



Oifig an
Rialaitheora Pleanála
Office of the
Planning Regulator

OPR Ref: AD-009-22

22nd December 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 City Development Plan 2023-2029**

A chara,

I am writing to you in relation to the recent adoption by the elected members of the Galway City Development Plan 2023-2029 (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 recommendations of the Office, which required specific changes to the Development Plan:
 - i. to ensure consistency with national policy objectives (NPOs) of *Project Ireland 2040 National Planning Framework* (the NPF) (NPO 3(a-c) and NPO 62) and the regional policy objectives (RPOs) of the North Western Regional Assembly Regional Spatial and Economic Strategy (the RSES) (RPO 3.2), and with the core strategy of the adopted Development Plan,

and to have regard to the Section 28 *Development Plans, Guidelines for Planning Authorities* (2022) (Development Plans Guidelines). Specifically material amendments to the draft Development Plan adopted by the elected members to zone 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 the City environs and is not consistent with the objectives to promote sustainable settlement and transportation strategies under section 10(2)(n) of the Act, in Galway City;

- ii. to ensure consistency with national and regional policy in respect of compact growth (NPO 3) and to strengthen the value of greenbelts and green spaces at a city level (NPO 62). Specifically the Development Plan includes extensive areas of land zoned Residential R2 (formerly Low Density Residential (LDR) in the draft Plan) in a piecemeal manner in unserviced and peripheral and/ or isolated locations, and more often in areas otherwise zoned Agriculture (A) or Agriculture and High Amenity (G).
- iii. to ensure consistency with national and regional policy in respect of tiered approach to zoning (NPO 72(a-c)) and retention of agricultural land in the Galway MASP (RPO 3.6.14 of the RSES), the objectives to promote sustainable settlement and transportation strategies under section 10(2)(n) of the Act, in Galway City, and having regard to the approach to employment zoning in the Development Plan Guidelines. Specifically the material amendment to the draft Development Plan adopted by the elected members to zone land for Enterprise, Light Industry and Commercial (CI) in an isolated and unserviced location in the rural hinterland at Coolagh Road remote from any opportunities for public transport and active travel.
- iv. to ensure consistency with the national policy objectives (NPOs) of the NPF (NPO 57) and having regard to *The Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009) (Flood Guidelines), specifically 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;

- b) as a consequence of the above matters, the Development Plan as made by Galway City 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 Section 10(1) 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 City Development Plan

The Draft Galway City Development Plan, 2023 – 2029, (the draft Plan) was on public display from the 28th January 2022 to the 13th April 2022.

A statement was appended to the draft 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 on the 13th April 2022, containing thirteen (13) recommendations and eight (8) observations.

Subsequently, the Chief Executive sent a notice letter under section 12(5)(aa) of the Act dated 5th September 2022 to the Office advising of the making of material alterations to the draft Plan and specifying the recommendations of the Office not complied with, which included Recommendation 5 and Recommendation 8.

Recommendation 5 (Low density residential zoning objectives) of the Office's submission to the draft Plan required the planning authority to review the approach to the zoning objective, low density residential (LDR). Section 11.2.8 of the draft Plan set out densities for the individual LDR zonings, including maximum densities of 2.5 to 5 dwellings per hectare and specific numbers of houses to be reserved for the use of immediate family members of the landowner. This LDR zoning objective applied to a range of land parcels including:

- land located within or contiguous to the existing footprint of the city, and which is served by existing and /or proposed public transport corridors where development at such low density would result in further sprawl on the edge of the city;
- isolated land parcels in areas otherwise zoned Agriculture (A) or Agriculture and High Amenity (G) which have their own criteria and objectives for rural housing, including land adjacent to the Galway Bay SAC and SPA complex; and
- land in areas which are unserviced with an existing high concentration of on-site waste water treatment adjacent to areas of very high environmental sensitivity such as the Galway Bay SAC and SPA.

Recommendation 8 (Rural Housing) of the Office's submission to the draft Plan required the planning authority to review the rural housing policies and criteria in section 11.2 to ensure consistency with NPO 19 and in particular the core consideration of demonstrable economic or social need, to clarify the rural housing policy regarding land zoned 'G', and to ensure that the approach to rural housing policies in the rural hinterland is co-ordinated with the draft Galway County Development Plan.

1.2 Material Alterations to the Draft Galway City Development Plan 2023-2029

The elected members, having considered the draft Plan and the Chief Executive's (CE's) Report on submissions received (16th June 2022), resolved to amend the draft Plan. The material alterations to the draft Plan were on public display from 8th September 2022 to 6th October 2022.

The material alterations included a number of changes, including:

- a series of individual material amendments to the following land use zoning objectives:
 - Residential (R)
 - Residential (R2)
 - Enterprise, Light Industry and Commercial (CI);
- material amendments A.1, A.52, A.53, A.161 and A.162, to amend the zoning of the draft Plan from LDR to Residential R2;
- material amendments, A.9, A.13, A.24, A.25 and A.27 to zone lands within flood zone A and B for vulnerable and/or highly vulnerable uses despite the lands being identified as having a flood risk.

