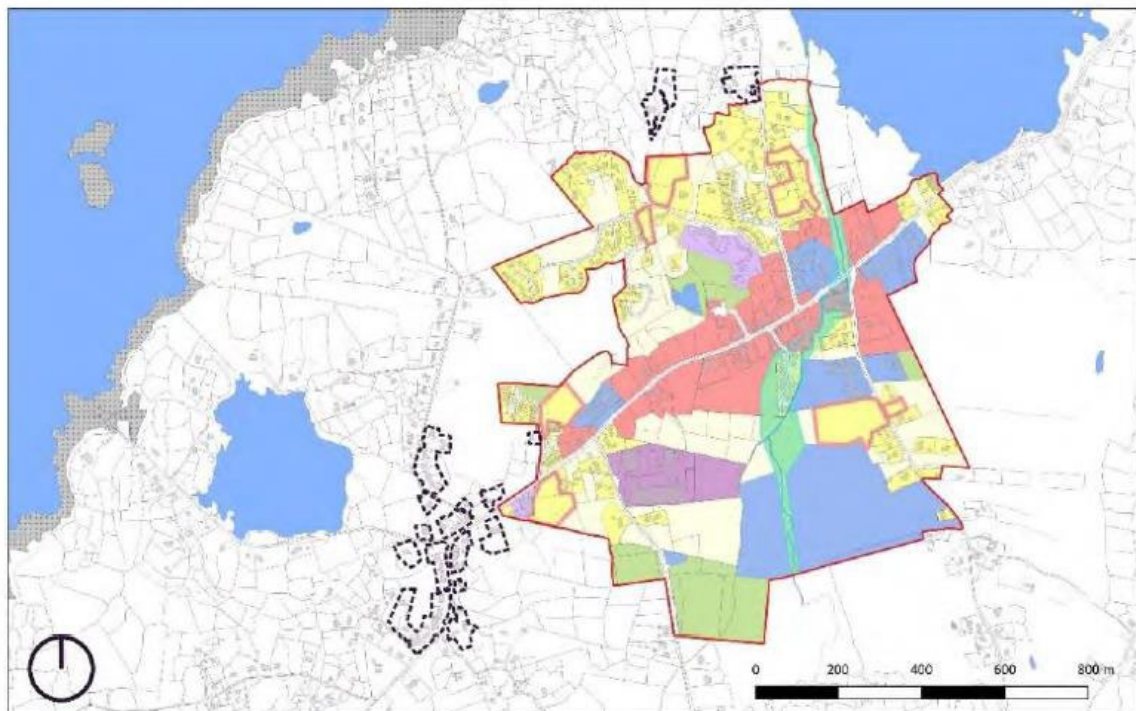


**Headford - Aerial photograph detailing six zoning amendments in Red**

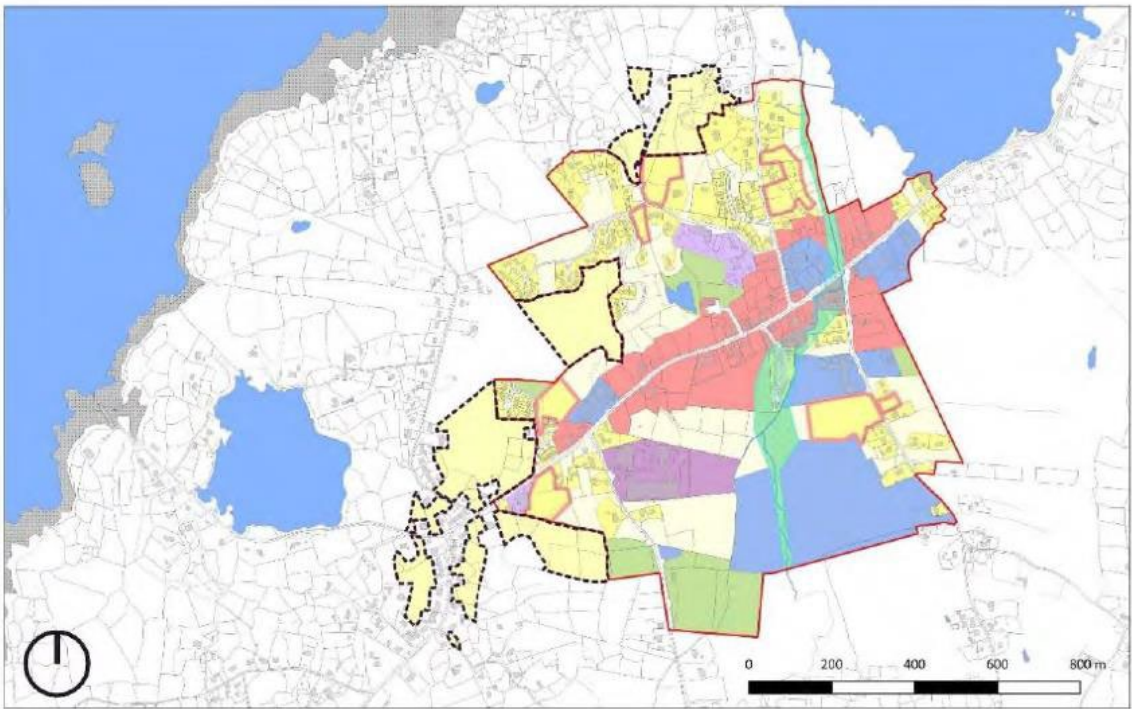
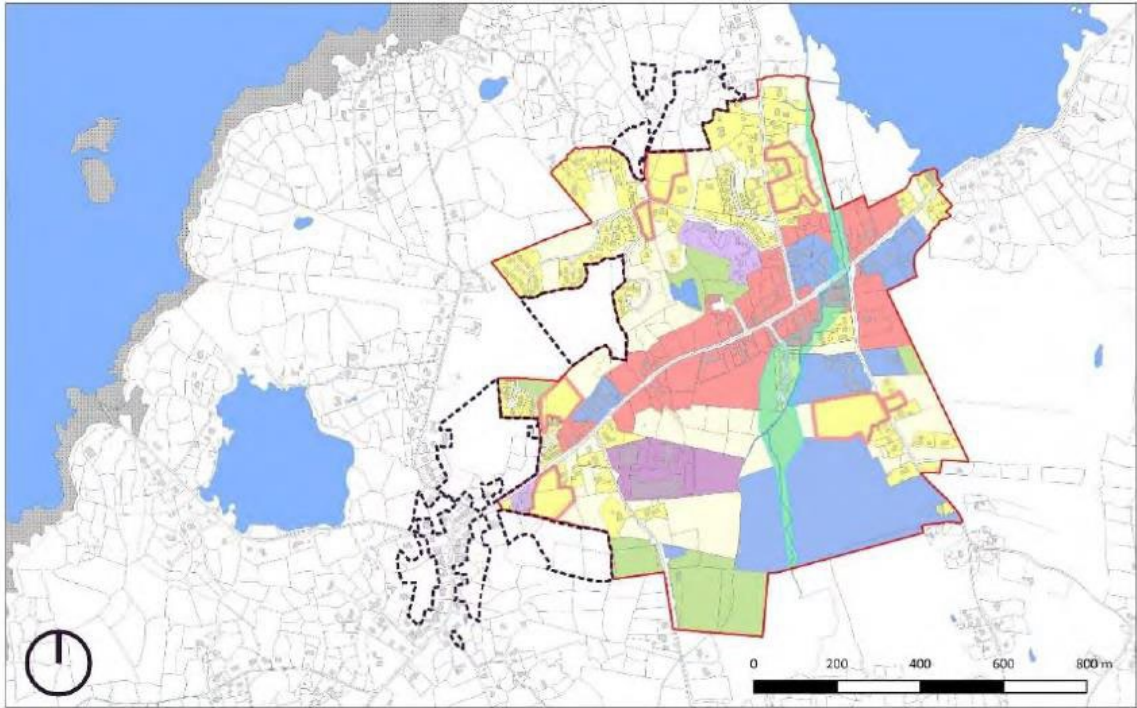


## An Cheathrú Rua land use zoning objectives

ix An Cheathru Rua SGV LUZ 11.Ia - i.e. the subject land reverts to unzoned from Residential Existing.



x. An Cheathru Rua SGV LUZ 11.Ib - i.e. the subject land reverts to unzoned from Residential Phase 2.

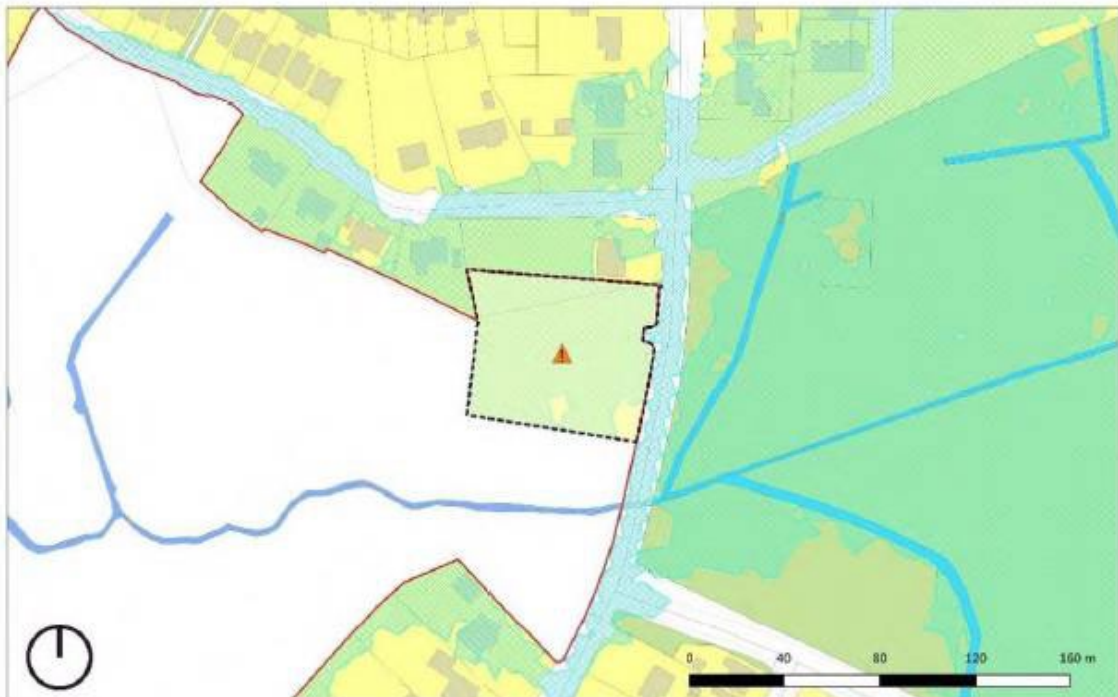
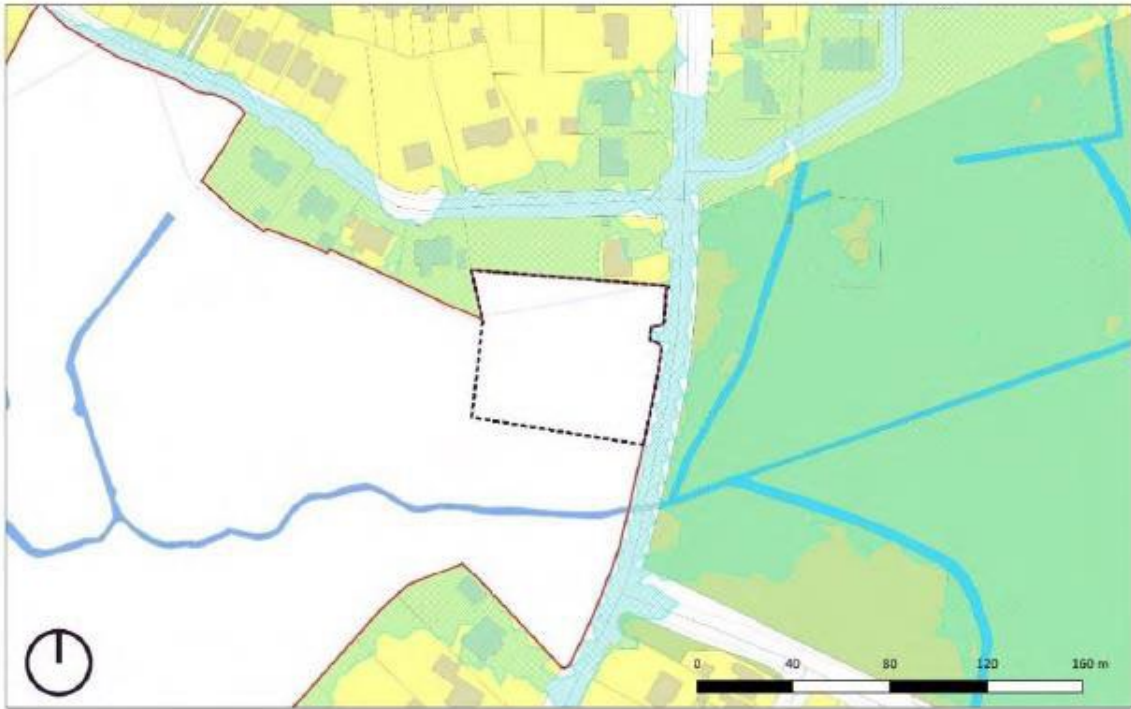


**An Cheathrú Rua - Aerial photograph detailing zoning amendments in Red**



## Oranmore land use zoning objectives

- xi. Oranmore MASP LUZ 3.5 - i.e. the subject land reverts to unzoned from Residential Phase 2

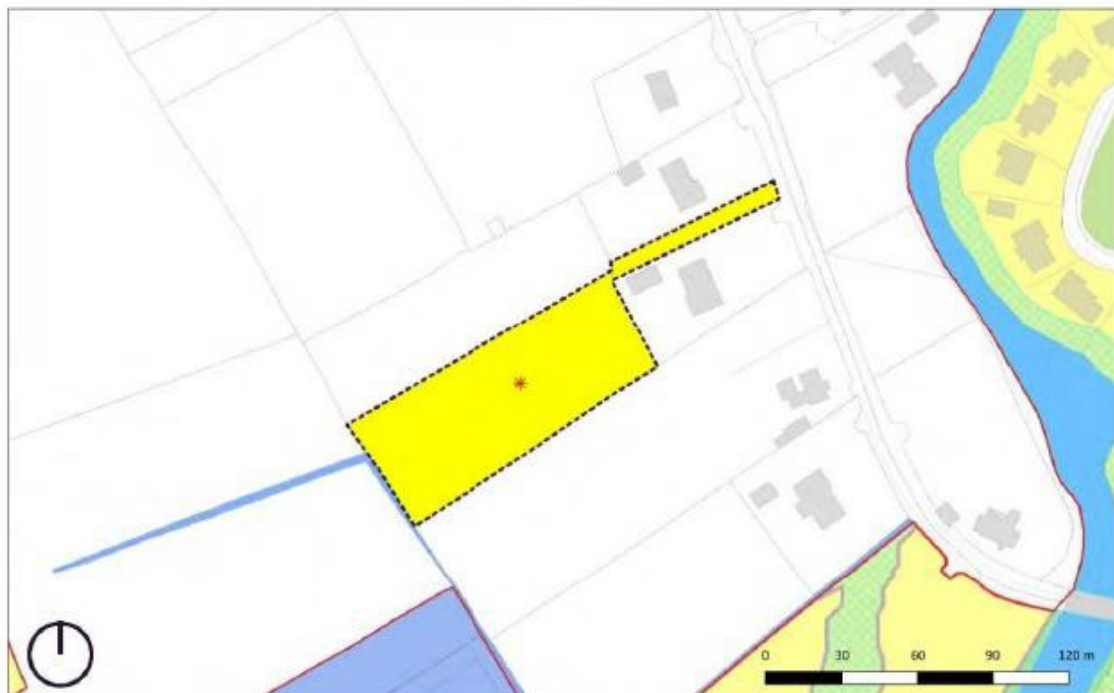


**Oranmore - Aerial photograph detailing zoning amendment outlined in Red**



## Oughterard land use zoning objectives

xii. Oughterard SGT LUZ 9.4 - i.e. the subject land reverts to unzoned from Residential Infill.

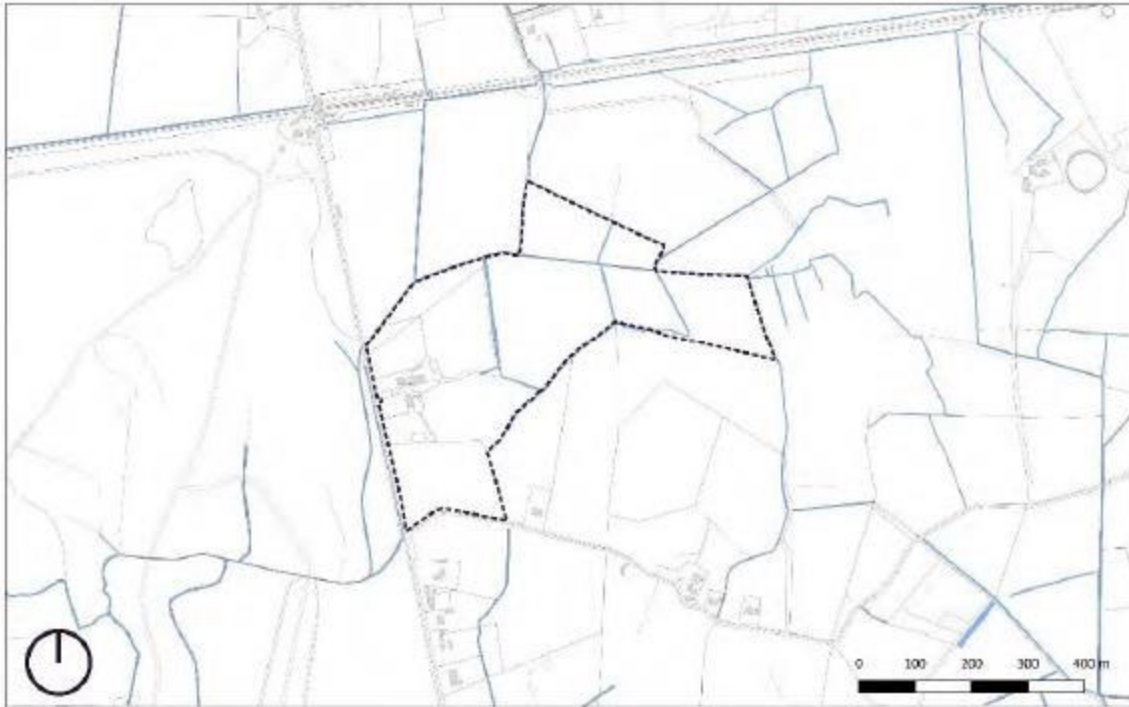


Oughterard - Aerial photograph detailing zoning amendment outlined in Red

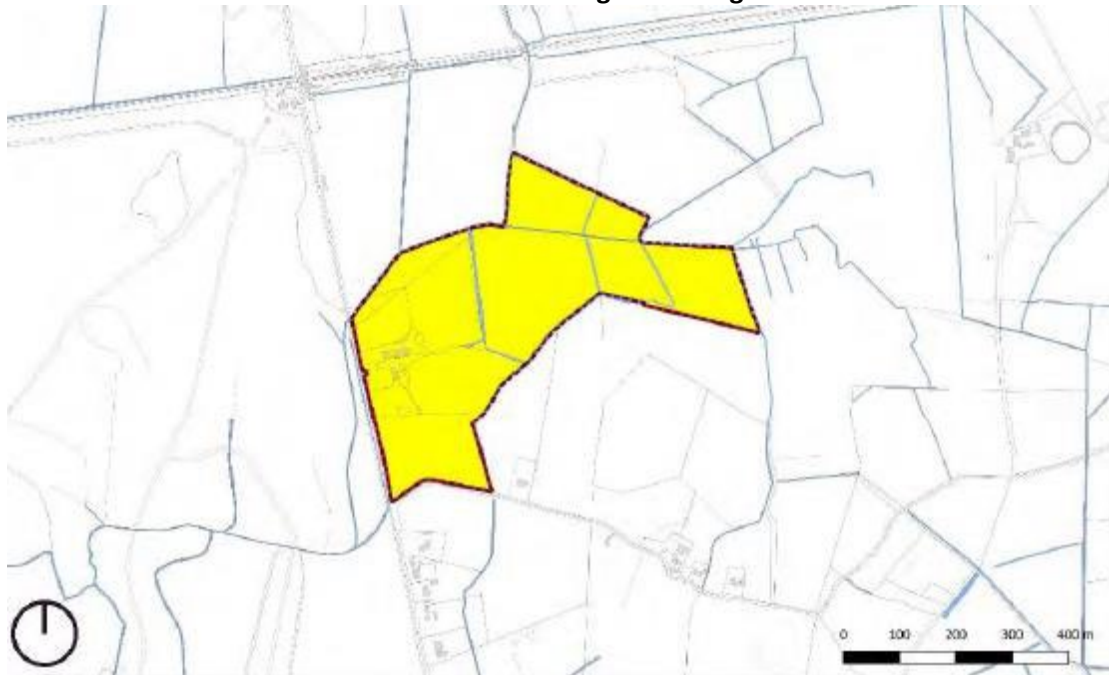


## Woodlawn land use zoning objectives

xiii. Woodlawn RSA LUZ 20.1- i.e. the subject land reverts to unzoned from Residential Phase 1.