The Office made a submission on 6th October 2022 on the material alterations to the draft Plan containing five (5) recommendations and one (1) observation. The submission also noted the decision of the planning authority not to comply in full or in part, in particular, with Recommendation 5 and Recommendation 8 of the Office's submission to the draft Plan.

The Office recommendations at MA stage included:

- MA Recommendation 2 – Residential Land Use Zonings, relating to residential land use zonings in Menlo, Ragoon and Roscam, Ballindoooley and Dublin Road, and Specific Development Objectives at Barna Woods and Circular Road.
- MA Recommendation 3 – Low Density Residential, relating to material amendments A.1, A.52, A.53, A.161 and A.162 to make the plan without Residential (R2) and revert to the draft Plan.
- MA Recommendation 4 – Employment land use zoning (Coolagh Road).
- MA Recommendation 5 – Flood Risk Management.

1.3 Adopted Galway City Development Plan 2023-2029

The elected members of Galway City Council resolved to make the Galway City Development Plan 2023 – 2029 on 24th November 2022.

Subsequently, the Chief Executive sent a notice letter under section 31AM(6) of the Act dated 1st December 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 MA Recommendation 2, MA Recommendation 3, MA Recommendation 4, and MA Recommendation 5 had not been complied with, either in full or in part.

In relation to MA Recommendation 1, the Office accepts the CE response and justification which agreed by the elected members.

As outlined above, the section 12(5)(aa) notice letter (5th September 2022) had previously identified that Recommendation 5 and Recommendation 8 of the Office's submission to the draft Plan had not been complied with, either in full or in part.

In relation to the rural housing policy, the Office notes the decision of the elected members not to comply with Recommendation 8 of the Office's submission to the draft Plan. Having regard to the current policy framework and the forthcoming section 28 Guidelines, on balance, the Office considers that there is insufficient basis to make a recommendation to the Minister to issue a draft Direction in respect of this matter.

In the context of the above, and 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 Notice and have been addressed to the satisfaction of the Office, or are otherwise considered satisfactory within the legislative and policy context.

1.4 Residential Land Use Zonings

MA Recommendation 2 – Residential Land Use Zonings

MA Recommendation 2 of the Office’s submission to the material alterations to the draft Plan required the planning authority make the Plan without eleven (11) land-use zoning amendments and two (2) Specific Development Objectives.

MA Recommendation 2 – Residential Land Use Zonings states the following:

Having regard to national and regional policy objectives for compact growth, NPO 3, RPO 3.2, under the NPF and RSES, and to NPO 62 green spaces; to the requirement to implement the sequential approach to zoning under section 28 Guidelines Development Plans, Guidelines for Planning Authorities (2022) to which the planning authority must have regard; to the requirement under section 10(1) of the Planning and Development Act 2000, as amended, (the Act), for the development plan to set out an overall strategy for the proper planning and sustainable development of the area; to the requirement under section 10(2A)(a) and (b) for the core strategy to be consistent with the NPF and RSES and to take account of national and regional housing targets; to the requirement under section 10(2)(n) of the Act to promote sustainable settlement and transport strategies to reduce energy use and to reduce GHG emissions; and to the binding interim target to reduce GHG emissions under Climate Action and Low Carbon Development (Amendment) Act 2021, the planning authority is required to make the Plan without the following material amendments:

- A.6 Ragoon
- A.11 Dublin Road
- A.15 Quarry Road, Menlo
- A.16 Ballindooley
- A.17 Off Circular Road
- A.18 Off Circular Road
- A.19 Menlo Village Extension
- A.20 Quarry Road
- A.21 Roscam

- *A.23 Roscam*
- *A.24 Menlo Village Extension*
- *A.27 Barna Woods*
- *A.29 Circular Road*

In relation to the two Specific Development Objectives, A.27 Barna Woods and A.29 Circular Road, the Office acknowledges the CE recommendation, and justification provided, to make the plan with A.27 and A.29. Moreover the Office notes that the elected members accepted the CE recommendation in this regard. The Office accepts the reasons provided by both the CE and the elected members and no further action is required in relation to these material amendments.

The CE's Report concurs with the OPR in relation to the eleven land use zoning amendments specified in MA Recommendation 2, listed above. The CE Report states as follows:

The CE is of the opinion that most of these additional proposals for re-zoning /increased densities would be contrary to the Core Strategy of the draft which is a robust evidenced based strategy for future sustainable development which considered a range of factors including existing range and extent of residential zonings, proximity to public and sustainable transport facilities, accessibility, availability of water and wastewater infrastructure, proximity to services and amenities. Many of these sites also form part of the unique natural setting, which provides an undeveloped backdrop to the built environment and are not consolidation of existing zonings.

The Office also notes the submission from Irish Water to the City Council (6th October 2022) which confirms that, with the exception of A.6 Ragoon and A.11 Dublin Road, the subject lands are not serviced by public water and/ or wastewater networks.

1.4.1 Menlo – A.15, A.19, A.20 and A.24

Menlo is situated on the city fringe to the north-west, and is characterised as village type settlement located between large land banks of both Agriculture (A), and Agriculture and High Amenity (G) zoned lands, and within close proximity to Lough

Corrib SAC. The Development Plan includes a policy objective (Policy 3.9 ‘Village Envelopes / Areas’) to protect and enhance the amenity of Menlo and maintain its distinctive character.

Zoning amendments A.15, A.19, A.20 and A.24 are not sequential to the built up footprint of the village, and in particular A.19 and A.24 seek to extend the village boundary in an uncoordinated and piecemeal manner.

A.15 amended the zoning in the draft Plan from Agriculture (A) to Residential (R2). The site is located circa. 700 metres outside the northern boundary edge of Menlo Village. This zoning amendment leapfrogs beyond lands zoned Agriculture (A) (in the Development Plan, as made) to a peripheral and non-sequential location.

The elected members rejected the CE’s recommendation to make the plan without this amendment for the following reasons:

For a family member /for family use. In the past, planning permission has been granted on adjoining lands in the area.

The Office notes, however, that the Agricultural (A) zoning objective does allow for dwellings for a family member/ for family use under the rural housing policy. This site has had an extensive history of planning refusals for a single dwelling. Primarily the reasons for refusal are related to the un-serviced nature of the area and that, having regard to the prevailing karst landscape and the proliferation of individual on-site treatment systems, the proposed dwelling would be prejudicial to public health.

The granting of planning permission on adjoining lands in the area zoned Agricultural and High Amenity (G) is not sufficient to warrant a rezoning of the subject land to Residential (R2).

A.19 amended the zoning of the draft Plan from Agriculture and High Amenity (G) to Residential (R2). The subject land (c.1 ha) is not serviced and is located to the south of the village outside of the defined village envelope.

The elected members rejected the CE’s recommendation to make the plan without this amendment for the following reasons:

To facilitate the building of family homes. This land is located just outside the village envelope.

In relation to the reason given that the zoned lands are 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 set out in the Core Strategy in a sequential and coordinated manner. Furthermore, there are preferably located lands which are zoned and serviced to meet demand. There is, therefore, no evidence based rationale to support the requirement for the subject zoning objectives to ensure that adequate housing is available.

A.20 amended the zoning of the draft Plan from Agriculture and High Amenity (G) to Residential (R2). The site is located to the north of Menlo Village. The site is located in an unserviced sensitive landscape setting, within c. 250m of the Lough Corrib SAC. The elected members rejected the CE's Recommendation to make the plan without this amendment for the following reasons:

To accommodate the building of a family home.

The land is located in an area otherwise zoned Agriculture and High Amenity (G), which does allow for the building of a family home under the rural housing policy.

A.24 amended the zoning of the draft Plan from Agriculture and High Amenity (G) to Residential (R2).

The elected members rejected the CE's Recommendation to make the plan without this amendment for the following reasons:

To provide for family housing.

In relation to the reason given that the zoned lands are required to ensure that adequate housing is available to meet demand, the reason set out above in respect of A.19 also applies to this material amendment.

Furthermore, the lands the subject of Residential (R2) are located on lands that are partially located in Flood Zone B. This matter is addressed below under MA Recommendation 5 Flood Risk Management.

1.4.2 Ragoon - A.6, A.17 and A.18

Ragoon forms part of the western outer suburbs and is identified for growth in accordance with the settlement hierarchy and the core strategy of the Development Plan. The draft Plan provided sufficient land to meet anticipated development requirements set out in the Core Strategy in a sequential and coordinated manner.

A.6 amended the zoning in the draft Plan from Agriculture (A) to Residential (R). The land parcel extends to 2.8 hectares. The elected members provided the following reason for rejecting the CE's recommendation to make the Plan without A.6:

Need additional land zoned for more housing to meet the NPF growth projections.

The Office notes, however, the following from the CE report (26th October 2022) in relation to material amendment A.6:

In accordance with the Core Strategy (which includes for the additional provision as set out in the development plan guidelines) there is no requirement to re-zone additional land for residential purposes to meet the needs of the targeted population increase up to 2029. Within the general area, in accordance with the Core Strategy, there are lands which are zoned and serviced, and are enabled for development.

The Office's response to the similar reason set out above in respect of A.19 also applies to this material amendment.

A.17 and A.18 are two adjoining land parcels and both alterations amended the zoning in the draft Plan from Agriculture (A) to Residential (R2). The land parcel in A.17 extends to 4.2 ha, and the A.18 land parcel extends to 2.4 ha.

In respect of these zoning amendments, the elected members provided a similar reason for rejecting the CE's recommendation to make the Plan without A.17 and A.18:

To support the provision of housing in a well serviced urban area.

The response to the similar reason in relation to the provision of housing set out above in respect of A.6 also applies to this material amendment.

In relation to the reason that the land is located well serviced urban area, the Office notes the submission from Irish Water referenced above which lists A.17 and A.18 as lands that are not serviced by public water and/ or wastewater networks. Further the CE Report (26th October) states that upgrades would be required to service the site and that the IW submission received by the City Council recommends that any future development be directed to areas which are clearly serviced.

1.4.3 Roscam - A.21 and A.23

Roscam has sensitive landscape character and is protected by development plan objectives protecting 'Views and Prospects'. Roscam lies adjacent to Galway Bay SAC, situated to the east of the city centre. The Office notes that the established housing in the area is characterised by a cluster of individual housing developments dependent on individual waste water treatment systems.