**Amendment No RSA LUZ Woodlawn 20.1 – Change of zoning from Unzoned to Residential Phase 1**

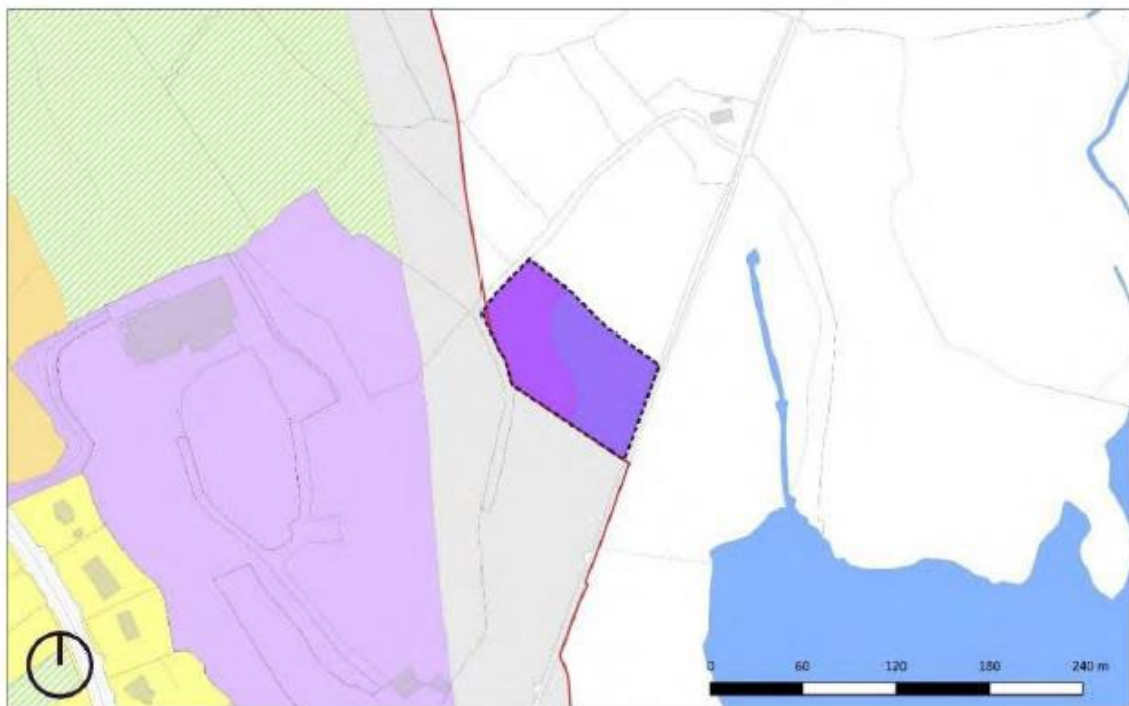
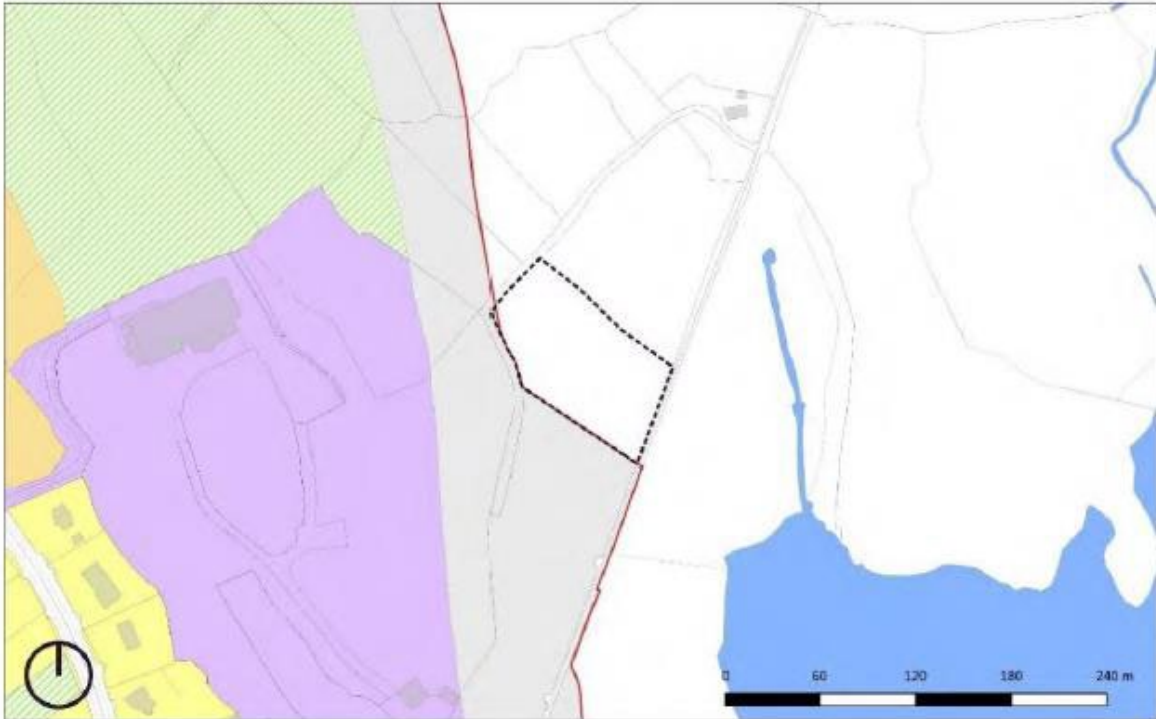


**Woodlawn - Aerial photograph detailing zoning amendment outlined in Red**

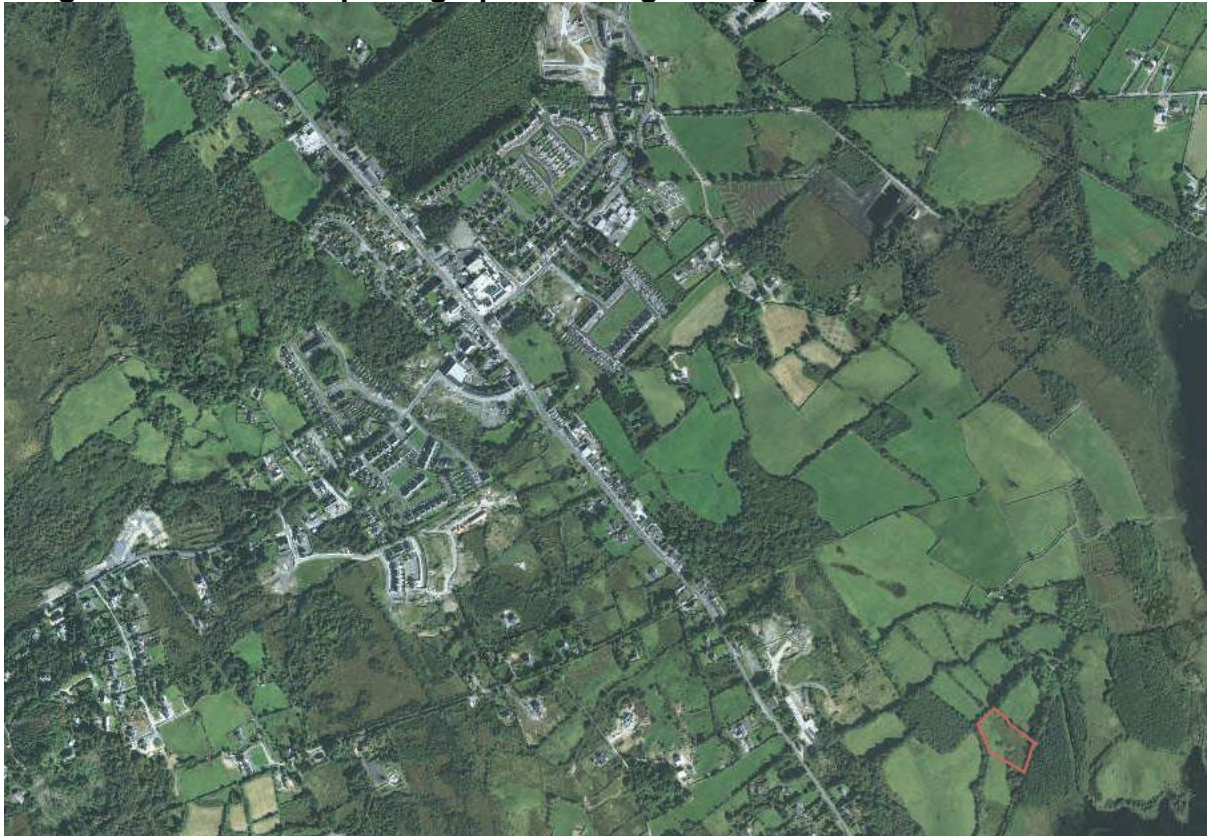


## Maigh Cuilinn land use zoning objectives

xiv. Maigh Cuilinn SGT 8.4 - i.e. the subject land reverts to unzoned from Tourism.



**Maigh Cuilinn - Aerial photograph detailing zoning amendment outlined in Red**



**c. Delete policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathru Rua.**

**d. policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathru Rua.**

- i. MA 7.8 to amend text in Section 7.5.10 (Sludge Management);**
- ii. MA 7.9 to amend Policy Objective WWI Enhancement of Wastewater Supply Infrastructure; and**
- iii. MA 7.10 to amend Policy Objective WW 2 Delivery of Wastewater Infrastructure.**

**DRAFT DIRECTION IN THE MATTER OF SECTION 31  
OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)  
Galway County Development Plan 2022 -2028**

“Development Plan” means the Galway County Development Plan 2022 - 2028

“Planning Authority” means Galway County Council

WHEREAS the powers and duties of the Minister for Housing, Local Government and Heritage under the Planning and Development Act 2000 (as amended), other than the power to prosecute an offence, have been delegated to the Minister of State at the Department of Housing, Local Government and Heritage pursuant to the Housing, Local Government and Heritage (Delegation of Ministerial Functions) Order 2020 (S.I. 559 of 2020). **WHEREAS** the Minister of State at the Department of the Housing, Local Government and Heritage in exercise of the powers conferred on him by section 31 of the Act 2000, and consequent to a recommendation made to him by the Office of the Planning Regulator under section 31AM(8) of the Act hereby directs as follows:

- (1) This Direction may be cited as the Planning and Development (Galway County Development Plan 2022 - 2028) Direction 2022.
  
- (2) The Planning Authority is hereby directed to take the following steps with regard to the Development Plan:
  - a. Reinstate the following zoning objectives to that of the draft Plan:
    - i. Clifden SGT LUZ 6.1 - i.e. the subject land reverts to Agriculture from Residential Phase 2.

- ii. Clifden SGT LUZ 6.4b - i.e. the subject land reverts to unzoned from Residential Phase 2.
- iii. Clifden SGT LUZ 6.5 - i.e. the subject land reverts to unzoned from Residential Phase 2.
- iv. Headford SGT LUZ 7.2 - i.e. the subject land reverts to Open Space/Recreation and Amenity from Residential Phase 2.
- v. Headford SGT LUZ 7.4 - i.e. the subject land reverts to unzoned from Residential Phase 2.
- vi. Headford SGT LUZ 7.7- i.e. the subject land reverts to Open Space/Recreation and Amenity from Residential Phase 2.
- vii. Headford SGT LUZ 7.8 - i.e. the subject land reverts to unzoned from Residential Phase 2.
- viii. Headford SGT LUZ 7.10 -- i.e. the subject land reverts to unzoned from Residential Phase 2.
- ix. An Cheathrú Rua SGV LUZ 11.1a - i.e. the subject land reverts to unzoned from Residential Existing.
- x. An Cheathrú Rua SGV LUZ 11.1b - i.e. the subject land reverts to unzoned from Residential Phase 2.
- xi. Oranmore MASP LUZ 3.5 - i.e. the subject land reverts to unzoned from Residential Phase 2.
- xii. Oughterard SGT LUZ 9.4 - i.e. the subject land reverts to unzoned from Residential Infill.
- xiii. Woodlawn RSA LUZ 20.1 - i.e. the subject land reverts to unzoned from Residential Phase 1.
- xiv. Maigh Cuillinn SGT 8.4 - i.e. the subject land reverts to unzoned from Tourism.

- b. Delete the Business and Enterprise zoning objective on lands south of Headford, on the eastern side of the N84 road to Galway.
- c. Delete policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathrú Rua.
- d. Delete the amended and additional provisions inserted under:
  - (i) MA 7.8 to amend text in Section 7.5.10 (Sludge Management);
  - (ii) MA 7.9 to amend Policy Objective WW1 Enhancement of Wastewater Supply Infrastructure; and
  - (iii) MA 7.10 to amend Policy Objective WW 2 Delivery of Wastewater Infrastructure.

## STATEMENT OF REASONS

- I. **Pursuant to section 31(1)(b), section 31(10)(ba)(i) and section 31(1)(c)**

The Galway County Development Plan 2022 – 2028 as made includes material amendments to the draft Plan, that are inconsistent with the evaluation of the Strategic Environmental Assessment and which individually and cumulatively are not consistent with the Core Strategy, national and regional planning policy, and the proper planning and sustainable development of the area, including:

  - a. Land zoned for residential development that is not consistent with the Development Plan's own Core Strategy for Clifden, Headford, An Cheathrú Rua and Woodlawn, in the adopted Plan. In making the Development Plan with residential zoning in excess of that determined to be required under the Core Strategy, the Planning Authority fails to have regard to the requirements of section 4.5 of the *Development Plan Guidelines for Planning Authorities (2007)* and section 4.4 of the *Development Plans, Guidelines for Planning Authorities - Draft for Consultation (2021)* to ensure enough land is zoned and to avoid zoning too much land and the Planning Authority provides no or no adequate reasons

relating to the proper planning and sustainable development of the area to explain why the guidelines have not been followed;

- b. Land zoned for residential development located in peripheral locations outside the CSO settlement boundary in the case of Clifden, and Headford, and in the case of Woodlawn where no CSO boundary exists, inconsistent with the requirements for compact growth in NPO 3c and RPO 3.2;
- c. Land zoned for development located in non-sequential and peripheral locations at a distance from the centre and beyond undeveloped greenfield lands in Clifden and Headford, An Cheathrú Rua, and Oughterard, or in the case of Woodlawn detached from any existing settlement, which fails to have regard to the requirement to implement or adopt the sequential approach to zoning under the *Development Plans, Guidelines for Planning Authorities (2007)* issued under Section 28 of the Act, except in exceptional circumstances (which '*must be clearly justified ... in the written statement*'), and under section 6.2.3 of the *Development Plans, Guidelines for Planning authorities - Draft for Consultation (2021)* and the Planning Authority provides no or no adequate reasons relating to the proper planning and sustainable development of the area to explain why the guidelines have not been followed;
- d. Land zoned for development in Oranmore vulnerable to flood risk in areas known to be at risk of flooding contrary to NPO 57 and which fails to have regard to the statutory guidelines of the Minister *The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)*, as revised and where the Strategic Flood Risk Assessment recommends that the zoning amendment not be adopted;
- e. Land zoned for development in Maigh Cuillinn adjacent to the route of the N59 Maigh Cuillinn by-pass, which has the potential to negatively impact the delivery of the planned national road network in the area, undermine Government investment in the N59 Moycullen Bypass Scheme and fails to have regard to the

statutory guidelines of the Minister *The Spatial Planning and National Roads Guidelines for Planning Authorities* (2012).

Further, the residential zoning amendments are also inconsistent with the requirements of section 10(2A)(d)(ii) of the Act which requires the development plan to provide details of how the zoning proposals in respect of lands zoned for residential and for a mixture of residential and other uses accords with national policy that development of land shall take place on a phased basis.

Further, the statement under Section 28(1A)(b) attached to the Development Plan as made fails to include information which demonstrates that the planning authority has formed the opinion that it is not possible to implement the policies and objectives outlined at (I), above, as contained in the Guidelines, because of the nature and characteristics of the area and to give reasons for the forming of that opinion contrary to Section 28(1B)(b).

**II. Pursuant to section 31(1)(c)**

The Development Plan as made includes policy WW9 and reference to the minimum 100 metre separation distance for all new wastewater treatment plants in An Cheathrú Rua which may unreasonably and significantly prejudice the delivery of this key infrastructure and prejudice the planned sustainable growth of An Cheathrú Rua over the plan period inconsistent with the statutory requirement in section 10(1D) of the Act that the development objectives in the development plan are consistent with the conservation and protection of the environment.

**III. Pursuant to section 31(1)(ba)(i)**

The Development Plan as made includes material amendments to identify Ballinasloe and Tuam as being unsuitable locations for a regional waste management facility and/or sludge hub centre inconsistent with NPO 56 and RPO 8.17 to promote circular economy principles to maximise waste as a resource and the provisions of NPO 63 and RPO 8.12 to ensure that sustainable water services

infrastructure is in place to meet demands of continuing population growth and the developing economy.

**IV. Pursuant to section 31(1)(c)**

The Development Plan as made includes policies and material amendments to the draft Plan that are inconsistent with the evaluation of the Strategic Environmental Assessment.

**V. Pursuant to section 31(1)(a)(i)(II)**

The Development Plan has not been made in a manner consistent with and has failed to implement the recommendations of the Office of the Planning Regulator under Section 31 AM.

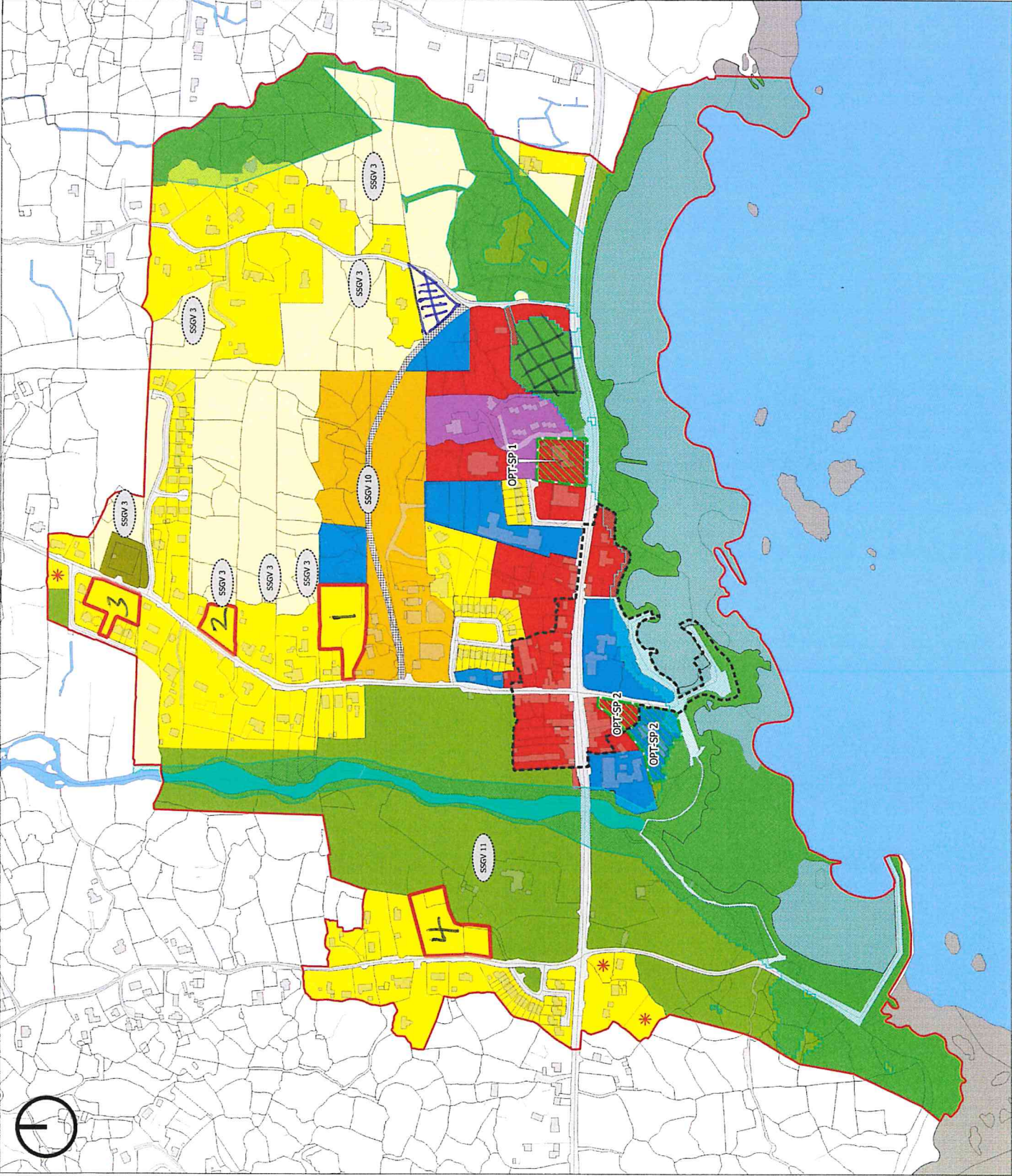
GIVEN under my hand,

Minister for Local Government and Planning

Day of Month, year.

### Appendix 3

**Maps of Spiddal and Moycullen which highlight how centrally located lands have been leapfrogged in favour of the rezoning of peripheral lands**



- Settlement Boundary
- R - Residential Existing
- R - Residential (Phase 1)
- R - Residential (Phase 2)
- \* R - Residential Infill
- VC - Village Centre
- BE - Business & Enterprise
- T - Tourism
- CF - Community Facilities
- PU - Public Utility
- OS - Open Space/Recreation & Amenity
- TI - Transport Infrastructure
- Water/Rivers/Streams
- Indicative Relief Road
- Constrained Land Use
- Architectural Conservation Area
- Opportunity Site

Policy Objective

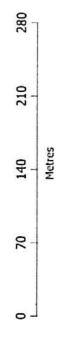
*Lands owned by BET which have been leasfrogged by lands at 1 & 4*



- SSGV 3 Indicative access point for development
- SSGV 10 Indicative Relief Road
- SSGV 11 An Spidéal Demesne

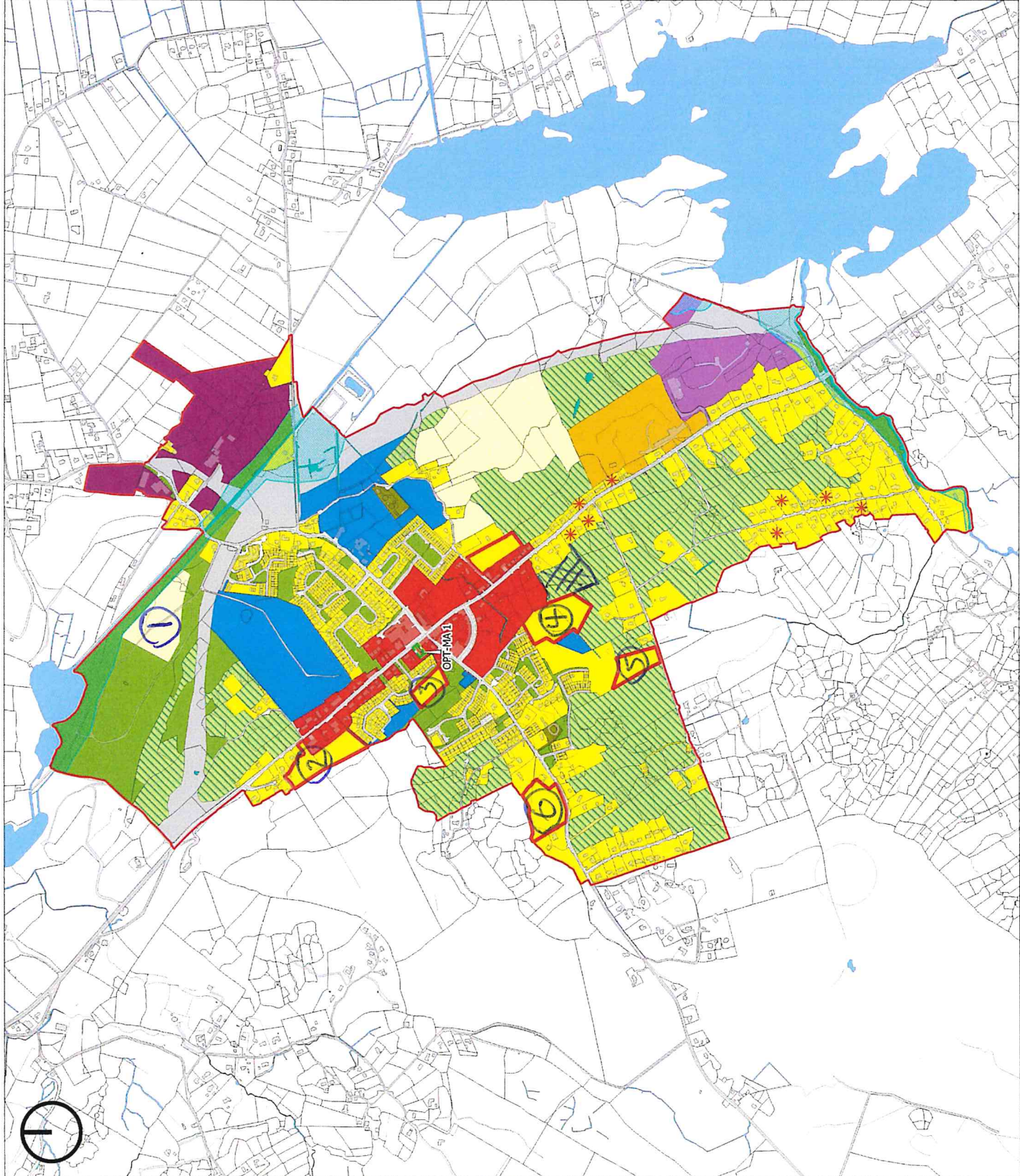
**Galway County Development Plan 2022-2028**

**Small Growth Village An Spidéal Land Use Zoning Map**



**Comhairle Chontae na Gaillimhe  
Galway County Council**

Galway County Council 2022/OS\_MHA\_090  
© Ordnance Survey Ireland, 2022



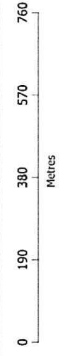
- Settlement Boundary
- R - Residential Existing
- R - Residential (Phase 1)
- R - Residential (Phase 2)
- R - Residential Infill
- C1 - Town Centre
- BE - Business & Enterprise
- T - Tourism
- I - Industrial
- CF - Community Facilities
- PU - Public Utility
- OS - Open Space/Recreation & Amenity
- A - Agriculture
- TI - Transport Infrastructure
- Water/Rivers/Streams
- NS9 Maigh Cuiunn Bypass\*
- Constrained Land Use
- Opportunity Site

Lands owned by CGT which have been Leapfrogged by lands at ts 6

\* The "NS9 Maigh Cuiunn Bypass" area shown on the Land Use Zoning map represents the boundary of a permitted development and does not represent a Land Use Zoning Objective

Galway County Development Plan  
2022-2028

Small Growth Town  
Maigh Cuiunn  
Land Use Zoning Map



Comhairle Chiontae na Gaillimhe  
Galway County Council

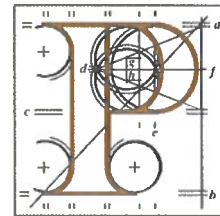
## Appendix 4

**ABP – Grant of Approval for mixed use development of centrally located lands in Spiddal**

**Our Case Number:** ABP-309753-21

**Planning Authority Reference Number:** 17/1618

**Your Reference:** Baile Éamoinn Teoranta



**An  
Bord  
Pleanála**

MKO,  
Planning & Development Consultants,  
Tuam Road,  
Galway.  
H91 VW84



**Date:** 21 JUN 2022

**Re:** chun forbairt a dhéanamh ar láithreán de thart ar 2.6 heicteár atá suite i mbaile fearainn An Spideal Thiar. Séard a bheidh sa bhforbairt seo ná: (1) An teach cónaithe (96.5 méadar cearnach) an seid (32 méadar cearnach) agus na struchtúir a bhaineann leo atá ann cheana a scartáil, (2) Forbairt úsáid mheasctha a thógáil lena n-áirítear: Óstán le 81 seomraí leapa agus dhá theach cónaithe féinfhreastail a bhaineann leis, a bheidh seirbhís glanta an óstáin ag freastal orthu; Ionad Nuálaíochta Gnó agus Bia; 6 Theach cónaithe scoite. (3) Bealaí rochtana do choisithe agus do fheithiclí, páirceáil, seirbhísí, tírdhreachú láithreán agus gach obair láithreán a bhaineann leo. Spás urláir comhlán na n-oibreacha beartaithe 8933sqm, Spás urláir comhlán d'aon scartáil 128.5sqm. An Spidéal Thiar, An Spidéal, Co. Galway.

Dear Sir/Madam,

An order has been made by An Bord Pleanála determining the above-mentioned appeal under the Planning and Development Acts 2000 to 2021. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website ([www.pleanala.ie](http://www.pleanala.ie)). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

In cases where a grant of (full) planning permission is notified by the Board, it is policy to include a copy of the Department of the Environment and Local Government's Leaflet PL11 - Guide to the Building Control System and a copy of the Health and Safety Authority's leaflet Safety and Health on Construction Projects -The Role of Clients with the notification. These leaflets are issued at the request of the above bodies.

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D01 V902	D01 V902

A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Yours faithfully,

  
Rita Donnelly  
Executive Officer

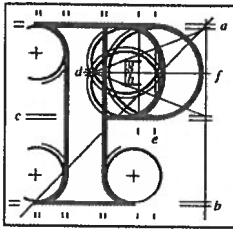
BP100LN

**Teil**  
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An  
Bord  
Pleanála

Ordú Boird  
ABP-309753-21

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## Na hAchtanna um Pleanáil agus Forbairt 2000 go 2021

An tÚdarás Pleanála: Comhairle Contae na Gaillimhe

Uimhir Thagartha ar an gClár Pleanála 17/1618

**Achomharc** ag Baile Éamonn Teoranta faoi chúram McCarthy Keville O'Sullivan Limited de Bhloc 1, G.F.S.C, Bóthar Mhóinín na gCiseach, an Ghaillimh, i gcoinne an chinnidh a rinne Comhairle Contae na Gaillimhe an 23ú lá de Mhí Mhárta, 2018, chun cead a dhiúltú don fhorbraíocht bheartaithe.

**An Fhorbraíocht Bheartaithe:** Beidh an méid a leanas i gceist leis an bhforbraíocht atá beartaithe: scartáil an tí chónaithe atá ann (96.5 méadar cearnach) agus an bhotháin (32 mhéadar chearnacha) agus na struchtúr lena mbaineann in aice leis, forbraíocht ilchineálach a thógáil lena gcuimseofar: óstán ina mbeidh 81 seomra leapa mar aon le dhá theach chónaithe scoite ghaolmhara le seirbhísí; Lárionad Gnó agus Nuála Bia, sé theach chónaithe scoite agus bealaí rochtana do choisithe agus d'fheithiclí, seirbhísí páirceála, tírdhreachú an láithreáin agus oibreacha láithreáin uile i mbaile fearainn An Spidéil Thiar, An Spidéal, Contae na Gaillimhe.

## Cinneadh

**CEAD A DHEONÚ** don fhorbraíocht thuas atá beartaithe i gcomhréir leis na pleananna agus sonraí réamhráite ar bhonn na gcúiseanna agus na mbreithnithe faoi na coinníollacha atá leagtha amach thíos agus faoi réir acu.

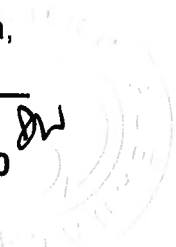
## **Cúiseanna agus Breithnithe**

Ag féachaint do chineál agus do scála na forbraíochta, do na cuspóirí um chriosú talamhúsáide don láithreán atá san áireamh leis an bPlean don Ghaeltacht a ghabhann le Plean Forbartha Chontae na Gaillimhe 2015-2021 agus d'fhorálacha na nDréacht-treoirínte maidir le Seirbhísí Uisce d'Údaráis Phleanála arna n-ullmhú ag an Roinn Tithíochta, Pleanála agus Rialtais Áitiúil i Mí Eanáir 2018, tá sé measta, faoi réir ag comhlíonadh na gcoinníollacha atá leagtha amach thíos, nach ndéanfaí dochar tromchúiseach leis an

bhforbraíocht atá molta d'áiseanna an cheantair, go mbeadh sí inghlactha i dtéarmaí dearaidh uirbigh, go mbeadh sí inghlactha i dtéarmaí tráchta agus sábháilteachta coisithe, nach mbeadh tionchair dho-ghlactha ag baint léi don timpeallacht. do shláinte dhaonna ná don Ghaeilge, nach mbeadh riosca tuilte ag baint léi agus nach mbeadh riosca tuilte do láithreáin eile ag baint léi, agus go mbeadh sí i gcomhréir le forálacha Phlean Forbartha Chontae na Gaillimhe 2015-2021. Dá bhrí sin, bheadh an fhorbraíocht atá molta i gcomhréir le pleanáil cheart agus le forbairt inbhuanaithe an cheantair.

## **Scagadh le haghaidh Measúnacht Chuí**

Rinne an Bord cleachtadh scagtha le haghaidh Measúnacht Chuí maidir le héifeachtaí ionchasacha na forbraíochta molta ar láithreáin Eorpacha, agus cineál agus scála na forbraíochta molta á gcur san áireamh, mar aon le cineál na timpeallachta glactha, na hachair go dtí na láithreáin Eorpacha is deise agus breithnithe i dtaca le conairí hidreolaíochta, na haighneachtaí agus na tuairimí ar taifead, an fhaisnéis a cuireadh isteach mar chuid de Thuarascáil um Scagadh le haghaidh Measúnacht Chuí de chuid an achomharcóra, agus Tuarascáil Aguisín an Chigire Phleanála (Tagairt ABP-309753-21). Agus an cleachtadh scagtha á chur i gcrích aige, d'aontaigh an Bord le tuarascáil an Chigire Phleanála agus ghlac sé í agus chinn sé nach raibh dóchúlacht ann go mbeadh éifeacht shuntasach ag an bhforbraíocht mholta ar láithreáin Eorpacha ar bith, inti féin nó i gcomhcheangal le pleananna agus tionscadail chónagaracha eile, i bhfianaise cuspóirí caomhnaithe na láithreán den sórt sin,



agus, dá bhrí sin, nach bhfuil Scagadh Chéim 2 le haghaidh Measúnacht Chúí riachtanach. Go háirithe, d'aontaigh an Bord le measúnacht agus le tátal an Chigire Phleanála, agus ghlac sé iad, nach raibh Scagadh Chéim 2 le haghaidh Measúnacht Chúí riachtanach.

## Coinníollacha

1. Déanfar an fhorbraíocht, agus cuirfear i gcrích í, i gcomhréir leis na pleananna agus leis na sonraí a cuireadh isteach leis an iarratas, arna leasú ag na pleananna agus sonraí breise a cuireadh isteach chuig an údarás pleanála an 15 Feabhra 2018, an 7 Márta 2018 agus an 9 Márta 2018, cé is moite den riachtanas ar shlí eile na coinníollacha a leanas a chomhlíonadh. Nuair atá sé riachtanach de réir coinníollacha mar sin sonraí a chomhaontú leis an údarás pleanála, comhaontóidh an forbróir na coinníollacha sin i scríbhinn leis an údarás pleanála sula dtosófar an fhorbraíocht agus déanfar an fhorbraíocht, agus cuirfear i gcrích í, i gcomhréir leis na sonraí comhaontaithe.

**Cúis:** Ar mhaithe le soiléire.

2. Beidh na sráideanna agus na hachomhail a thógfar nó a chuirfear i gcrích de bhun an cheada seo i gcomhréir leis na caighdeáin agus leis na sonraíochtaí atá leagtha amach sa Lámhleabhar Deartha do Bhóithre agus do Shráideanna Uirbeacha (DMURS) arna n-eisiúint ag an Roinn Iompair, Turasóireachta agus Spóirt agus ag an Roinn Tithíochta, Pleanála agus Rialtais Áitiúil i mBealtaine, 2019.

**Cúis:** Ar mhaithe le sábháilteacht ar bhóithre agus chun a chinntiú go n-éascaítear gluaiseacht ag córacha iompair inbhuanaithe sna sráideanna san fhorbraíocht cheadaithe i gcomhréir leis na caighdeáin infheidhmithe atá leagtha amach sa Lámhleabhar Deartha do Bhóithre agus do Shráideanna Uirbeacha.