A.21 amended the zoning of the draft Plan from Agriculture and High Amenity (G) to Residential (R2). The elected members rejected the CE's Recommendation to make the plan without this amendment for the following reasons:

This will allow for the facilitation of housing on residential lands and there are services available within close proximity.

A.23 amended the zoning of the draft Plan from Agriculture and High Amenity (G) to Residential (R2). The elected members rejected the CE's Recommendation to make the plan without this amendment for the following reasons:

To facilitate the provision of family homes.

The Office notes that both sites are un-serviced, and located some distance from existing services. On-site waste water treatment systems would therefore be required to facilitate further housing in this area.

Further, the Office notes that the draft Plan provides 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 land is zoned to meet the population and housing supply targets set out in the Core Strategy.

1.4.4 Ballindooley – A.16

The land relating to material amendment A.16 is located on the northern boundary of the City Council, adjoining the boundary with Galway County, and is located in an area otherwise zoned for Agriculture (A) in the adopted Plan.

A.16 amended the zoning of the draft Plan from Agriculture (A) to Residential (R2).

The Office notes the following from the CE Report as reasons for supporting MA Recommendation 2:

This site is remote from existing water and waste water services. In terms of accessibility, the road network is narrow with little capacity for two cars to pass, with no footpaths and is distant from the existing public transport network.

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

For family member need. Development would facilitate the widening of the road and make it safer.

The land is, however, located in an area otherwise zoned Agriculture, which does allow for the building of a dwelling for family member need under the rural housing policy. In terms of road improvements to improve safety, the rezoning is not required to facilitate such works.

1.4.5 Dublin Road – A.11

The lands (1.27 ha) relating to material amendment A.11 are situated adjacent to the Dublin Road and in an area otherwise zoned Recreation and Amenity (RA).

Material Amendment A.11 amended the zoning objective from Recreation and Amenity (RA) to Residential (R).

While the Office acknowledges that the same circumstances regarding the peripheral and non-sequential location of the land, and inconsistency with compact growth, identified in respect the above material amendments, the Office is concerned that the piecemeal nature of the zoning objective is inconsistent with the objective to strengthen the value of green spaces in the City under NPO 62.

In this respect, the Office notes that the CE's Report also submits that the draft Plan zoning objective of RA was retained from the previous plan (2017-2023) for a specific purpose as part of the amenity lands in the city, and that the inclusion of these lands contributes to the wider 'Recreation and Amenity' zoning in the immediate area which includes an attractive woodland setting of high environmental, visual and biodiversity value, and which frames the approach to the city from the east.

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

There is a need for housing and this is an ideal opportunity to open up these lands.

The Office notes, however, that there is no requirement within the core strategy (which provides for additional provision as set out in the Development Plans Guidelines) for the zoning of additional residential land to meet the needs of the targeted population increase up to 2029.

Further, the Office notes that the CE's Report highlights concerns that any proposed access to the subject land may compromise the optimum alignment for the Dublin Road bus route corridor. The CE's Report states as follows;

This is a public transport project of major strategic importance for the city incorporating bus priority measures on the Dublin Road from Moneenageisha to Martin Roundabout and will include for walking and cycling infrastructure, in accordance with the GTS. In consultation with the Transport Department concerns have been expressed that access should be limited onto the Dublin Road.

1.4.6 Consideration of reasons

The reasons given by elected members do not, therefore, address the substantive issue in the recommendation that the Plan be made without zoning amendments A.6, A.11, A.15, A.16, A.17, A.18, A.19, A.20, A.21, A.23 and A.24 due to the peripheral location of the land and inconsistency with compact growth (NPO 3 and

RPO 3.2) and the sequential approach to development, and with the core strategy of the adopted plan.

In this respect, no or no adequate reasons have been provided to explain why the sequential approach to development in the Development Plans Guidelines has not been followed.

The cumulative impact of the aforementioned material amendments would result in a loss of both agriculture, high amenity and recreational and amenity land within the city environs, therefore undermining the objectives of the plan which seeks to manage and the protect the environment to ensure the necessary balance between the preservation of the city's natural heritage and recreation and amenity requirements, and further would be contrary to NPO 62 which seeks to strengthen the value of greenbelts and green spaces at a city scale.

The approach to develop greenfield peripheral sites for residential development, as well as undermining the redevelopment of sites more favourable to achieving compact growth, would result in unsustainable patterns of settlement that would be car-dependent and not conducive to public transportation contrary to the requirement for objectives to promote sustainable settlement and transportation strategies under section 10(2)(n) of the Act.

Further, material amendment A.11 would undermine the purpose served by the wider Recreation and Amenity zoning objective, which frames the approach to the city from the east, in a piecemeal and unplanned manner also inconsistent with NPO 62. The reasons given by elected members do not address the substantive issue in the recommendation that the Plan be made without zoning amendment A.11.

1.5 Low Density Residential Zoning

Recommendation 5

Recommendation 5 of the Office's submission to the draft Plan related to the land use zoning objective LDR '*to provide for low-density residential development which will ensure the protection of existing residential amenity and environmental sensitivities*', and required the planning authority to make certain changes to this zoning objective.

The Office was concerned with the approach to LDR Zoning which was applied both to isolated land parcels in the rural hinterland in areas otherwise zoned Agriculture (A) or Agriculture and High Amenity (G), often in environmentally sensitive locations and, and to larger strategic sites in areas served by existing and/ or proposed public transport. The submission letter outlines the Office's view that this approach would undermine the potential of the city to deliver its 50% compact growth in accordance with NPO 3 and as set out in policy 1.4 of the draft Plan, and the role of the rural hinterland at Section 5.2 of the draft Plan consistent with NPO 62 strengthening the value of greenbelts and green spaces.

Recommendation 5 – Low Density Residential Zoning Objectives stated the following:

Having regard to the NPO 3b and NPO 62 of the NPF, policy 1.4 of the draft Plan to 'Support the compact growth of Galway City through appropriate policies that promote co-ordination between land use and locations that can be served by public transport and the walking and cycling networks and enables the delivery of 50% of all new homes within the existing built footprint on lands as set out in the Core Strategy', and the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities (2009), the planning authority is required to review the approach to 'LDR Low Density Residential zoning' and to omit:

- (i) LDR zoning objectives where land is located within, or contiguous to the existing built up footprint of the City and which is served by existing and/ or proposed public transport corridors, where development at such low densities would be contrary to compact growth, and the densities set out in the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities (2009), For example, Figure 11.18 Tuam Road, 11.16 Briarhill.*
- (ii) Isolated LDR zoning objectives in areas otherwise zoned 'A Agriculture' or 'G Agriculture and High Amenity' which contain their own objectives and criteria in respect of rural housing. For example, Figure, 11.20 Ballindooley, 11.19 Carraig Ban, 11.26 and 11.31 in the Coolagh area, 11.29 Quarry Road Menlo and two further sites on Monument Road*

Menlo, Figures 11.27 and 11.28 in the Castlegar area, and 11.24 and 11.30 in the Roscam area which is also adjacent to the Galway Bay SAC and SPA complex.

(iii) LDR zoning objectives in areas which are unserviced with an existing high concentration of on-site wastewater treatment adjacent to areas of very high environmental sensitivity such as the Galway Bay SAC and SPA. For example, Figures 11.10, 11.11, 11.12, 11.13, and 11.14 in the extended Roscam area and Figure 11.25 Murrough.

(iv) Associated policy objectives relating to Low Density Residential Areas, including Policy 3.8.1 and 3.8.2.

In relation to Recommendation 5(i), the CE's Report on submissions received to the draft Plan (16th June 2022), recommended retaining the site at Tuam Road (Figure 11.18) for reasons related to the proposed N6 Galway City Ring Road (GCRR) project. The elected members accepted the CE's recommendation. Having regard to the reasons set out in the CE report, the Office accepts the justification provided in relation to the LRD zoning objective for the site at Tuam Road (Figure 11.18).

Also in relation to Recommendation 5(i), the CE recommended that the site at Briarhill (Fig. 11.16) be amended from LDR to Agriculture and High Amenity (G) by way of a proposed material amendment. The elected members rejected the CE recommendation and decided not to accept the proposed material amendment and ultimately to make the Plan with the Residential (R2)¹ zoning objective for Briarhill (Fig. 11.16) for the following reason:

These lands are adjacent to serviced lands. There are excellent transport services in the vicinity.

The Office acknowledges the location of the lands at Briarhill is not peripheral and is favourable in terms of achieving sequential development, and further the site is proximate to public transport facilities. The Office notes that the R2 zoning objective

¹ Where the LDR zoning objective was universally replaced by Residential R2 under material amendment A.52.

would facilitate a more appropriate density on these lands, and accepts the justification and reasons provided by the elected members.

In relation to Recommendation 5(ii), the Office notes that the land in Figure 11.19 Carraig Ban comprises an existing housing development and is serviced by the public network. The Office, therefore, accepts the rationale in the CE Report, accepted by the elected members.

In relation to Recommendation 5(iii), the Office notes that the CE Report (dated 16th June 2022) states that the lands at Rosshill, Figure 11.12 and Figure 11.13, have capacity for to be serviced over the lifetime of the plan having regard to services investment by Irish Water which are scheduled to be commissioned during the Plan period. The Office also acknowledges that there is an extant planning permission pertaining to the lands in Rosshill illustrated at Figure 11.12 and Figure 11.13, which is the subject of judicial review proceedings. The Office accepts the reasons and justification provided by the CE Report recommending that these lands change the LDR land use zoning to Residential R2.

The Office also notes the proximity of lands, illustrated in Figure 11.10 (Curragreen) and Figure 11.11 (Old Dublin Road) to the aforementioned services investment by Irish Water and therefore recommends no further action is required in relation to these lands.

For the above reasons, the Office does not recommend a direction to you in relation to Figures 11.18 Tuam Road, 11.16 Briarhill, 11.19 Carraig Ban and 11.10, 11.11, 11.12, and 11.3 Roscam.