3. Déanfar sonraí maidir le leagan amach an bhóthair laistigh den láithreán, lena n-áirítear fágáil ar lár na hiontrála ar an mbóthar áitiúil (L5397) ón Lárionad Gnó agus Nuála Bia de réir líníocht uimhir 2306-PA010-A Athbhreithniú A arna cur isteach chuig an údarás pleanála an 15 Feabhra 2018, méid agus leagan amach beacht an tearmainn bóthair atá molta laistigh den láithreán, marcanna tráchta, trasrianta coisithe, soláthar do raonta rothar agus soláthar cosáin feadh thaobh iartharach an bhóthair áitiúil (L5397), déanfar iad a chur isteach chuig an údarás pleanála, agus comhaontófar iad leis i scríbhinn, sula dtosófar an fhorbraíocht.

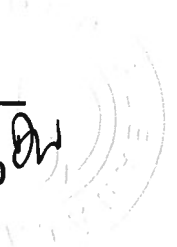
**Cúis:** Ar mhaithe le forbairt in ord agus in eagar agus le sábháilteacht tráchta agus coisithe.

4. Cuirfear sonraí faoi na hábhair, na dathanna agus uigeacht na mbailchríoch uile ar an bhforbraíocht atá molta isteach chuig an údarás pleanála, agus comhaontófar iad leis i scríbhinn, sula dtosófar an fhorbraíocht.

**Cúis:** Ar mhaithe le taitneamhachtaí radhairc an cheantair.

5. Cuirfear scéim chuimsitheach maidir le cóireáil agus tírdhreachú na teorann isteach chuig an údarás pleanála, agus comhaontófar í leis i scríbhinn, sula dtosófar an fhorbraíocht. Beidh an méid a leanas i gceist leis an scéim sin:

- (a) sonraí faoi na bailchríocha crua uile atá molta laistigh den fhorbraíocht,
- (b) suíomhanna atá molta do chrainn agus do phlandáil tírdhreacha uile san fhorbraíocht, lena n-áirítear sonraí faoin sciathadh atá



molta don ghléasra cóireála fuíolluisce pacáistithe príobháideach,  
agus

- (c) sonraí faoi chóireáil na dteorainneacha, agus airde, ábhair agus bailchríocha san áireamh.

Cuirfear cóireáil na dteorainneacha agus an tírdhreachú chun feidhme i gcomhréir leis an scéim chomhaontaithe.

**Cúis:** Ar mhaithe le taitneamhachtaí radhairc an cheantair.

- 6. (a) Comhlíonfar riachtanais an údaráis phleanála maidir le hoibreacha agus seirbhísí den sórt sin leis na socruithe draenála, lena n-áirítear maolú agus diúscairt uisce dromchla.
- (b) Sula dtosófar an fhorbraíocht, cuirfidh an forbróir Iniúchadh Uisce Stoirme um Dhearadh Mionsonraithe Chéim 2 isteach chuig an údarás pleanála le haghaidh comhaontú scríofa.
- (c) Nuair a chríochnófar an fhorbraíocht cuirfear Iniúchadh Uisce Stoirme um Chríochnú Chéim 3 isteach chuig an údarás pleanála le haghaidh comhaontú scríofa chun a thaispeáint go ndearnadh bearta um Chóras Draenála Uirbí Inbhuanaithe a shuiteáil, agus go bhfuil siad ag oibriú de réir mar a dearadh agus nach ndearnadh cónaisc mhíchearta nó damáiste do bhonneagar na draenála uisce stoirme le linn na tógála.

**Cúis:** Ar mhaithe le sláinte phoiblí agus le bainistíocht uisce dromchla.

7. Sula dtosófar an fhorbraíocht, déanfaidh an forbróir comhaontú le hUisce Éireann maidir le ceangal uisce. Sula dtosófar an fhorbraíocht agus sula ndéanfar an gléasra cóireála fuíolluisce príobháideach a dhíchoimisiúnú chun fónamh a dhéanamh ar an bhforbraíocht, dá ndéanfaí é a choimisiúnú ar dtús, déanfaidh an forbróir comhaontú (comhaontuithe) le hUisce Éireann maidir le ceangal fuíolluisce.

**Cúis:** Ar mhaithe le sláinte phoiblí.

8. In éagmais ceangail le Gléasra Cóireála Fuíolluisce an Spidéil atá coimisiúnaithe, mar chuid de Scéim Séarachais an Spidéil:
- (a) Déanfar fónamh ar an bhforbraíocht ag an ngléasra cóireála fuíolluisce pacáistithe sealadach a dhéanfar a lonnú, a thógáil agus a chothabháil i gcomhréir leis na sonraí arna gcur isteach chuig an údarás pleanála, agus i gcomhréir le riachtanais an doiciméid dar teideal 'Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels' – [Lámhleabhair maidir le Cóireáil Fuíolluisce - Córais Cóireála do Phobail Bheaga, do Ghnólachtaí, d'Ionaid Fóillíochta agus d'Óstáin] - An Ghníomhaireacht um Chaomhnú Comhshaoil, 1999. Cuirfear socruithe maidir le cothabháil leanúnach an chórais isteach chuig an údarás pleanála, agus comhaontófar iad leis i scríbhinn, sula dtosófar an fhorbraíocht.
- (b) Laistigh de thrí mhí ó chéad áitiú na forbraíochta, cuirfidh an forbróir tuarascáil isteach ó dhuine atá cáilithe go cuí ag a bhfuil árachas dlíteanais ghairmiúil, chun a dheimhniú go ndearnadh an córas cóireála eisiltigh dílsithe a shuiteáil agus a choimisiúnú i gcomhréir leis na sonraí faofa, go bhfuil sé ag oibriú ar bhealach sásúil i gcomhréir leis na caighdeáin atá leagtha amach i

ndoiciméad na Gníomhaireachta um Chaomhnú Comhshaoil, agus nach sáraítear tiúchan an éilimh cheimicigh ar ocsaigin (COD) níos mó ná 125mg/l leis an sceitheadh deiridh.

- (c) Déanfar foráil leis an bhforbraíocht do cheangal ar leith leis an líonra fuíolluisce atá os comhair an láithreáin ionas go gcumasófar ceangal a dhéanamh sa todhchaí nuair a dhéanfar an córas cóireála fuíolluisce bardasach a choimisiúnú don cheantar agus, laistigh de thrí mhí ón gceangal leis an gcóras cóireála fuíolluisce bardasach, déanfar an gléasra cóireála fuíolluisce pacáistithe atá beartaithe a dhíchoimisiúnú agus a bhaint, agus déanfar an limistéar atá fágtha a thírdreachú go cuí mar chuid den fhorbraíocht.

**Cúis:** Ar mhaithe le sláinte dhaonna, le cosaint an chomhshaoil agus le taitneamhachtaí radhairc an cheantair.

9. Sula gcuirfear an t-óstán i bhfeidhm, cuirfear gaiste gréisce, arna thosiú go ceart, agus lena gcomhlíontar na caighdeain/treoirlínte ábhartha, a shuiteáil agus déanfar é a chothabháil.

**Cúis:** Ar mhaithe le sláinte phoiblí agus leis an gcomhshaoil.

10. Cuirfear an forbróir lintéar draenála ar fáil arna thosiú ionas go ndéanfar 5,500 lítear ciúbach a sceitheadh in aghaidh na huaire ar ghrádán íosta (dearadh um thaoide tuile), d'fhonn cailteanas stórála tuile taoide ar an láithreán a mhaolú le linn an-teagmhais borrthaí stoirme.

**Cúis:** Chun éifeacht dhiúltach ar bith a mhaolú mar thoradh ar thoillíocht an toillte stórála tuile le linn an-teagmhais borrthaí stoirme.

11. Leagfar crainn atá le baint ar an láithreán ag deireadh an tsamhraidh nó san fhómhar lasmuigh de shéasúr neadaithe éan agus lasmuigh den gheimhreadh (geimhriú ialtóg). Má chuirfear isteach ar ialtóga ar an láithreán déanfar é ar bhealach arna chomhaontú i scríbhinn leis an údarás pleanála agus ar chomhairle ó éiceolaí cáilithe. Ní dhéanfar struchtúir ar bith a scriosadh lena gcothaítear pobail ialtóg ach amháin faoi cheadúnas ón tSeirbhís Páirceanna Náisiúnta agus Fiadhúlra agus cuirfear sonraí faoi cheadúnas den sórt sin isteach chuig an údarás pleanála.
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**Cúis:** Ar mhaithe le caomhnú an dúlra.

12. Déanfar faraí ialtóg a chorprú sa láithreán agus déanfar na moltaí maidir le bearta maolaithe ón Measúnacht Tionchair Éiceolaíochta i dtaca le hialtóga a chur i bhfeidhm ina n-iomláine, i gcomhréir leis na hamlínite atá leagtha amach. Maidir leis sin, sula dtosófar an fhorbraíocht, leagfar bearta maolaithe agus monatóireachta mar sin amach mar sceideal i scríbhinn, lena n-áireofar na hamlínite tiomnaithe, agus cuirfear an sceideal isteach chuig an údarás pleanála, agus comhaontófar é leis i scríbhinn.

**Cúis:** D'fhonn cosaint na hoidhreachta nádúrtha ar an láithreán a chinntiú.

13. Cuirfear soilsiú poiblí ar fáil i gcomhréir le scéim, agus cuirfear sonraí na scéime sin isteach chuig an údarás pleanála, agus comhaontófar í leis i scríbhinn, sula dtosófar an fhorbraíocht. Cuirfear soilsiú den sórt sin ar fáil feadh an chosáin do choisithe ar thaobh iartharach an bhóthair áitiúil (L5397) agus cuirfear ar fáil é sula gcuirfear an fhorbraíocht ar fáil le háitiú.

**Cúis:** Ar mhaithe le taitneamhacht agus le sábháilteacht poiblí.

14. (a) Cuirfear an fhorbraíocht chun feidhme ar bhonn céimnithe, i gcomhréir le scéim chéimnithe a chuirfear isteach chuig an údarás pleanála agus a chomhaontófar leis i scríbhinn.
- (b) Ní chuirfear an chóiríocht turasóireachta, an mol gnó agus nuála bia, agus an fhorbraíocht chónaithe atá ceadaithe leis seo ar fáil le háitiú go dtí go mbeidh an bonneagar cumasúcháin uile curtha i gcrích d'fhonn fónamh a dhéanamh ar gach gné den fhorbraíocht chun sástacht scríofa an údaráis phleanála.

**Cúis:** D'fhonn a chinntiú go gcuirfear seirbhísí agus saoráidí ar fáil go tráthúil, ar mhaithe leis na háititheoirí agus le críochnú sásúil na forbraíochta foriomláine.

15. (a) Coinneofar 80% ar a laghad de na tithe (is é sin, cúig cinn de na sé theach) atá ceadaithe leis seo le haghaidh úsáid mar thithe dóibh siúd atá in ann an cumas a thaispeáint teanga agus cultúr na Gaeltachta a chaomhnú, mura bhfuil a mhalairt comhaontaithe i scríbhinn leis an údarás pleanála, le haghaidh thréimhse 15 bliana. Cuirfidh an forbróir Ráiteas Tionchair Teanga isteach chuig an údarás pleanála ina mbeidh sonraí faoi chomhlíonadh an riachtanais sin sula dtosófar an fhorbraíocht.
- (b) Sula dtosófar an fhorbraíocht, déanfaidh an forbróir comhaontú dlíthiúil leis an údarás pleanála (faoi fhorálacha alt 47 den Acht um Pleanáil agus Forbairt, 2000, arna leasú), a mbeidh mar chuspóirí aige cion de na gnéithe cónaithe atá ceadaithe leis seo a theorannú nó a rialáil le haghaidh úsáid ag áititheoirí a bhfuil inniúlacht/líofacht iomchuí acu sa Ghaeilge. Cuirfear sonraí faoi chaighdeán na Gaeilge atá le baint amach agus faoin modh chun sin a mheasúnú isteach chuig an údarás pleanála, agus

comhaontófar iad leis i scríbhinn, sula ndéanfar an comhaontú a thabhairt chun críche a bhfuil sin mar choinníoll leis. (Cáileofar go huathoibríoch faoi cháiliú don Scéim Deontais Tithíochta).

- (c) Laistigh de thrí mhí ó thosú na forbraíochta, déanfaidh an forbróir comhaontú dlíthiúil leis an údarás pleanála (faoi fhorálacha alt 47 den Acht um Pleanáil agus Forbairt, 2000, arna leasú), a mbeidh mar chuspóirí aige éifeacht a thabhairt do na srianta thuas. Ní dhéanfar aon teach a áitiú go dtí go ndéanfar comhaontú leis an údarás pleanála de bhun alt 47 den Acht um Pleanáil agus Forbairt, 2000, arna leasú.

**Cúis:** D'fhonn a chinntiú go ndéantar forbairt sa limistéar ina bhfuil an láithreán suite a shrianadh go hiomchuí.

16. Sula dtosófar an fhorbraíocht, déanfaidh an forbróir nó duine eile a bhfuil leas aige/aici sa talamh lena mbaineann an t-iarratas comhaontú i scríbhinn leis an údarás pleanála maidir le tithíocht a sholáthar i gcomhréir le forálacha alt 94(4) agus alt 96(2) agus (3) (Cuid V) den Acht um Pleanáil agus Forbairt, 2000, arna leasú., mura bhfuil iarratas ar dheimhniú díolúine curtha isteach agus ceadaithe faoi alt 97 den Acht, arna leasú. Nuair nach ndéantar comhaontú den sórt sin laistigh d'ocht seachtaine ó dháta an ordaithe seo, is féidir leis an údarás pleanála nó páirtí ionchasach eile sa chomhaontú an t-ábhar san agóid (seachas ábhar a bhfuil alt 96(7) infheidhme leis) a atreorú go dtí An Bord Pleanála le haghaidh cinnidh.

**Cúis:** Chun riachtanais Chuid V den Acht um Pleanáil agus Forbairt 2000, arna leasú, agus riachtanais na straitéise tithíochta i bPlean Forbartha an cheantair a chomhlíonadh.

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17. Soláthrófar stáisiúin/pointí luchtaithe EV (feithiclí leictreacha) feidhmiúla maidir le híoslíon de 10% de na spásanna páirceála comhroinnte, agus cuirfear ductáil ar fáil do na spásanna páirceála eile, lena n-áirítear spásanna i gcúirtealáiste, agus suiteáil pointí/stáisiúin luchtaithe EV á éascú ag dáta níos déanaí. Nuair nach bhfuil moltaí curtha isteach leis an iarratais maidir le ductáil EV agus pointí/stáisiúin luchtaithe EV, i gcomhréir leis na riachtanais thuasluaite, cuirfear moltaí den sórt sin isteach chuig an údarás pleanála, agus comhaontófar iad leis i scríbhinn, sula dtosófar an fhorbraíocht.

**Cúis:** Chun foráil a dhéanamh don fhorbraíocht nó go seasfaidh an fhorbraíocht an aimsir ionas go n-éascófar úsáid feithiclí leictreacha.

18. Beidh cuideachta bainistíochta atá bunaithe go dlíthiúil freagrach as bainistíocht agus as cothabháil na forbraíochta atá molta tar éis di a bheith críochnaithe, agus is é an forbróir a chuirfidh an chuideachta sin ar bun. Cuirfear scéim bainistíochta, lena n-áirítear bearta leordhóthanacha do chothabháil na forbraíochta amach anseo isteach chuig an údarás pleanála, agus comhaontófar í leis i scríbhinn, sula gcuirfear aon cheann de na hionaid tráchtála ar fáil le háitiú, agus áireofar na nithe a leanas leis an scéim: na teachíní féinfhreastail a bhaineann le turasóireacht, creatlach sheachtrach na bhfoirgneamh, limistéir chomhchoiteanna inmheánacha, tírdhreachú, bóithre, cosáin, limistéir pháirceála, soilsiú, soláthar an bhonneagair maidir le hathluchtú feithiclí leictreacha, saoráidí stórála dramhaíola agus seirbhísí sláintíochta.

**Cúis:** Chun foráil a dhéanamh do chothabháil amach anseo ghné phríobháideach na forbraíochta ar mhaithe le taitneamhacht radhairc.

19. Déanfar tógáil na forbraíochta a bhainistiú i gcomhréir le Plean Bainistíochta Comhshaoil maidir le Foirgníocht, agus cuirfear é isteach chuig an údarás pleanála, agus comhaontófar é leis i scríbhinn, sula dtosófar an fhorbraíocht. Cuirfear sonraí ar fáil sa phlean sin maidir leis an gcleachtas tógála don fhorbraíocht, lena n-áireofar:
- (a) láthair an láithreáin agus na gcompún (an chompúin) ábhar lena n-áirítear limistéar (limistéir) arna shainiú/sainiú chun dramhaíl tógála a stóráil,
  - (b) láithreacha na limistéar le haghaidh oifigí an láithreáin tógála agus saoráidí na foirne,
  - (c) sonraí maidir le fálú slándála agus ballaí clár an láithreáin,
  - (d) sonraí maidir le saoráidí páirceála ar an láithreán d'oibrithe láithreáin le linn na tógála,
  - (e) gnéithe chun ciúáil a sheachaint maidir le trácht tógála ar an gcé agus ar an ngréasán bóithre in aice láimhe,
  - (f) gnéithe chun doirteadh nó leagan síos cré, spallaí nó smionagair eile a chosc ar an gcé agus ar an ngréasán bóithre poiblí,
  - (g) gnéithe trína dtugtar faoi thorann, faoi dheannach agus faoi chreathadh, agus na leibhéil díobh sin a bhreathnú/a athbhreithniú,
  - (h) breosla agus ola uile a bhaineann le tógáil a choimeád laistigh de bhunnaí arna dtógáil go speisialta d'fhonn a chinntiú go ndéanfar doirteadh breosla a shrianadh go hiomlán. Cuirfear díonta ar na bunnaí sin chun uisce báistí a choinneáil amach,
  - (i) bealaí chun a chinntiú go ndéantar rith chun srutha uisce dromchla a shrianadh, agus
  - (j) sonraí maidir le bainisteoir an láithreáin, uimhreacha teagmhála (lena n-áirítear lasmuigh d'uaireanta oibre) agus comharthaí faisnéise poiblí ag bealach isteach na saoráide.

Coinneofar taifead ar sheiceála laethúla le taispeáint go bhfuil na hoibreacha á ndéanamh i gcomhréir leis an bPlean Bainistíochta Comhshaoil maidir le Foirgníocht le hiniúchadh ag an údarás pleanála.

**Cúis:** Ar mhaithe le soiléire, taitneamhachtaí, sláinte phoiblí, sábháilteacht agus cáilíocht an uisce.

20. Déanfar na hoibreacha forbartha láithreáin agus tógála ar bhealach lena gcinnteofar go gcoinnítear na sráideanna in aice lámhe glanta de smionagar, d'ithir agus d'ábhar eile agus, más gá oibreacha glanta a dhéanamh ar na bóithre poiblí in aice lámhe, is ar chostas an fhorbróra a dhéanfar oibreacha glanta den sórt sin.

**Cúis:** Chun a chinntiú go gcoinneofar na bóithre in aice lámhe i gcaoi ghlan agus shábháilte le linn na n-oibreacha tógála ar mhaithe le forbairt in ord agus in eagar.