In relation to Recommendation 5(ii), the CE report recommended that lands at Coolagh (Fig. 11.26) be amended from LDR and Recreation and Amenity (RA) to Agriculture (A). In addition the CE also recommended that similar isolated lands at Cappagh (shown on the 'Proposed Material Alterations Map') not directly referenced under Recommendation 5, be amended from LDR to Agriculture (A).

The elected members rejected the CE recommendation and decided to make the Plan with the LDR zoning objective for Coolagh (Fig. 11.26) and Cappagh.

Otherwise in response to the requirement to review the approach to the LDR zoning objective set out in Recommendation 5(ii), (iii) and (iv), the CE recommended a

series of material amendments to replace the LDR zoning objective with a new zoning objective Residential R2.

Material amendment A.1 introduced zoning objective Residential R2 *‘to provide for sensitive residential infill where such infill will not have an impact on the environmental and visual sensitivities in the area, including those in particular the subject of Policy 5.2 and where such infill can be assimilated satisfactorily through design, layout and amenity impact in a manner that does not detract from the character of the area.’*

Material amendment A.52 replaces all LDR zoning objectives with Residential R2, including Figures 11.18 Tuam Road, 11.16 Briarhill, 11.19 Carraig Ban and 11.10, 11.11, 11.12, and 11.3 Roscam.

Material amendments A.53 and A.161 replace reference to LDR with R2 in Policy 3.8 and in the zoning objective matrix (Section 11.2.8), respectively. Material amendment A.162 removed the Specific Development Objectives relating to maximum densities and plot ratios for certain sites.

The Office considered, however, that the proposed material alterations would not address the concerns raised in Recommendation 5. Instead, the amendments would continue to facilitate potentially extensive low-density development in the rural hinterland to the city contrary to compact growth.

Further, it was considered that material amendment A.162 has the potential to facilitate a greater level of development on several of the isolated sites in the rural hinterland due to the omission of the Specific Development Objectives. This is not consistent with NPO 62 of the NPF, which seeks to strengthen the value of greenbelts and green spaces at city scale to prevent the coalescence of settlements and allow for the long-term expansion of urban areas.

MA Recommendation 3

MA Recommendation 3 of the Office’s submission to the material alterations to the draft Plan required the planning authority to make the Plan without material amendments A.1, A.52, A.53, A.161, and A.162.

MA Recommendation 3 – Low Density Residential stated the following:

Having regard to NPO 3b and RPO 3.2, compact growth, to NPO 62, greenbelts and long-term expansion, and to the provisions of the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities (2009), the planning authority it required to make the Plan without the following material amendments:

- *A.1 Amend Table 11.1 - Land Use Zones and Zoning Objectives;*
- *A.52 Delete text for Low Density Residential (LDR) Areas and replace with Residential 2 (R2) Areas;*
- *A.53 Amend text in Policy 3.8 (1) and 3.8 (2) to change from Low Density Residential Areas to Residential 2 (R2) Areas;*
- *A.161 Amend Section 11.2.8 Residential R and Low Density Residential LDR Land Use Zoning Objectives; and*
- *A.162 Amend Section 11.2.8 Specific Development Objectives for a number of LDR R2 lands to omit small maps and delete text.*

The CE's Report, acknowledged that the Office did not fully accept the justification provided in the section 12(5)(aa) notice in relation to LDR, and recommended that the Plan be made without material amendments A.1, A.52, A.53, A.161 and A.162 as required under MA Recommendation 3.

However the elected members decided to make the Plan contrary to the recommendation of the Chief Executive and the Office. The section 31AM(6) notice detailed the reasons given by the elected members as follows:

To support the need for housing for individuals and families. To allow for the zoning of sites that can be developed for housing.

1.5.1 Consideration of reasons

In relation to the lands at **Cappagh** the elected members decided not to accept the CE Recommendation for the following reason:

This land has potential within its nodal setting for sensitive infill and consolidation that can contribute somewhat to compact growth.

The land parcel extends to 4.6 ha. The Office notes that planning permission for eleven (11) detached houses with individual waste water treatment systems was refused for reasons including the un-serviced nature of the local area given its close proximity to the salmonid Bearnna Stream; the risk to human health from individual waste water treatment systems; and the inadequate alignment and capacity of Cappagh Road.

The subject lands are unserviced and located on the western periphery of the city area in an area which is otherwise zoned Agriculture (A), and which cannot be considered to contribute to compact growth under NPO3 and Policy 1.4 of the adopted Plan to:

Support the compact growth of Galway City through appropriate policies that promote co-ordination between land use and locations that can be served by public transport and the walking and cycling networks and enables the delivery of 50% of all new homes within the existing built footprint on lands as set out in the Core Strategy'.

In relation to **Figure 11.26 Coolagh**, the reason the elected members decided not to accept the CE Recommendation to amend the zoning objective to Agriculture (A) are as follows:

The developer is in the process of making a planning application for housing on these lands. There is a need for private housing in the city.

The Office notes that the land parcel at Coolagh extends to 10.6 ha. The Office acknowledges that the City Council received a recent (7th December 2022) planning application for a housing development, comprising of 29 serviced sites and outline permission for 24 dwellings on the site.