21. Ní dhéanfar oibreacha forbartha láithreáin agus tógála ach idir na huaireanta 0700 go 1900 ó Luan go hAoine agus an dá lá san áireamh, idir 0800 agus 1400 ar an Satharn agus ní dhéanfar oibreacha ar bith ar an Domhnach ná ar shaoirí poiblí. Ní ceadmhach imeacht ó na huaireanta sin ach amháin in imthosca eisceachtúla nuair a fuarthas comhaontú i scríbhinn roimh ré ón údarás pleanála.

**Cúis:** D'fhonn taitneamhachtaí na réadmhaoine in aice lámhe a chosaint.

22. Cuirfear moltaí maidir le hainmneacha sráide, scéimeanna uimhrithe tithe agus comharthaíocht ghaolmhar isteach chuig Coiste Logainmneacha Chomhairle Contae na Gaillimhe de chuid an údaráis phleanála, agus comhaontófar iad i scríbhinn leis, sula dtosófar an fhorbraíocht. Ina dhiaidh sin, cuirfear comharthaí agus uimhreacha tithe ar fáil i gcomhréir leis an scéim arna comhaontú. Beidh na hainmneacha molta bunaithe ar ghnéithe stairiúla nó topagrafacha áitiúla, nó ar roghanna eile a mbeidh an t-údarás pleanála sásta leo.

**Cúis:** Ar mhaithe le hinléiteacht uirbeach agus úsáid as logainmneacha a chinntiú don fhorbraíocht nua atá iomchuí go háitiúil, lena n-áirítear limistéir chónaithe.

23. Cuirfear plean isteach chuig an údarás pleanála, agus comhaontófar é i scríbhinn leis, ina mbeidh sonraí maidir le dramhaíl/ábhair in-athchúrsáilte a bhainistiú laistigh den fhorbraíocht, lena n-áirítear saoráidí a chur ar fáil chun an dramhaíl/na hábhair in-athchúrsáilte a stóráil, a scaradh agus a bhailiú agus le haghaidh oibriú leanúnach na saoráidí sin, sula dtosófar an fhorbraíocht. Ina dhiaidh sin, déanfar an dramhaíl a bhainistiú i gcomhréir leis an bplean comhaontaithe.

**Cúis:** Chun foráil a dhéanamh bhainistíocht iomchuí dramhaíola/ábhar in-athchúrsáilte ar mhaithe leis an gcomhshaol a chosaint.

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24. Sula dtosófar an fhorbraíocht, déanfaidh an forbróir éarlais airgid thirim, banna ó chuideachta árachais nó urrús eile a thaisceadh leis an údarás pleanála chun cur ar ais na mbóithre poiblí a urrú a d'fhéadfadh a bheith damáistithe trí iompar ábhar chuig an láithreán, chun soláthar agus críochnú sásúil bóithre, cosán, príomhlíonra uisce, draenacha, spáis oscailte agus seirbhísí eile a theastaíonn maidir leis an bhforbraíocht a urrú, in éineacht le comhaontú trína dtugtar an chumhacht don údarás áitiúil urrús mar sin nó chuid de a chur i bhfeidhm maidir le críochnú sásúil coda ar bith den fhorbraíocht. Beidh foirm agus méid an urrúis san fhoirm agus méid arna gcomhaontú idir an údarás pleanála agus an forbróir nó, in éagmais comhaontaithe, déanfar an t-ábhar a atreorú go dtí An Bord Pleanála le haghaidh cinnidh.

**Cúis:** Chun críochnú sásúil na forbraíochta a chinntiú.

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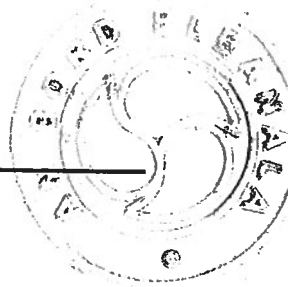
25. Íocfaidh an forbróir ranníocaíocht airgeadais leis an údarás pleanála maidir le bonneagar agus saoráidí poiblí a bheidh chun tairbhe forbartha i limistéar an údaráis phleanála atá curtha ar fáil nó atá beartaithe le cur ar fáil ag an údarás nó ar a shon i gcomhréir le téarmaí na Scéime Rannchuidithe um Fhorbairt a rinneadh faoi alt 48 den Acht um Pleanáil agus Forbairt 2000, arna leasú. Íocfar an ranníocaíocht sula dtosófar an fhorbraíocht nó ina leithéidí d'íocaíochtaí céimnithe agus a d'fhéadfadh an t-údarás pleanála a éascú agus beidh siad faoi réir ag forálacha innéacsaithe infheidhme ar bith de chuid na Scéime ag am na híocaíochta. Comhaontófar sonraí maidir le cur i bhfeidhm théarmaí na Scéime idir an t-údarás pleanála agus an forbróir nó, in éagmais comhaontaithe mar sin, déanfar an t-ábhar a atreorú go dtí An Bord Pleanála chun cur i bhfeidhm ceart théarmaí na Scéime a chinneadh.

**Cúis:** Is riachtanas den Acht um Pleanáil agus Forbairt 2000, arna leasú, go gcuirfí coinníoll óna dteastaíonn ranníocaíocht i gcomhréir leis an Scéim Rannchuidithe um Fhorbairt a rinneadh faoi alt 48 den Acht i bhfeidhm maidir leis an gcead.

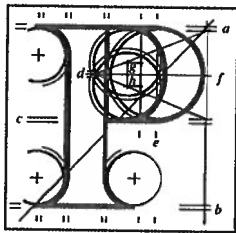


**Dave Walsh**

**Comhalta den Bhord Pleanála  
atá údaraithe mar is ceart séala an Bhoird a  
fhíordheimhniú.**



Arna dhátú an 21<sup>ú</sup> lá seo de Meitheamh 2022.



An  
Bord  
Pleanála

Board Order  
ABP-309753-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Galway County Council**

**Planning Register Reference Number: 17/1618**

**Appeal** by Baile Éamonn Teoranta care of McCarthy Keville O'Sullivan Limited of Block 1, G.F.S.C, Moneenageisha Road, Galway against the decision made on the 23<sup>rd</sup> day of March, 2018 by Galway County Council to refuse permission for the proposed development.

**Proposed Development:** The proposed new development will consist of the following: demolition of the existing dwelling (96.5 square metres) and associated shed (32 square metres) and structures, construction of a mixed-use development comprising: 81 number bedroom hotel and two number associated serviced detached dwellings; Business and Food Innovation Centre, six number detached residential dwellings and pedestrian and vehicular access ways, parking, services, site landscaping and all associated site works in the townland of An Spidéal Thiar, An Spidéal, County Galway.

**Decision**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

Having regard to the nature and scale of the development, the land use zoning objectives for the site contained in the Gaeltacht Plan accompanying the Galway County Development Plan 2015-2021 and the provisions of the Draft Water Services Guidelines for Planning Authorities prepared by the Department of Housing, Planning and Local Government in January 2018, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would be acceptable in terms of urban design, would be acceptable in terms of traffic and pedestrian safety, would not have unacceptable impacts on the environment, human health or the Irish language, would not be at risk of flooding and would not present a risk of flooding to other sites, and would be in compliance with the provisions of the Galway County Development Plan 2015-2021. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European sites, taking into account the nature and scale of the proposed development, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, the submissions and observations on file, the information submitted as part of the appellant's Appropriate Assessment Screening Report, and the Planning Inspector's Addendum Report (Reference ABP-309753-21). In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and concluded that, by itself or in combination with other plans and projects in the vicinity, the proposed development would not be likely to have

a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required. In particular, the Board agreed with and adopted the Planning Inspector's assessment and conclusion that a Stage 2 Appropriate Assessment was not required.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 15<sup>th</sup> day of February 2018, the 7<sup>th</sup> day of March, 2018 and the 9<sup>th</sup> day of March, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The streets and junctions that are constructed and/or completed on foot of this permission shall comply with the standards and specifications set out in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Housing, Planning and Local Government in May, 2019.

**Reason:** In the interest of road safety and to ensure that the streets in the authorised development facilitate movement by sustainable transport modes in accordance with the applicable standards set out in the Design Manual for Urban Roads and Streets.

3. Details of alterations to the road layout within the site, including the omission of the entrance to the local road (L5397) from the Business and Food Innovation Centre as per drawing number 2306-PA010-A Revision A submitted to the planning authority on the 15<sup>th</sup> day of February, 2018, the extent and exact layout of the proposed road reservation within the site, traffic markings, pedestrian crossings, cycle path provision and the provision of a footpath along the west side of the local road (L5397), shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of orderly development and traffic and pedestrian safety.

4. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

5. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority, prior to the commencement of development. This scheme shall include the following:

- (a) details of all proposed hard surface finishes within the development,
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed screening to the private packaged wastewater treatment plant, and

- (c) details of proposed boundary treatments, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of the visual amenities of the area.

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- 6. (a) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
  - (b) Prior to commencement of development, the developer shall submit to the planning authority for written agreement, a Stage 2 Detailed Design Stage Storm Water Audit.
  - (c) Upon completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interests of public health and surface water management.

7. Prior to commencement of development, the developer shall enter into water connection agreement with Irish Water. Prior to commencing the development and decommissioning of the private wastewater treatment plant to serve the development, should this be initially commissioned, the developer shall enter into wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

8. In the absence of a connection to the commissioned Spiddal Municipal Wastewater Treatment Plant, as part of the Spiddal Sewage Scheme:
  - (a) The proposed development shall be served by the proposed temporary packaged wastewater treatment system which shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled 'Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels' – Environmental Protection Agency, 1999. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
  - (b) Within three months of the first occupation of the development, the developer shall submit a report from a suitably qualified person with professional indemnity insurance, certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details, is working in a satisfactory manner in accordance with the standards set out in the Environmental Protection Agency document, and the final

discharge does not exceed a chemical oxygen demand (COD) concentration of greater than 125mg/l.

- (c) The development shall provide for a separate connection to the wastewater network fronting the site to enable a future connection to be made upon commissioning of the municipal wastewater treatment plant for the area and, within three months of connecting to the commissioned municipal wastewater treatment plant, the proposed packaged wastewater treatment plant shall be decommissioned and removed, with the resultant area to be suitably landscaped as part of the development.

**Reason:** In the interest of public health, the protection of the environment and the visual amenities of the area.

9. Prior to the operation of the hotel, a grease trap, sized correctly, which complies with relevant standards/guidelines, shall be installed and maintained.

**Reason:** In the interests of public health and the environment.

10. The developer shall provide a drainage culvert sized so as to discharge 5,500 cubic metres per hour at minimal gradient (design flood tide), in order to mitigate the loss of on-site tidal flood storage during extreme storm surge events.

**Reason:** To mitigate any negative effect of the displacement of flood storage capacity during extreme storm surge events.

11. Trees to be removed on site shall be felled in late summer or autumn outside the bird nesting season and the winter (bat hibernation). Any disturbance to bats on site shall be in a manner to be agreed in writing with the planning authority on the advice of a qualified ecologist. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.

**Reason:** In the interest of nature conservation.

12. Bat roosts shall be incorporated into the site and the recommendations of the Ecological Impact Assessment mitigation measures for bats shall be implemented in full, in accordance with the timelines set out. In this regard, prior to the commencement of the development, such mitigation and monitoring measures shall be set out as a written schedule, including committed timelines, and the schedule shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** To ensure the protection of the natural heritage on the site.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided along the pedestrian path on the western side of the local road (L5397) and shall be provided prior to the making available for occupation of the development.

**Reason:** In the interests of amenity and public safety.

14. (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority.
- (b) The tourist accommodation, business and food innovation hub and residential development hereby permitted shall not be made available for occupation by the developer until such time as all enabling infrastructure to serve each element of the development are completed to the written satisfaction of the planning authority.
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**Reason:** To ensure the timely provision of services and facilities, for the benefit of the occupants and the satisfactory completion of the overall development.

15. (a) A minimum of 80% of the houses (that is, five of the six houses) hereby permitted shall be restricted to use as a house by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, unless otherwise agreed in writing with the planning authority, for a period of 15 years. The developer shall submit a completed Linguistic Impact Statement to the planning authority providing details of compliance with this requirement prior to the commencement of development.
- (b) Prior to commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act 2000, as amended), the purposes of which shall be to restrict or regulate a portion of the residential elements of the development hereby permitted for the use of occupants who have an appropriate competence/fluency in Irish. Details of the standard of Irish to be achieved and method of evaluating this shall be submitted to, and
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agreed in writing with, the planning authority prior to the finalization of the agreement hereby conditioned. (Qualification for the Scéim Deontais Tithe will automatically qualify).

- (c) Within three months of commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act 2000, as amended), the purposes of which shall be to give effect to the above restrictions. No house shall be occupied until an agreement has been entered into with the planning authority pursuant to section 47 of the Planning and Development Act 2000, as amended.

**Reason:** To ensure that development in the area in which the site is located is appropriately restricted.

16. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the Development Plan of the area.

17. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV (electric vehicle) charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for and/or future-proof the development such as would facilitate the use of electric vehicles.

18. The management and maintenance of the proposed development following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development, including the tourist-related self-catering cottages, the external fabric of the buildings, internal common areas, landscaping, roads, paths, parking areas, lighting, the provision of electric vehicle recharging infrastructure, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before any of the commercial units are made available for occupation.

**Reason:** To provide for the future maintenance of the private aspect of the development in the interest of visual amenity.

19. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
  - (b) location of areas for construction site offices and staff facilities,
  - (c) details of site security fencing and hoardings,
  - (d) details of on-site car parking facilities for site workers during the course of construction,
  - (e) features to obviate queuing of construction traffic on the adjoining pier and road network,
  - (f) features to prevent the spillage or deposit of clay, rubble or other debris on the pier and public road network,
  - (g) features addressing noise, dust and vibration, and observing/reviewing of such levels,
  - (h) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
  - (i) means to ensure that surface water run-off is controlled, and
  - (j) details of the site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interests of clarity, amenities, public health, safety and water quality.

20. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and, if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

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**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interest of orderly development.

21. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

22. Proposals for street names, house numbering schemes and associated signage shall be submitted to, and agreed in writing with, Coiste Logainmneacha Chontae na Gaillimhe (Galway County Council Placename Committee) of the planning authority prior to commencement of development. Thereafter, all signs and house numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for the new development, including residential areas.

23. A plan containing details for the management of waste/recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste/recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

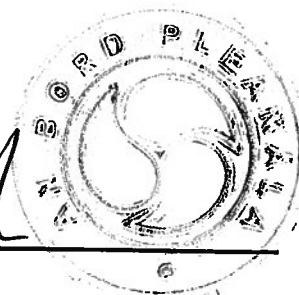
**Reason:** To provide for the appropriate management of waste/recyclable materials in the interest of protecting the environment.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

25. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

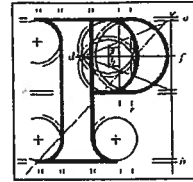


**Dave Walsh**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

Dated this 21<sup>st</sup> day of June 2022.



An  
Bord  
Pleanála

## Judicial Review Notice

### Judicial review of An Bord Pleanála decisions under the provisions of the Planning and Development Act 2000 (as amended)

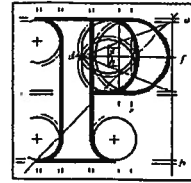
A person wishing to challenge the validity of a Board decision may do so by way of judicial review only. Sections 50, 50A and 50B of the Planning and Development Act 2000 (as substituted by section 13 of the Planning and Development (Strategic Infrastructure) Act 2006, as amended/substituted by sections 32 and 33 of the Planning and Development (Amendment) Act 2010 and as amended by sections 20 and 21 of the Environment (Miscellaneous Provisions) Act 2011) contain provisions in relation to challenges to the validity of a decision of the Board.

The validity of a decision taken by the Board may only be questioned by making an application for judicial review under Order 84 of The Rules of the Superior Courts (S.I. No. 15 of 1986). Sub-section 50(6) of the Planning and Development Act 2000 requires that subject to any extension to the time period which may be allowed by the High Court in accordance with subsection 50(8), any application for judicial review must be made within 8 weeks of the decision of the Board. It should be noted that any challenge taken under section 50 may question only the validity of the decision and the Courts do not adjudicate on the merits of the development from the perspectives of the proper planning and sustainable development of the area and/or effects on the environment. Section 50A states that leave for judicial review shall not be granted unless the Court is satisfied that there are substantial grounds for contending that the decision is invalid or ought to be quashed and that the applicant has a sufficient interest in the matter which is the subject of the application or in cases involving environmental impact assessment is a body complying with specified criteria.

Section 50B contains provisions in relation to the cost of judicial review proceedings in the High Court relating to specified types of development (including proceedings relating to decisions or actions pursuant to a law of the state that gives effect to the public participation and access to justice provisions of Council Directive 85/337/EEC i.e. the EIA Directive and to the provisions of Directive 2001/12/EC i.e. Directive on the assessment of the effects on the environment of certain plans and programmes). The general provision contained in section 50B is that in such cases each party shall bear its own costs. The Court however may award costs against any party in specified circumstances. There is also provision for the Court to award the costs of proceedings or a portion of such costs to an applicant against a respondent or notice party where relief is obtained to the extent that the action or omission of the respondent or notice party contributed to the relief being obtained.

General information on judicial review procedures is contained on the following website,  
[www.citizensinformation.ie](http://www.citizensinformation.ie).

Disclaimer: The above is intended for information purposes. It does not purport to be a legally binding interpretation of the relevant provisions and it would be advisable for persons contemplating legal action to seek legal advice. Modified 30/11/2011



## Fógra faoi Athbhreithniú Breithiúnach

### Athbhreithniú breithiúnach ar chinneadh a rinne An Bord Pleanála faoi fhorálacha an Achta um Pleanáil agus Forbairt, 2000 (arna leasú)

Nuair is mian le duine agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird caithfear é sin a dhéanamh trí athbhreithniú breithiúnach amháin. Tá na forálacha chun agóid dhlíthiúil a chur in aghaidh cinnidh an Bhoird le fáil in ailt 50, 50A agus 50B san Acht um Pleanáil agus Forbairt, 2000 (arna ionadú le hait 13 den Acht um Pleanáil agus Forbairt (Bonnegar Straitéiseach) 2006, le hait 32 agus 33 den Acht um Pleanáil agus Forbairt (leasú), 2010 agus le hait 20 agus 21 den Acht Comhshaoil (Forálacha Ilghnéitheacha), 2011.)

Ní féidir ceistiú a dhéanamh in aghaidh cinnidh an Bhoird ach amháin trí iarratas ar athbhreithniú breithiúnach faoi Ordú 84 de Rialacha na nUaschúrteanna (I.R. Uimhir 15 de 1986). Faoi réir fho-alt 50(6) den Acht um Pleanáil agus Forbairt, 2000 déanfar iarratas ar chead chun iarratas a dhéanamh ar athbhreithniú breithiúnach laistigh den tréimhse 8 seachtain den dáta a rinne an Bord an cinneadh nó laistigh d'aon síneadh ama a cheadaíonn an Ard-Chúirt faoi fho-alt 50(8). Tabhair faoi deara nuair atá athbhreithniú breithiúnach i gceist faoi alt 50 nach féidir ach bailíocht an chinnidh a cheistiú agus ní thugann an Chúirt aon chinneadh faoi fhiúntas na forbartha ó thaobh prionsabail pleanála cuí nó forbairt inchothaithe na háite nó éifeachtaí ar an timpeallacht. Tá sé leagtha síos in alt 50 nach ndeonófar cead d'athbhreithniú breithiúnach muna bhfuil an Chúirt sásta go bhfuil forais shubstaintiúla ann chun argóint a dhéanamh go bhfuil an cinneadh neamhbhailí nó gur ceart é a neamhniú agus go bhfuil suim shásúil ag an iarratasóir leis an ábhar i gceist san iarratas nó i gcásanna a bhaineann le measúnacht tionchair timpeallachta gur eagraíocht í an t-iarratasóir a chomhlíonann coinníollacha áirithe.

Tá forálacha in alt 50B mar gheall ar chostais maidir le himeachtaí san Ard-Chúirt i dtaobh athbhreithniú breithiúnach i gcásanna áirithe (lena n-áirítear imeachtaí faoi chinntí nó gníomhartha de bhun dlí de chuid an Stáit lena dtugtar éifeacht do na forálacha faoi rannpháirtíocht an phobail agus rochtain ar an gceartas atá leagtha amach i dTreoir 85/337/CEE i.e. an Treoir faoi mheasúnacht tionchair timpeallachta agus na forálacha í dTreoir 2001/42/CE maidir le héifeachtaí pleananna agus clár áirithe ar an timpeallacht a mheasúnú). Is í an fhoráil ghinearálta in imeachtaí lena mbaineann alt 50B ná go n-íocfaidh gach páirtí a chostais féin. Is féidir leis an gCúirt costais a bhronnadh i gcoinne aon pháirtí i gcásanna áirithe. Chomh maith le sin tá forálacha i bhfeidhm ionas gur féidir leis an gCúirt iomlán a chostas nó cuid díobh a bhronnadh ar an iarratasóir, in aghaidh fhreagróra nó fhógrapáirtí i gcásanna ina bhfaightear faoiseamh mar gheall ar gníomhú nó neamhfheidhm an fhreagróra nó an fhógrapáirtí.

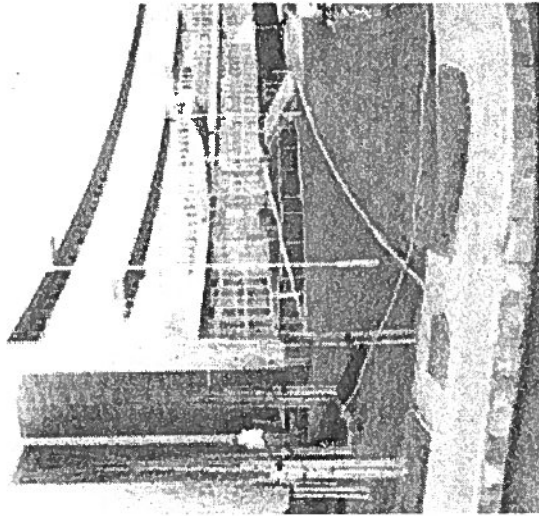
Tá eolas ginearálta faoi athbhreithniú breithiúnach le fáil ar an suíomh idirlín [www.citizensinformation.ie](http://www.citizensinformation.ie).

Séanadh: Tá an t-eolas thuas tugtha mar threoirilíne. Ní éilítear gur léirmhíniú dlí faoi na forálacha ábhartha atá ann agus dá mbeadh sé ar intinn ag éinne cás dlí a thógáil in aghaidh an Bhoird bheadh sé inmholta comhairle dlí a fháil ar dtús. Athbhreithnithe 30/11/2011



**Comhshaoil, Oidhreacht agus Rialtas Áitiúil**  
Environment, Heritage and Local Government

# PL. 11 - Guide to the Building Control System



**Building Standards Section,  
Department of Environment, Heritage and Local  
Government, Custom House,  
Dublin 1.**

**Lo Call 1890 20 21 or 01 888 2000  
[www.environ.ie](http://www.environ.ie)**

**May 2010**

## 19. How long should it take to get a Disability Access Certificate/ Revised Disability Access Certificate?

Normally two months, but this may be extended by written agreement between the applicant and the building control authority, e.g. when the authority seeks further information on your application. Both certificates may be granted with or without conditions, or refused.

## 20. Can I appeal if I am refused a Disability Access Certificate/ Revised Disability Access Certificate?

Yes. An applicant for either certificate can appeal to An Bord Pleanála against a refusal within one month of the decision (details of the appeal fee are available from your local authority or An Bord Pleanála).

## 21. Do the Regulations have specific requirements for access for people with disabilities?

Yes. Part M of the Regulations aims to ensure that buildings other than dwellings are accessible and usable by people with disabilities. From 1 January 2001 all *new* dwellings must be visitable by people with disabilities. The requirements cover the access and use of buildings, provision of sanitary facilities, audience or spectator facilities.

## Technical Guidance Document M 2000 - Access for People with Disabilities provides guidance on the provision of:

- ◆ at least one entrance accessible to wheelchair users;
- ◆ an internal layout which allows disabled people to circulate freely;
- ◆ a passenger lift in buildings above a certain size;
- ◆ a proportion of hotel guest bedrooms suitable for disabled people;
- ◆ wheelchair spaces in theatres, cinemas, concert halls and sports stadiums; and
- ◆ facilities for people with hearing impairments in theatres, cinemas, concert halls and places of religious worship.

Part M of the Regulations is currently under review and an updated Part M/TGD-M will be published in 2010

The law governing Building Regulations and procedures is primarily set out in the Building Control Acts, 1990, and 2007, the Building Regulations, 1997-2009 and the Building Control Regulations, 1997-2009. These may be purchased from the Government Publications Sales Office, Sun Alliance House, Molesworth Street, Dublin 2 (Phone 01-6476995/4).

This leaflet is a simple guide to understanding the building control system, which applies to the design and construction of new buildings, extensions and material alterations to and certain changes of use of existing buildings.

The leaflet is intended as a practical guide. It is not a definitive legal interpretation of building control law. For more information, you should consult your local building control authority.

## 1. What are the Building Regulations 1997-2009?

Building Regulations are a set of legal requirements for the design and construction of new buildings, extensions and material alterations to and certain changes of use of existing buildings.

Building Regulations provide for, in relation to buildings, the health, safety and welfare of people, conservation of fuel and energy, and access for people with disabilities. The Regulations can be downloaded from the Department's website [www.environ.ie](http://www.environ.ie)

The Consolidated Regulations came into force on 1 July, 1998, and replace the Building Regulations, 1991 (as amended).

## 2. How are the Regulations framed?

The Regulations comprise a set of legal requirements, expressed in simple functional statements.

Structure	Part A
Fire Safety	Part B
Site Preparation and Resistance to Moisture	Part C
Materials and Workmanship	Part D
Sound	Part E
Ventilation	Part F
Hygiene	Part G
Drainage & Waste Water Disposal	Part H
Heat Producing Appliances	Part J
Stairways, Ladders, Ramps and Guards	Part K
Conservation of Fuel and Energy	Part L
Access for People with Disabilities	Part M

Technical guidance on how to comply with these requirements are set out in the twelve separate Technical Guidance Documents (TGD's), which deal with each of the above areas. Amended TGD's can be downloaded from the Department's website [www.environ.ie](http://www.environ.ie)

The Regulations and related TGD's were amended as follows:

Parts M and D—2000; Part B—2006 ; Part G—2008; Part F— 2002 & 2009; Part L (Dwellings) - 2007 ; Part L (Non-Dwellings) - 2008  
TGD C—2004 & 2008

## 3. How do they affect me?

If you are having construction work carried out, the work must comply with Regulations. The Regulations do not apply to works consisting of repairs or renewal (as defined in the Regulations) except to any repair or renewal likely to affect the structural integrity of the building or building element being repaired or renewed.

Part L Regulations apply to renewal works to existing buildings involving the replacement of external doors, windows and rooflights. (S.I. 259 of 2008)

## 4. What if I fail to comply?

The primary responsibility for compliance rests with designers, builders and building owners. Building control authorities have powers to inspect design documents and buildings, as well as powers of enforcement and prosecution where breaches of the Regulations occur. There are heavy penalties, including fines and imprisonment, for breaches of the Regulations. In addition, when it comes to selling your property, you may have difficulties if you cannot satisfy the purchaser's solicitor that the requirements of the Regulations have been met.

## 5. What control arrangements are in place?

The Building Control Regulations, 1997-2009 supplement the basic system of enforcement referred to in Question 4 above.

## Seven important control arrangements are provided:

- ◆ Commencement Notice
- ◆ Fire Safety Certificate
- ◆ Revised Fire Safety Certificate
- ◆ 7 Day Notice
- ◆ Regularisation Certificate
- ◆ Disability Access Certificate
- ◆ Revised Disability Access Certificate

**6. What is a Commencement Notice?**

A Commencement Notice is a notification to a building control authority that a person intends to carry out either works or a material change of use to which the Building Regulations apply.

The notice must be given to the authority not more than 28 days and not less than 14 days before commencement of works or a material change of use.

The notice must be accompanied by a Commencement Notice Fee, based on the number of buildings (details available from your local building control authority). Copies of a Commencement Notice can also be obtained from the building control authority.

Commencement Notices are required for the following:

- ◆ the erection of a building;
  - ◆ a material alteration or extension of a building;
  - ◆ a material change of use of a building;
  - ◆ works in connection with the material alteration (excluding minor works) of a shop, office or industrial building.
- A Commencement Notice is not required:
- ◆ for works or a change of use which are exempted development under the planning code, and for which a Fire Safety Certificate is not required; or
  - ◆ where a 7 Day Notice has been submitted.

Information on exempted development is given in other leaflets in this series, including PL. 5 - Doing Work about the House, PL. 6 - Agricultural and Farm Development, and PL. 7 - Planning for the Business Person.

**7. What is a Fire Safety Certificate?**

A certificate granted by a building control authority certifies that the building or works, if constructed in accordance with the plans, documents and information submitted to the authority, would comply with the requirements of Part B of the Second Schedule to the Building Regulations, 1997-2009.

**8. Do I need a Fire Safety Certificate?**

With the exception of houses and certain agricultural buildings, a Fire Safety Certificate is required for all new buildings (including apartments and flats), as well as material changes of use and certain alterations and extensions to buildings. A Fire Safety Certificate must be obtained before work starts.

**9. What is a revised Fire Safety Certificate?**

A certificate granted by a building control authority which is required where:

- ◆ an application for a Fire Safety Certificate is made before grant of planning permission, if required by the subsequent permission, or
- ◆ where significant revision is made to the design or works of a building for which a Fire Safety Certificate has already been granted.

**10. Where do I get a Fire Safety Certificate/ Revised Fire Safety Certificate?**

You should apply to the local building control authority for either certificate, before you commence work or where significant revision is made to the design or works of a building for which a Fire Safety Certificate has already been granted. Application forms are available from the authority and should be submitted together with –

- ◆ plans, calculations and specifications for the works or building;
- ◆ details of the nature and extent of the proposed use and, where appropriate, of the existing use of the building;
- ◆ the appropriate fee, based on floor area (details available from your local authority).

Any application not including the above can be rejected by the authority as invalid.

**11. How long should it take to get a Fire Safety Certificate/ Revised Fire Safety Certificate?**

Normally two months, but this may be extended by written agreement between the applicant and the building control authority, e.g. when the authority seeks further information on your application. Both certificates may be granted with or without conditions, or refused.

**12. Can I appeal if I am refused a Fire Safety Certificate/ Revised Fire Safety Certificate?**

Yes. An applicant for a certificate can appeal to An Bord Pleanála against a refusal within one month of the decision (details of the appeal fee are available from your local authority or An Bord Pleanála).

**13. What is a 7 Day Notice?**

A 7 Day Notice is a notification to a building control authority that a person intends to commence work on the construction of a building before grant of the relevant Fire Safety Certificate.

A 7 Day Notice must be submitted not less than 7 days in advance of the commencement of works. The notice must be accompanied by:-

- ◆ a valid application for a Fire Safety Certificate for the applicant in the form specified for that purpose in the Third Schedule and accompanied by such plans and particulars as required under paragraphs (a) and (b) of article 13(2) of the Regulations.
- ◆ a 7 Day Notice Statutory Declaration in the form specified for that purpose in the Third Schedule, and
- ◆ such fee as may from time to time be prescribed for that purpose in Part V.

Do I require a Commencement Notice as well as a 7 Day Notice?

No. A Commencement Notice will not be required in respect of buildings where a 7 Day Notice has been submitted.

**14. What is a Regularisation Certificate?**

A certificate granted by a building control authority where a building has been commenced or completed without a Fire Safety Certificate, where such a certificate is required and certifies that the building work is in compliance with Part B of the Second Schedule to the Building Regulations 1997 to 2009.

The application must be accompanied by:-

- (i) drawings of the relevant works as they have been commenced or constructed, so as to enable the building control authority to assess whether the said works, as commenced or as constructed in accordance with the said drawings,

documents and information submitted, will comply or are in compliance, as appropriate, with the requirements of Part B of the Second Schedule to the Building Regulations,

(ii) a Statutory Declaration from the applicant in the form specified for that purpose in the Third Schedule, and

(iii) such fee as may from time to time be prescribed for that purpose in Part V.

**15. What is a Disability Access Certificate?**

A certificate granted by a building control authority which certifies compliance, at design stage of non-domestic buildings and apartment blocks, with the requirements of Part M of the Second Schedule to the Building Regulations 1997 to 2009.

**16. What is a Revised Disability Access Certificate?**

A revised Disability Access Certificate (DAC) is a certificate granted by a building control authority in respect of works where significant revision is made to the design or works of a building for which a DAC has already been granted.

**17. Do I need a Disability Access Certificate?**

With the exception of houses and certain agricultural buildings, a Disability Access Certificate is required for all new non-domestic buildings (including apartments and flats), material alterations and extensions to buildings and certain changes of use.

**18. Where do I get a Disability Access Certificate/ Revised Disability Access Certificate?**

You should apply to the local building control authority for either certificate, before you commence work or where significant revision is made to the design or works of a building for which an Disability Access Certificate has already been granted.

# **Safety and Health on Construction Projects**

## **The Role of Clients**

A summary of the client's role under the Safety, Health and Welfare at Work (Construction) Regulations, 2006

### **Who is a 'Client'?**

The Safety, Health and Welfare at Work (Construction) Regulations, 2006 interprets 'client' as a person for whom a project is carried out, in the course or furtherance of a trade, business or undertaking, or who undertakes a project directly in the course or furtherance of such trade, business or undertaking;

You are not a client if you are having construction work done on your own domestic dwelling e.g. an extension on to your kitchen, or you are building your own house.

You are a client if the extension onto your own domestic dwelling is in the course or furtherance of a trade, business or undertaking, or who undertakes a project directly in the course or furtherance of such trade, business or undertaking, e.g. if you are building on an office.

### **What are the duties of a Client?**

The Client must for every project:

- appoint, in writing before design work starts, a competent and adequately resourced project supervisor for the design process (PSDP).  
In order to be competent the PSDP must have adequate training, knowledge, experience to carry out the project the PSDP must have adequate resources available to carry out the project in a safe manner;
- appoint, in writing before construction begins, a competent and adequately resourced project supervisor for the construction stage (PSCS). In order to be competent the PSCS must have adequate training, knowledge, experience and resources;
- be satisfied that each designer and contractor appointed has adequate training, knowledge, experience and resources for the work to be performed;
- co-operate with the project supervisor and supply necessary information;
- keep and make available the safety file for the completed structure. The safety file contains information on the completed structure that will be required for future maintenance or renovation (The client must keep the file in a secure place, either on the premises to which it relates or held centrally, and if the client wishes, it may be stored electronically or on microfiche.);
- provide a copy of the safety and health plan prepared by the PSDP to every person tendering for the project. The safety plan documents show how health and safety on the project will be managed to project completion.
- notify the Authority of the appointment of the PSDP where construction is likely to take more than 500 persons days or 30 working days.

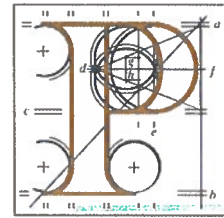
**Appendix 5**

**ABP – Grant of Approval for Marine Heritage Centre at Sruthán Pier, Carraroe**

**Our Case Number:** ABP-309759-21

**Planning Authority Reference Number:** 181605

**Your Reference:** Ionad Oidhreachta na mBadoiri



**An  
Bord  
Pleanála**

Received on

04 APR 2022

190130  
Pamela Harty

MKO  
Planning & Development Consultants  
Tuam Road  
Galway  
Co. Galway  
H91 VW84

**Date:** 01 APR 2022

**Re:** Cead ionad tráchtála agus struchtúr compún atá ann faoi láthair a leagann go talamh agus cead foirgneamh tráchtála comhdhéanta de aonad stórála bád, ceardaíocht tógáil bád, ionad oidhreachta cultúrtha agus spas taispeántas, caifé, oifig agus láthair cruinnithe, aiseanna poiblí le leithris agus seomraí feistis san áireamh. Ba mhaith linn a nótaíl go mbeidh tuairisc 'Natura Impact' ag dul leis an t-iaratas seo ag an seoladh thuas.  
Barr an Doire, An Cheathrú Rua, Co. na Gaillimhe.

Dear Sir / Madam,

An order has been made by An Bord Pleanála determining the above-mentioned appeal under the Planning and Development Acts 2000 to 2021. A copy of the order is enclosed.

In accordance with section 146(5) of the Planning and Development Act 2000, as amended, the Board will make available for inspection and purchase at its offices the documents relating to any matter falling to be determined by it, within 3 days following the making of its decision. The documents referred to shall be made available for a period of 5 years, beginning on the day that they are required to be made available. In addition, the Board will also make available the Inspector's Report, the Board Direction and Board Order in respect of the matter on the Board's website ([www.pleanala.ie](http://www.pleanala.ie)). This information is normally made available on the list of decided cases on the website on the Wednesday following the week in which the decision is made.

The Public Access Service for the purpose of inspection/purchase of file documentation is available on weekdays from 9.15am to 5.30pm (including lunchtime) except on public holidays and other days on which the office of the Board is closed.

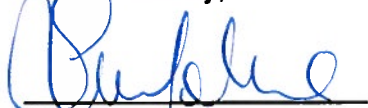
In cases where a grant of (full) planning permission is notified by the Board, it is policy to include a copy of the Department of the Environment and Local Government's Leaflet PL11 - Guide to the Building Control System and a copy of the Health and Safety Authority's leaflet Safety and Health on Construction Projects - The Role of Clients with the notification. These leaflets are issued at the request of the above bodies.

Teil	Tel	(01) 858 8100
Glao Áitiúil	LoCall	1890 275 175
Facs	Fax	(01) 872 2684
Láithreán Gréasáin	Website	<a href="http://www.pleanala.ie">www.pleanala.ie</a>
Ríomhphost	Email	<a href="mailto:bord@pleanala.ie">bord@pleanala.ie</a>

64 Sráid Maoilbhríde Baile Átha Cliath 1 D01 V902	64 Marlborough Street Dublin 1 D01 V902
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A further enclosure contains information in relation to challenges by way of judicial review to the validity of a decision of An Bord Pleanála under the provisions of the Planning and Development Act, 2000, as amended.