The land is, however, located in a peripheral location remote from public transport and would be inconsistent with both compact growth (NPO 3) and the objective to strengthen the value of greenbelts and green spaces at a city scale (NPO 62). The Office notes that the land is located immediately adjacent to a quarry (to the north)

and nearest part of the site to the Coolough Road is in excess of 1 km from established services and amenities.

In relation to the reasons given, the making of a planning application does not in itself justify a zoning objective inconsistent with the national policy and Policy 1.4 of the adopted Plan.

Further, the Office notes that the draft Plan provided sufficient land to meet anticipated development requirements in a 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.

The CE Report recommended (26th October 2022) the making of the Plan without the material amendments to replace the LDR zoning objective with a new zoning objective Residential (R2) in relation to the remaining zoning objectives;

- Figure 11.20 Ballindooley,
- Figures 11.31 in the Coolagh area,
- Figure 11.29 Quarry Road, Menlo and two further sites on Monument Road, Menlo,
- Figures 11.27 and 11.28 in the Castlegar area,
- Figures 11.14, 11.24 and 11.30 in the Roscam area, and
- Figure 11.25 Murrough,

In which case the zoning objective would have reverted to that of the draft Plan (LDR). The Report outlined the following rationale for the recommendation:

The Chief Executive's response in the June CE Report made a case predicated on the legacy of a significant boundary extension as implemented in 1986 which included the city plan incorporating historic clusters patterns of development and some more defined historic villages – Castlegar, Ballindooley, Menlough, Roscam, Coolagh, Parkmore, Murrough- evidenced by patterns of housing, some with clachan typologies, some hosting vernacular housing, some having pre -1800 provenance.

It is accepted that for the most part, these lands do not currently have the benefit of full services, nor modern road networks or existing planned public transport investment that can sustainably support higher densities. Some also currently abut and are impacted by the N6 GCRR reserved route having implications for existing housing.

It is accepted that these are supporting lower densities as a result of this historic organic growth which reflects the historic expansion of settlements, their environmental sensitivities, service challenges and some legacy of Member's decision – making. It was proposed in the June CE Report that an approach to focus on infill and not further expansion in these areas and this was conveyed as a transitional approach which would restrain this form of development, allow for an element of consolidation and that ultimately would render this spatial infill approach as unnecessary. To support this, it was considered that a stronger worded land use zoning objective regarding the environmental sensitivities should be applied where infill was under consideration. This overall approach reflected an element of what is acknowledged in the Draft Planning Guidelines as the need to balance national policy with an “understanding and analysis of the local context of the area” Section 1.3.

The elected members accepted the CE's recommendation but gave no reason.

The Office remains of the view, however, that these zoning objectives represent an extensive pattern of piecemeal zoning objectives in unserved and isolated areas, sometimes in areas of very high environmental sensitivity and, with the exception of 11.14 Roscam and 11.25, in areas otherwise zoned Agriculture (A) or Agriculture and High Amenity (G).

Furthermore, this piecemeal approach to zoning in peripheral areas would undermine the potential of the city to deliver its 50% compact growth target in NPO 3 and Policy 1.4 of the adopted plan.

While the Office acknowledges the challenges represented by the legacy issues set out in the CE's Report, this does not represent an evidence based strategy for the proper planning and sustainable development of the area in the context of the

requirement under the National Planning Framework for compact growth (NPO 3) and strengthening the value of greenbelts and green spaces (NPO 62).

1.6 Employment Land Zoning Objective at Coolagh Road

MA Recommendation 4

MA Recommendation 4 of the Office's submission to the material alterations to the draft Plan required the planning authority to make the plan without material amendment A.4 to change the zoning of lands in an isolated area in the rural hinterland at Coolagh Road from Agriculture and High Amenity (G) to Enterprise, Light Industry and Commercial (CI).

MA Recommendation 4 – Employment land Use zonings stated the following

Having regard to RPO 3.6.14 supporting the retention of agricultural lands within the MASP, to NPO 72(a-c) tiered approach to zoning, to the provisions of the section 28 Development Plans, Guidelines for Planning Authorities (2022) and to the requirements under section 10(2)(n) of the Act for sustainable settlement and transport strategies, the planning authority is required to make the Plan without the following material amendment:

- *A.4 Coolagh Road from 'Agriculture and High Amenity G' to 'Enterprise, Light Industry and Commercial CI'.*

The CE's recommendation was to accept the recommendation of the OPR and to make the Plan without the material amendment.

The CE's Report states the following in relation to the lands subject to A4:

The draft plan aims to concentrate commercial developments and align these with settlement nodes. The OPR accords with the CE opinion that a commercial use at this location is considered inappropriate also due to the likely negative impact on visual amenity, existing residential amenity and the potential environmental impact in close proximity to the Corrib SAC and the lack of infrastructure and public services to service the site.

The elected members decided to make the Plan with material amendment A.4 contrary to the recommendation of the CE and the Office. The section 31AM(6) notice detailed the reasons given by the elected members as follows:

This site has not been in use as agricultural in over 40 years. This rezoning will regularise the business being carried out at this location.