Yours faithfully,



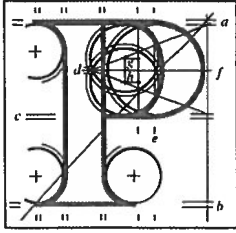
Sue Morel  
Executive Officer

BP100LN

**Tel**  
**Glaó Áitiúil**  
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**An  
Bord  
Pleanála**

**Ordú Boird  
ABP-309759-21**

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## **Na hAchtanna um Pleanáil agus Forbairt 2000 go 2021**

**Údarás Pleanála: Comhairle Contae na Gaillimhe**

**Uimhir Thagartha an Chláir Phleanála: 18/1605**

**Achomharc** ó Ionad Oidreachta na mBádóirí faoi chúram of McCarthy Keville O'Sullivan Limited i mBloc 1, G.F.S.C., Bóthar Mhóinín na gCiseach, Gaillimh in aghaidh an chinnidh a rinne Comhairle Contae na Gaillimhe an 11 lá d'Eanáir 2019 cead a dhiúltú d'Ionad Oidhreachta na mBádóirí don fhorbairt a atá beartaithe.

**An Fhorbairt atá Beartaithe:** Don fhorbairt ilchuspóra seo a leanas : 1) cead ionad stórála agus struchtúr compún atá ann faoi láthair a leagann go talamh agus 2) cead foirgneamh tráchtála aon urláir comhdhéanta de aonad stórála bád, ceardaíocht tógáil bád, ionad oidhreachta cultúrtha agus spás taispeántas, caifé, oifig agus láthair cruinnithe, aiseanna poiblí le leithris agus seomraí feistis san áireamh, 3) cead iontrála nua do feithicil amach ón ché atá ann cheanna féin ar an suíomh atá molta, 4) cead car chlos chun tosaigh, taobh agus ar chúl an foirgnimh, 5) cead ceangal leis an córas séarachais poiblí, 6) cead do ionad cóireála séarachais ar an suíomh le urscaoileadh isteach sa chóras séarachais poiblí, 7) cead gach oibreacha uasghrádaithe chuig an bóther rochtain isteach ag an ché, cosáin poiblí, agus soilsiú chomh maith le gach cóireálacha teorainn agus tírdhreach, 8) cead do gach

comharthaíocht agus postanna atá ag teastáil taobh istigh agus timpeall an ionad, 9) cead do gach seirbhísí suímh riachtanacha eile ag an seoladh thuas. Ba mhaith linn a nótáil go mbeidh tuairisc 'Natura Impact' ag dul leis an t-iarratas seo ag an seoladh thuas. Barr an Doire, An Cheathrú Rua, Contae na Gaillimhe.

## **An Cinneadh**

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**Cead a DHEONÚ don fhorbairt bheartaithe thuas de réir na bpleananna agus na sonraí sin bunaithe ar na cúiseanna agus na breithnithe faoi agus faoi réir na gcoinníollacha atá leagtha amach thíos.**

## **Nithe a Breithníodh**

Agus a chinneadh á dhéanamh, d'fhéach an Bord do na nithe sin ar ceanglaíodh air, de bhua na nAchtanna um Pleanáil agus Forbairt agus na Rialachán a rinneadh fúthu, féachaint dóibh. Áiríodh le hábhair den sórt sin aon aighneachtaí agus tuairimí a fuair sé de réir forálacha reachtúla.

## **Cúiseanna agus Breithnithe**

Ag féachaint do nádúr agus scála na forbartha atá beartaithe, an patrún forbartha sa cheantar, forálacha Phlean Forbartha Chontae na Gaillimhe 2015 - 2021, an “Lámhleabhar Cóireála Fuíolluisce – Córais Chóireála do Phobail Bheaga, Gnó, Ionaid Fóillíochta agus Óstáin” a d’fhoilsigh an Ghníomhaireacht um Chaomhnú Comhshaoil i 1999, “An Córas Pleanála agus Treoirlínte Bainistíochta Riosca Tuilte d’Údaráis Phleanála” arna bhfoilsíú ag Oifig na nOibreacha Poiblí in 2009, agus cuspóirí na Creat-Treorach Uisce, chinn an Bord, faoi réir chomhlíonadh na gcoinníollacha atá leagtha amach thíos, nach mbeadh tionchar do-ghlactha ag an bhforbairt atá beartaithe ar an gcomhshaol agus ar shláinte an duine, lena n-áirítear trí thionchair ar cháilíocht an uisce, go mbeadh cineál inghlactha cóireála fuíolluisce ann, nach mbeadh baol tuilte ann agus nach mbeadh sí ina bhaol tuilte do láithreáin eile, nach ndéanfaí díobháil thromchúiseach do thaitneamhachtaí an cheantair, agus go mbeadh sé inghlactha ó thaobh shábháilteacht agus áisiúlacht an tráchta. Mar sin bheadh an fhorbairt atá beartaithe ag teacht le pleanáil chuí agus forbairt inbhuanaithe an cheantair.

## **Scagadh do Mheasúnacht Chuí**

Bhreithnigh an Bord an Ráiteas Tionchair Natura agus na haighneachtaí ábhartha eile go léir agus rinne sé cleachtadh scagtha measúnaithe oiriúnachta maidir le héifeachtaí féideartha na forbartha atá beartaithe ar shuíomhanna Eorpacha ainmnithe. D’aontaigh an Bord leis an mheasúnacht scagtha agus leis an gconclúid a rinneadh i dtuarascáil an Chigire gurb é Ceantar Speisialta Caomhnaithe Chuan agus Oileáin Chill Chiaráin (cód an láithreáin: 002111) an t-aon láithreán Eorpach a bhféadfadh tionchar suntasach a bheith ag an bhforbairt atá beartaithe air.

## Measúnacht Chuí

Bhreithnigh an Bord an Ráiteas Tionchair Natura agus gach aighneacht ábhartha eile agus rinne sé measúnacht chuí ar impleachtaí na forbartha atá beartaithe do Limistéar Caomhantais Speisialta Chuan agus Oileán Chill Chiaráin (cód an láithreáin: 002111), i bhfianaise chuspóirí caomhnaithe an tsuímh. Mheas an Bord gur leor an t-eolas a bhí ann roimhe chun go bhféadfaí measúnacht chuí a dhéanamh.

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Agus an mheasúnacht chuí á cur i gcrích aige, bhreithnigh an Bord, go háirithe, na nithe seo a leanas:

- (i) na tionchair dhíreacha agus indíreacha dóchúla a d'eascródh as an bhforbairt atá beartaithe, ina n-aonar nó i gcomhcheangal le pleananna nó tionscadail eile,
- (ii) na bearta maolaithe, atá san áireamh mar chuid den togra reatha, agus
- (iii) cuspóirí caomhnaithe an tsuímh Eorpaigh.

Agus an mheasúnacht chuí á tabhairt chun críche aige, ghlac an Bord leis an scagadh agus an mheasúnacht chuí a rinneadh i dtuarascáil na gCigirí ar éifeachtaí féideartha na forbartha atá beartaithe ar an láithreán Eorpach thuasluaite, ag féachaint do chuspóirí caomhantais an tsuímh. Mar chonclúid iomlán, bhí an Bord sásta nach ndéanfadh an fhorbairt atá beartaithe, inti féin nó i gcomhcheangal le pleananna nó tionscadail eile, dochar do shláine an láithreáin Eorpaigh, i bhfianaise chuspóirí caomhantais an láithreáin.

## Coinníollacha

1. Déanfar an fhorbairt agus cuirfear i gcrích é de réir na bpleananna agus na sonraí a taisceadh leis an iarratas, arna leasú ag na pleananna agus sonraí breise a cuireadh isteach ar an 12ú lá de Nollaig 2018 faoi thagairt chlár pleanála 18/1605 agus leis na pleananna agus sonraí breise a fuair an Bord Pleanála an 7ú lá d’Fheabhra 2019 faoi uimhir thagartha achomhairc ABP-303654-19, ach amháin nuair a cheanglófar a mhalairt chun na coinníollacha seo a leanas a chomhlíonadh. Sa chás go n-éilíonn coinníollacha den sórt sin sonraí a chomhaontú leis an údarás pleanála, aontóidh an forbróir sonraí den sórt sin i scríbhinn leis an údarás pleanála roimh thús na forbartha agus déanfar an fhorbairt agus é a chríochnú de réir na sonraí comhaontaithe.

**An chúis:** Ar mhaithe le soiléire.

2. Cuirfear na bearta maolaithe agus monatóireachta comhshaoil agus tógála ar fad, mar atá leagtha amach sa Ráiteas Tionchair Natura, i bhfeidhm go hiomlán agus de réir na hamlínte atá leagtha amach. Maidir leis seo, sula gcuirfear tús leis an bhforbairt beidh a leithéid de bhearta maolaithe agus monatóireachta leagtha amach i bhfoirm sceideal scríofa lena n-áirítear amlínte tiomanta, agus cuirfear an sceideal faoi bhráid an údaráis phleanála agus aontófar é i scríbhinn leis.

**An chúis:** Ar mhaithe le soiléire agus chun éifeachtaí comhshaoil na forbartha a bheartaítear a mhaolú.

3. Cuirfear gach beart seachanta éiceolaíochta i bhfeidhm go hiomlán agus cuirfear i gcrích iad de réir an dea-chleachtais éiceolaíochta i gcomhairle le gníomhaireachtaí reachtúla (nuair is gá).

Ceapfar éiceolaí chun comhairle a thabhairt maidir le haon oibreacha, ionas go gcuirfear i gcrích iad de réir na treorach dea-chleachtais.

Tabharfar faoi gach beart maolaithe i gcomhairle le comhlachtaí reachtúla de réir mar is gá. Agus na bearta á gcur i gcrích féachfar do ~~shuirbhé éiceolaíoch a rinneadh sular cuireadh tús leis an bhforbairt~~ chun faisnéis bhonnlíne maidir le speicis mhadra uisce a thabhairt cothrom le dáta.

Ullmhófar agus cuirfear i bhfeidhm agus an fhorbairt á déanamh plean a bhaineann go sonrach leis an láithreán chun cosc a chur ar speicis choimhthíocha ionracha a allmhairiú isteach sa suíomh.

Cuirfear tuarascáil ar chur i bhfeidhm na mbeart éiceolaíochta faoi bhráid an údaráis phleanála ar chéad oibriú na forbartha.

**An chúis:** Bíthéagsúlacht an cheantair a chosaint i gceart.

4. Cuirfear sonraí maidir le hábhair, dathanna agus uigeachtaí gach bailchríoch sheachtrach ar an bhfoirgneamh faoi bhráid an údaráis phleanála, agus aontófar i scríbhinn leis, sula gcuirfear tús leis an bhforbairt.

**An chúis:** Ar mhaithe le taitneamhachtaí amhairc an cheantair.

5. Cuirfear scéim chuimsitheach cóireála teorann agus tírdhrechtaithe faoi bhráid an údaráis phleanála, agus aontófar i scríbhinn leis, sula gcuirfear tús leis an bhforbairt. Áireofar an méid seo a leanas sa scéim seo:

(a) sonraí ar gach bailchríoch dromchla crua atá beartaithe laistigh den fhorbairt;

(b) láithreacha molta crann agus plandú tírdhreacha eile san fhorbairt, lena n-áirítear sonraí an scáthaithe atá beartaithe don ionad cóireála fuíolluisce pacáistithe príobháideach;

(c) mionsonraí na gcóireálacha teorann atá beartaithe, lena n-áirítear airde, ábhair agus bailchríocha.

Déanfar an chóireáil teorann agus an tírdhrechtú de réir na scéime comhaontaithe.

**An chúis:** Ar mhaithe le taitneamhachtaí amhairc an cheantair.

6. Comhlíonfaidh socruithe draenála, lena n-áirítear diúscairt uisce dromchla agus idircheapóirí breosla, ceanglais an údaráis phleanála maidir le hoibreacha agus seirbhísí den sórt sin.

**An chúis:** Ar mhaithe le sláinte an phobail.

7. Sula gcuirfear tús leis an bhforbairt, rachaidh an forbróir i gcomhaontú(i) ceangail uisce agus/nó fuíolluisce le hUisce Éireann.

**An chúis:** Ar mhaithe le sláinte an phobail.

8. (a) Déanfar an córas cóireála fuíolluisce pacáistithe atá beartaithe a shuí, a thógáil agus a chothabháil de réir na sonraí a chuirfear faoi bhráid an Bhoird Pleanála an 7ú lá de mhí Feabhra, 2019 faoi achomharc uimhir thagartha ABP-303654 19, agus de réir cheanglais an Bhoird Pleanála. an doiciméad dar teideal “Lámhleabhair Chóireála Fuíolluisce – Córais Chóireála do Phobail Bheaga, Gnólachtaí, Ionaid Fóillíochta agus Óstáin” a d’ullmhaigh an Ghníomhaireacht um Chaomhnú Comhshaoil i 1999. Cuirfear socruithe maidir le cothabháil leanúnae an chórais faoi bhráid an údarais phleanála, agus aontófa iad i scríbhinn, sula gcuirfear tús leis an bhforbairt.
- (b) Laistigh de thrí mhí ó chéad áitiú an lárionaid, déanfaidh an forbróir tuarascáil a thíolacadh ó dhuine atá cáilithe go hiomchuí ag a bhfuil árachas slánaíochta gairmiúla ina ndeimhneofar go bhfuil an gléasra cóireála fuíolluisce pacáistithe beartaithe suiteáilte agus coimisiúnaithe de réir na sonraí ceadaithe agus go bhfuil sé ag obair ar bhealach sásúil de réir na gcaighdeán atá leagtha amach i Lámhleabhar an GCC agus nach sáraíonn an fuíolluisce éileamh ocsaigine ceimiceach 125mg/l.
- (c) Áireoidh an forbróir nasc leis an ngréasán fuíolluisce atá os comhair an láithreáin chun go mbeifear in ann nasc a dhéanamh amach anseo ar choimisiúnú an ionaid chóireála séarachais chathrach don limistéar, agus díchoimisiúnú agus baint an ghléasra cóireála fuíolluisce pacáistithe atá beartaithe laistigh de. trí mhí de nascadh le líonra cóireála fuíolluisce cóireáilte.

**An chúis:** Ar mhaithe le sláinte an phobail agus le cosaint an chomhshaoil.

9. Sula bhfeidhmeofar an tsaoráid, lena n-áirítear an caifé, déanfar gaiste ramhar, de mhéid ceart agus a chomhlíonann na caighdeáin/treoirínte ábhartha, a shuiteáil agus a chothabháil.

**An chúis:** Ar mhaithe le sláinte an phobail agus leis an gcomhshaol.

10. Cuirfear soilsiú poiblí ar fáil de réir scéime, a gcuirfear sonraí ina leith faoi bhráid an údaráis phleanála agus a aontófar i scríbhinn leis sula gcuirfear tús leis an bhforbairt. Díreofar, le soilsiú den sórt sin, ar riachtanais éiceolaíochta maidir leis an madra uisce agus soláthrófar é sula gcuirfear an t-ionad oidhreachta muirí agus cultúrtha ar fáil lena áitiú.

**An chúis:** Ar mhaithe le taitneamhacht, bithéagsúlachta agus sábháilteacht an phobail.

11. Déanfar tógáil na forbartha a bhainistiú de réir Plean Bainistíochta Tógála Comhshaoil, a chuirfear faoi bhráid an údaráis phleanála agus a aontófar i scríbhinn leis sula gcuirfear tús leis an bhforbairt. Soláthróidh an plean seo sonraí faoin gcleachtas tógála atá beartaithe don fhorbairt, lena n-áirítear:

- (a) suíomh an tsuímh agus chompún na n-ábhar lena n-áirítear an limistéar/na limistéir a aithníodh le haghaidh stóráil bruscair tógála;
- (b) suíomh na limistéar le haghaidh oifigí láithreán tógála agus áiseanna foirne;
- (c) sonraí maidir le fálú slándála an tsuímh agus na mballaí cláir;

- (d) mionsonraí na n-áiseanna páirceála ar an láthair le haghaidh oibríthe ar an láthair le linn na tógála;
  - (e) gnéithe chun scuaine tráchta foirgníochta ar an gcé agus ar an ngréasán bóithre tadhlach a sheachaint;
  - (f) gnéithe chun doirteadh nó sil-leagan cré, spallaí nó smionagar eile ar an gcé agus ar an ngréasán bóithre poiblí a chosc;
- 
- (g) gnéithe a thugann aghaidh ar thorann, soilsiú, deannach agus creathadh, agus na leibhéil sin a fhéachaint/a athbhreithniú;
  - (h) an breosla agus an ola go léir a bhaineann le tógáil a shrianadh laistigh de bhundáí a rinneadh go speisialta le cinntiú go ndéanfar doirteadh breosla a chuimsiú go hiomlán. Cuirfear díon ar bhundáí den sórt sin chun uisce báistí a choimeád amach;
  - (i) modhanna lena chinntiú go ndéantar rith chun srutha uisce dromchla a rialú; agus
  - (j) sonraí bhainisteoir an láithreáin, uimhreacha teagmhála (lena n-áirítear lasmuigh d'uaireanta oibre) agus comharthaí faisnéise poiblí ag an mbealach isteach chuig an tsaoráid.

Coinneoidh an t-údarás pleanála taifead de sheiceálacha laethúla go bhfuil na hoibreacha á gcur i gcrích de réir an Phlean Bainistíochta Tógála Timpeallachta, le gur féidir iad a sheiceáil.

**An chúis:** Ar mhaithe le soiléire, taitneamhachtaí, sláinte an phobail, sábháilteacht, cáilíocht an uisce agus cosaint na bithéagsúlachta.

12. Ní dhéanfar forbairt láithreáin agus oibreacha tógála ach idir na huaireanta 0800 agus 1900 ó Luan go hAoine san áireamh, idir 0800 agus 1400 uair ar an Satharn agus ní ar chor ar bith ar an Domhnach agus ar laethanta saoire poiblí. Ní cheadófar imeacht ó na hamanna seo ach amháin i gcúinsí eisceachtúla nuair a bhíonn cead scríofa roimh ré faighte ón údarás pleanála.

**An chúis:** Chun taitneamhachtaí na maoine sa chomharsanacht a chosaint.

13. Cuirfear faoi bhráid an údaráis phleanála, agus aontófar leis i scríbhinn, sula gcuirfear tús leis an bhforbairt, plean ina mbeidh sonraí maidir le bainistiú dramhaíola/ábhair in-athchúrsáilte laistigh den fhorbairt, lena n-áirítear soláthar áiseanna do stóráil, scaradh agus bailiú na dramhaíola/ábhar in-athchúrsáilte agus d'oibriú leanúnach na n-áiseanna sin. Ina dhiaidh sin, déanfar an dramhaíl a bhainistiú i gcomhréir leis an bplean comhaontaithe.

**An chúis:** Soláthar a dhéanamh do bhainistiú cuí dramhaíola/ábhar in-athchúrsáilte ar mhaithe leis an gcomhshaol a chosaint.

14. Íocfaidh an forbróir ranníocaíocht airgeadais leis an údarás pleanála i leith infrastruchtúir agus áiseanna poiblí a théann chun tairbhe d'fhorbairt i limistéar an údaráis phleanála a sholáthraíonn nó a bheartaítear a sholáthar ag an údarás nó thar ceann an údaráis de réir théarmaí na Scéime do Ranníocaíocht Forbartha a rinneadh faoi alt 48 den Acht um Pleanáil agus Forbairt 2000, arna leasú. Íocfar an ranníocaíocht roimh thús na forbartha nó i cibé íocaíochtaí céimnithe a éascóidh an t-údarás pleanála agus beidh sé faoi réir aon fhorálacha innéacsaithe infheidhmithe den Scéim-tráth na híocaíochta. Aontófa sonraí maidir le cur i bhfeidhm théarmaí na Scéime idir an t-údarás pleanála agus an forbróir nó, d'éagmais an chomhaontaithe sin, cuirfear an cheist faoi bhráid an Bhoird Pleanála chun a chinneadh an bhfuil téarmaí na Scéime á gcur i bhfeidhm i gceart.

**An chúis:** Tá sé ina cheanglas faoin Acht um Pleanáil agus Forbairt 2000, arna leasú, go gcuirfí coinníoll a éilíonn ranníocaíocht de réir na Scéime do Ranníocaíocht Forbartha a rinneadh faoi alt 48 den Acht i bhfeidhm ar an gcead.

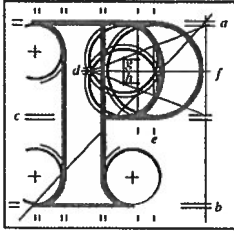


**Dave Walsh**

**Ball den Bhard Pleanála**

**atá údaraithe go cuí chun séala an Bhoird  
a fhíordheimhniú.**

Dátaithe an 31<sup>ú</sup> lá seo de Márta 2022.



An  
Bord  
Pleanála

Board Order  
ABP-309759-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Galway County Council**

**Planning Register Reference Number: 18/1605**

**Appeal** by Ionad Oidreachta na mBádóirí care of McCarthy Keville O'Sullivan Limited of Block 1, G.F.S.C., Moneenageisha Road, Galway against the decision made on the 11<sup>th</sup> day of January 2019 by Galway County Council to refuse a permission to Ionad Oidreachta na mBádóirí for the proposed development.

**Proposed Development:** Don forbairt ilchuspóir seo leanas : 1) cead ionad stórála agus struchtúr compún atá ann faoi láthair a leagann go talamh agus 2) cead foirgneamh tráchtála aon urláir comhdhéanta de aonad stórála bád, ceardaíocht tógáil bád, ionad oidhreachta cultúrtha agus spás taispeántas, caifé, oifig agus láthair cruinnithe, aiseanna poiblí le leithris agus seomraí feistis san áireamh, 3) cead iontrála nua do feithicil amach ón ché atá ann cheanna féin ar an suíomh atá molta, 4) cead car chlos chun tosaigh, taobh agus ar chúl an foirgnimh, 5) cead ceangal leis an córas séarachais poiblí, 6) cead do ionad cóireála séarachais ar an suíomh le urscaoileadh isteach sa chóras séarachais poiblí, 7) cead gach oibreacha uasghrádaithe chuig an bóther rochtain isteach ag an ché, cosáin poiblí, agus soilsiú chomh maith le

gach cóireálacha teorainn agus tírdhreach, 8) cead do gach comharthaíocht agus postanna atá ag teastáil taobh istigh agus timpeall an ionad, 9) cead do gach seirbhísí suímh riachtanacha eile ag an seoladh thuas. Ba mhaith linn a nótáil go mbeidh tuairisc 'Natura Impact' ag dul leis an t-iarratas seo ag an seoladh thuas. Barr an Doire, An Cheathrú Rua, Contae na Gaillimhe.

## Decision

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**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

Having regard to the nature and scale of the proposed development, the pattern of development in the area, the provisions of the Galway County Development Plan 2015 - 2021, the “Wastewater Treatment Manual – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels” published by the Environmental Protection Agency in 1999, “The Planning System and Flood Risk Management Guidelines for Planning Authorities” published by the Office of Public Works in 2009, and the objectives of the Water Framework Directive, the Board concluded that, subject to compliance with the conditions set out below, the proposed development would not have unacceptable impacts on the environment and human health, including via impacts on water quality, would feature an acceptable form of wastewater treatment, would not be at risk of flooding and would not present a risk of flooding to other sites, would not seriously injure the amenities of the area, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Appropriate Assessment Screening**

The Board considered the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European sites. The Board agreed with the screening assessment and conclusion carried out in the Inspector’s report that Kilkieran Bay and Islands Special Area of Conservation (site code: 002111) is the only European site in respect of which the proposed development has the potential to have a significant effect.

## Appropriate Assessment

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for Kilkieran Bay and Islands Special Area of Conservation (site code: 002111), in view of the site's conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

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In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,
- (ii) the mitigation measures, which are included as part of the current proposal, and
- (iii) the conservation objectives for the European site.

In completing the Appropriate Assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European site, having regard to the site's conservation objectives. In overall conclusion, the Board was satisfied that the proposed development, either by itself or in combination with other plans or projects, would not adversely affect the integrity of the European site, in view of the site's conservation objectives.

## Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12<sup>th</sup> day of December 2018 under planning register reference 18/1605 and by the further plans and particulars received by An Bord Pleanála on the 7<sup>th</sup> day of February 2019 under appeal reference number ABP-303654-19, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. All the environmental and construction mitigation and monitoring measures, as set out in the Natura Impact Statement, shall be implemented in full and in accordance with the timelines set out. In this regard, prior to the commencement of the development such mitigation and monitoring measures shall be set out as a written schedule including committed timelines, and the schedule shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of clarity and to mitigate the environmental effects of the proposed development.

3. All ecological avoidance measures shall be implemented in full and carried out in accordance with best ecological practice in consultation with statutory agencies (where necessary).

An ecologist shall be appointed to advise on any works, such that they will be carried out in accordance with best practice guidance. All mitigation measures will be undertaken in consultation with statutory bodies as required. The measures shall have regard to an ecological survey carried out prior to the commencement of the development in order to update baseline information regarding other species.

A site-specific plan for the prevention of importing invasive alien species onto the site shall be prepared and implemented throughout the carrying out of the development.

A report on the implementation of ecological measures shall be submitted to the planning authority upon first operation of the development.

**Reason:** To adequately protect the biodiversity of the area.

4. Details of the materials, colours and textures of all external finishes to the building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the visual amenities of the area.

5. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This scheme shall include the following:

- (a) details of all proposed hard surface finishes within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed screening to the private packaged wastewater treatment plant;
- (c) details of proposed boundary treatments, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

**Reason:** In the interest of the visual amenities of the area.

6. Drainage arrangements, including the disposal of surface water and provision of fuel interceptor(s), shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

7. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

8. (a) The proposed packaged wastewater treatment system shall be located, constructed and maintained in accordance with the details submitted to An Bord Pleanála on the 7<sup>th</sup> day of February, 2019 under appeal reference number ABP-303654 19, and in accordance with the requirements of the document entitled "Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels" prepared by the Environmental Protection Agency in 1999.
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- Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Within three months of the first occupation of the centre, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proposed packaged wastewater treatment plant has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA Manual and with wastewaters not exceeding a chemical oxygen demand of 125mg/l.
- (c) The development shall include for a connection to the wastewater network fronting the site to enable a future connection to be made upon commissioning of the municipal sewerage treatment plant for the area, and the decommissioning and removal of the proposed packaged wastewater treatment plant within three months of connecting to a treated wastewater treatment network.

**Reason:** In the interests of public health and the protection of the environment.

9. Prior to the operation of the facility, including the café, a grease trap, sized correctly and which complies with relevant standards/guidelines, shall be installed and maintained.

**Reason:** In the interests of public health and the environment.

10. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall address ecological requirements with respect to otter and shall be provided prior to the making available for occupation of the maritime and cultural heritage centre.

**Reason:** In the interests of amenity, biodiversity and public safety.

11. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
  - (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
  - (b) location of areas for construction site offices and staff facilities;
  - (c) details of site security fencing and hoardings;
  - (d) details of on-site car parking facilities for site workers during the course of construction;

- (e) features to obviate queuing of construction traffic on the adjoining pier and road network;
  - (f) features to prevent the spillage or deposit of clay, rubble or other debris on the pier and public road network;
  - (g) features addressing noise, lighting, dust and vibration, and observing/reviewing of such levels;
- 
- (h) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
  - (i) means to ensure that surface water run-off is controlled; and
  - (j) details of the site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

**Reason:** In the interests of clarity, amenities, public health, safety, water quality and protecting biodiversity.

12. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

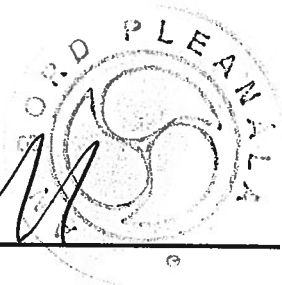
**Reason:** In order to safeguard the amenities of property in the vicinity.

13. A plan containing details for the management of waste/recyclable materials within the development, including the provision of facilities for the storage, separation and collection of the waste/recyclable materials and for the ongoing operation of these facilities, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste/recyclable materials in the interest of protecting the environment.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



**Dave Walsh**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this 31<sup>st</sup> day of March 2022.

**Appendix 6**

**GCC– Grant of Approval for Primary Care Centre in Spiddal**

**PLANNING AND DEVELOPMENT ACTS 2000-2010****DECISION under SECTION 34 of the ACT of 2000**

Reference Number: 21/2211

Date of Receipt of Application: 25/11/2021

Baile Éamonn Teoranta  
 McCarthy Keville O'Sul MKO  
 Tuam Road  
 Galway  
 H91 VW84

I hereby give you NOTICE that the Galway County Council has by order  
 dated 27 JUN 2022 decided to grant PERMISSION

To the above named, for development of land, in accordance with documents lodged,  
 namely:

for the proposed development consisting of: (1) Construction of a two-storey Primary Care Centre comprising 28 no. therapy/consultants rooms and associated signage. (2) Construction of a section of the An Spideal Indictive Relief Road immediate abutting the proposed Primary Care Centre. (3) Widening and improvement works to the LS397 (Baile Éamonn). (4) Pedestrian and vehicular access ways, parking, services, landscaping and all associated site works. **in the townland of An Spidéal Thiar**

**and subject to the conditions 22 set out in the Schedule hereto.**

**Main reasons and considerations on which the decision is based:-**

The proposed development has been assessed, within the restrictions imposed by the principles of proper planning and sustainable development and having regard to the policy objectives of Galway County Council as set out in the 2022 - 2028 County Development Plan. Based on this assessment it is considered that the proposed development is in accordance with the proper planning and sustainable development of the area and with the provisions of the Development Plan.

Signed this 27th day of JUNE 2022 on behalf of Galway County Council

M. Duane  
 pp COUNTY SECRETARY

**THIS NOTICE IS NOT A GRANT OF PLANNING PERMISSION and work should not be commenced until a grant of permission is issued. Permission will be issued on the expiration of the period for the making of an appeal (i.e. four weeks from the date of the above mentioned order), if there is then no appeal before Bord Pleanála.**

**In deciding this Planning Application Galway County Council has, in accordance with section 34(3) of the Act, had regard to any submissions or observations received.**

**SEE ATTACHED SCHEDULE**

**(CONDITION NO.'S 22)**

A grant of permission shall cease to have effect on expiration of 5 years beginning on the date of such grant, as regards

- a) The entire development if the development to which the permission relates is not commenced during that period, and
- b) So much of the development as is not completed within that period, in the case of development which has been commenced but not completed

*Please see attached sheet for important Notice regarding Planning Appeals*

**SCHEDULE REFERRED TO - PLANNING REFERENCE NO. 21/2211**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 25<sup>th</sup> of November 2021, as updated by the revised plans received on 30<sup>th</sup> of May 2022 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The period during with the development hereby permitted may be carried out shall be five years from the date of planning permission.

Reason: In the interests of proper planning and sustainable development.

3. (a) No development shall commence until such time as the developer has obtained a Connection Agreement from Irish Water for the provision of water services (public mains & public sewer) necessary to enable the proposed development.

(b) All proposed works required shall be entirely funded by the customer and installed by the Irish Water Regional Connections Contractor.

(c) All public connections for the proposed development shall be in place prior to initiation of use.

Reason: In the interests of the proper planning and sustainable development of the area.

4. Sight distance triangles shall be maintained and kept free from obstructions that would reduce the minimum visibility required.

Reason: In the Interests of traffic safety.

5. Prior to occupation of the primary care centre, the applicant/developer shall have completed the carparking spaces, access road and soakpit(s) to facilitate the proposed development on site, in accordance with the plans and particulars submitted with the application received by the planning authority on the 25<sup>th</sup> of November 2021 and the 30<sup>th</sup> of May 2022.

Reason: In the interest of traffic safety.

6. The internal road network serving the proposed development, including turning bays, junctions, sight distances, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets.

Reason: In the interest of pedestrian and traffic safety, and in order to comply with national policy in this regard.

7. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

8. (a) The hardscaping, public realm works, shared spaces and landscaping shall be implemented in full prior to the opening of the Primary Care Centre hereby permitted by this grant of permission. Green open spaces shall be levelled, contoured, soiled, seeded and landscaped in accordance with the landscaping scheme. Prior to commencement of development a full updated landscaping and hardscaping treatment scheme shall be submitted for the prior written approval of the Planning Authority. This scheme shall include:

(i) A detailed landscaping plan including specific details as to the plant sizes and species to be used.

(iii) Detailed proposals for the management of all public open space and ancillary open space areas including pedestrian footways through proposed ancillary open space areas.

[iv] details of species, variety, number and locations of trees and shrubs (including details of typical trunk diameter of all proposed semi-mature trees).

[v] details of programme for implementation of the scheme.

(b) The public open space / communal open spaces shall be developed for and devoted to public use. They shall be free from any development and shall not be enclosed by any means, except where otherwise agreed.

(c) The establishment of new hedgerow, hedge boundaries and public open space areas shall take place at an advanced or initial stage of each phase of the proposed development. Such measures shall include a three-year maintenance or aftercare contract for all landscape elements, hedgerow, tree planting and open spaces on an on-going basis. All defects shall be identified and corrected as necessary.

(d) A suitably qualified Landscape Architect shall be appointed prior to the commencement of any development on the subject site to oversee and monitor the project construction and early operational stages of development.

(e) Any plants/trees which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: To ensure a high-quality landscape design throughout the scheme in the interest of proper planning and sustainable development.

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## **SCHEDULE REFERRED TO - PLANNING REFERENCE NO. 21/2211**

9. All necessary measures shall be taken by the applicant to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works. The developer shall be responsible for installing and maintaining to a satisfactory standard a vehicular wheel washing facility on site during the construction phase of the development.

Reason: In the interests of the proper planning and sustainable development of the area.

10. During the construction stage of the proposed development the following best practice mitigating measures must be employed to prevent any significant adverse impacts to the Natura 2000 sites in the vicinity of the site, including the protection of ground and surface waters:

(a) Works such as soil excavation, soil depositing or soil stripping will not be conducted during or immediately following periods of heavy or prolonged rainfall.

(b) All stockpile areas of sand, gravels and soils should be stored on level terrain and shall be covered during heavy rainfall periods in order to prohibit the mobilisation of sediments.

(c) Works with concrete shall be done during dry conditions for a period sufficient to cure the concrete (at least 48 hours).

(d) Concrete pours shall occur in contained areas.

(e) Washing out of concrete trucks should not be permitted within the site and should be conducted in hard standing areas.

(f) All petroleum products to be bunded during the construction stage of the development.

(g) If water is running off site then straw bales should be put in place during construction so as to trap any silt present in the water.

(h) If soil or other material such as gravel or handstand materials are being brought on site ensure that the source is free of invasive species such as Japanese Knotweed, Ragwort, Gunnera and Rhododendron.

Reason: In the interest of protecting the integrity of Natura 2000 sites.

11. Surface water drainage and management shall be designed, sized, located and operated in accordance with the design details and calculations, as submitted with the application. All surface water generated by the development shall be disposed of within the site and shall not be discharged onto the road or adjoining property.

Reason: In the interests of the proper planning and sustainable development of the area.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground in ducting in the public footpath or verge. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

13. The developer shall ensure that all construction operations are carried out in a manner such that air emissions, dust, odour, litter or other waste/debris do not result in significant impairment of, or significant interference with, amenities and environment beyond the site boundary. All necessary measures shall be taken by the applicant to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: In the interests of proper planning and sustainable development of the area.

14. A detailed Construction Environmental Management Plan and Construction Traffic Management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The construction traffic management plan shall include details of arrangements for routes for construction traffic and parking for construction workers during the construction phase, and arrangements for delivery of abnormal loads to the site.

Reason: In the interests of public safety and residential amenity.

15. A minimum of 10% of car parking spaces shall be provided with functioning EV (Electric Vehicle) charging stations/points. Details shall be agreed in writing with the Planning Authority prior to the commencement of development on site.

Reason: In the interests of proper planning and sustainable development of the area.

16. The lighting scheme should be designed by a competent public lighting designer so as to meet the design & performance requirements set out in the latest edition of the European Standard EN 13201-2 & BS 5489-1: 2014. The luminaires used shall be LED type only & shall be approved for use on the Triple E Register operated by SEAI. The lighting scheme shall incorporate a trimming & dimming regime to 75% of light output between the hours 12:00 midnight & 6am to match UMR approved Burn Profile.

Reason: In the interest of residential amenity.

**SCHEDULE REFERRED TO - PLANNING REFERENCE NO. 21/2211**

17. Details of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

18. Site development and building works shall be carried out only between 0800 to 1900 hours Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

19. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines for the Preparation of Resource & Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in 2021.

Reason: In the interest of sustainable waste management.

20. Areas of the development for Taking in Charge shall, where applicable, be agreed in writing with the Taking in Charge Section of Galway County Council, prior to the commencement of development on site.

REASON: In the interest of clarity and in the interest of the proper planning and sustainable development of the area.

21. The developer shall, unless otherwise agreed, pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of the provision of a central right-hand turning lane on the R336 regional road (and ancillary works) that will benefit the development. The amount of the contribution shall be agreed with the Planning Authority prior to commencement of development.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs, which are incurred by the planning authority, which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

22. Unless otherwise agreed in writing with the planning authority prior to the commencement of development, the applicant/developer shall pay €19,489.73 to the Planning Authority, unless a phased payment schedule has been agreed in writing, with the Planning Authority. This charge has been calculated using the Development Contributions Scheme adopted by Galway County Council in accordance with the provisions of Section 48 of the Planning and Development Act 2000 (as amended).

The makeup of this sum is detailed in the list below:

Development Sub-Area	Development Sub-Type	Charge Code Description	Number of Units	Unit Charge	Line Charge
Sub Area 1	Group 3	Nursing Home	1,499.21sqm	€13.00	€19,489.73
				Total	€19,489.73

Reason: So that the developer shall pay an equitable portion of the cost of the facilities that are provided or that it is intended will be provided by or on behalf of Galway County Council, which will facilitate the proposed development.

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**Footnote:**

An appeal against a decision of a Planning Authority under the Planning and Development Act 2000 (as amended) may be made to An Bord Pleanála, 64 Marlborough Street, Dublin 1, D01 V902. (Tel. (01) 8588100) during office hours.

1. You have four weeks beginning on the date the planning authority makes its decision. This is a strict time limit.
1. You must put your appeal in writing (either typed or handwritten).
2. You must clearly state your own name and address. If someone is acting for you, like a planning agent they must clearly state their own name and address as well as your name and address.
3. You must give enough details to allow An Bord Pleanála to identify the application you wish to appeal.
4. You must provide your planning grounds of appeal (reasons and arguments) for your appeal and any items you wish to support your grounds of appeal.
5. If you are a third party, you must include the written acknowledgement given to you by the planning authority to confirm it received your submission at planning application stage.
6. You must pay the correct fee.

For more information on how to make an appeal see [www.pleanala.ie](http://www.pleanala.ie)