The land has been the subject of two unsuccessful planning applications for a commercial development. The most recent reason for refusal states that no permission exists for the existing commercial structure or uses currently located on the site. The previous reasons for refusal (5 no.) related to adverse impacts on an area of high amenity value (adjacent to the River Corrib) and special interest; endanger public safety due to traffic hazard; adverse impacts on amenity of residential properties in the vicinity; serious potential environmental hazard (River Corrib Basin); proximity of proposed percolation area to River Corrib.

Although it is clear from the planning history that no permission exists for commercial use, the Office accepts that RPO 3.6.14 (the retention of existing agricultural land) would not appear relevant.

The Office notes that the chief executive recommended against the proposed amendment having regard to, among other considerations, the lack of infrastructure and public services and the proximity to the Lough Corrib SAC.

The land is located in the rural hinterland within the metropolitan area, and is removed from existing or proposed public transportation. The zoning objective therefore fails to have regard to the Development Plans Guidelines regarding sequential development in a city context, in particular in relation to the prioritisation of new development along high quality public transport corridors. In this respect, no or no adequate reasons have been provided to explain why the said Guidelines have not been followed.

Further, the lack of opportunities for public transport and active travel (walking and cycling) is not consistent with the provision of objectives to promote sustainable settlement and transportation strategies under section 10(2)(n) of the Act.

The Office also notes the submission from Irish Water to the City Council (6th October 2022) which confirms that the subject land is not serviced by public water and/ or wastewater networks. The proposed material amendment is therefore not consistent with NPO 72(a-c), tiered approach to zoning, under the NPF.

The Office considers that the above reasons provided by the elected members in support of zoning amendment A.4 do not address the substantive issue in the recommendation concerning this material amendment in respect of the peripheral and non-sequential nature of the zoning and inconsistency with national and regional policy in respect of tiered approach to zoning (NPO 72(a-c)), and having regard to the Development Plans Guidelines.

1.7 Flood Risk Management

MA Recommendation 5

MA Recommendation 5 of the Office's submission to the material alterations to the draft Plan required the planning authority to make the plan without four (4) land use zoning amendments and two (2) Specific Development Objectives in areas identified as being at risk of flooding.

MA Recommendation 5 – Flood Risk Management, stated the following

Having regard to NPO 57 of the NPF, and to the provisions of the Planning System and Planning System and Flood Risk Management Guidelines for Planning Authorities (2009), as amended, the planning authority is requested to make the Plan without the following material amendments:

- *A.9 Off Western Distributor Road² (RA Natural Heritage, Recreation and Amenity to R Residential);*
- *A.13 Terryland (RA Natural Heritage, Recreation and Amenity to R Residential);*

² MA Recommendation 5 of the OPR's submission on the material amendments to the draft Plan incorrectly referenced material amendment A.9 as "Off Western Distributor Road". Material amendment A.9 refers to Headford Road and Sandyvale Lawn.

- *A.24 Menlo Village Extension (G Agriculture and High Amenity to R2 Infill Residential);*
- *A.25 Headford (RA Natural Heritage, Recreation and Amenity to R2 infill Residential);*
- *A.27 Specific Development Objective for lands at Barna Woods; and*
- *Low Density Residential (LDR³) zoned lands to the south of Coast Road near Curragreen (Figure 11.24).*

The Office notes that the submission of the Office of Public Works on the material alterations (3rd October 2022) also raised concerns in relation to flood risk management for the aforementioned material amendments.

With the exception of material amendments A.27 and the land near Curragreen (Figure 11.24), the CE recommended to the elected members that MA Recommendation 5 be complied with.

In relation to the lands near Curragreen (Figure 11.24), the CE Report notes that development on the site is restricted to a single house, and the Office acknowledges that planning permission (file ref. 21/87) has been granted for the said house.

In relation to material amendment A.27 Specific Development Objective for lands at Barna Woods, the CE's Report notes that the flood risk is restricted to a small portion of the site, and refers to material amendment A.131 which requires all sites where only a small portion of the site is at risk of flooding to adopt a sequential approach in according with the Flood Guidelines. Moreover, the Office notes that the OPW, in their submission to the City Council, are satisfied that the flood risk in relation to amendment A.27 can be addressed by the requirements of a site specific flood risk assessment.

The elected members agreed with the CE recommendations in relation to material amendments A.27 and A.1 (in respect of the land in question).

³ The LDR zoning was replaced by residential R2 under material amendment A.1

The Office acknowledges the justification provided for A. 27 and A.1 and accepts the rationale provided by the CE, as such no further action is required.

The elected members voted to make the Plan contrary to the recommendation of the CE and the Office in respect of the remaining zoning amendments as follows:

- (i) Amendment A.9 - Off Headford Road and Sandyvale Lawn
- (ii) Amendment A.13 – Terryland
- (iii) Amendment A.24 – Menlo village extension
- (iv) Amendment A.25 – Headford Road

The section 31AM(6) notice detailed the reasons given by the elected members.

1.7.1 A.9 Off Headford Road and Sandyvale Lawn from Recreation and Amenity (RA) to Residential (R)

The CE recommended that the Plan be made without material amendment A.9 stating:

The subject lands are located within Flood Zone A. A key principle of the guidelines is to avoid development in areas at risk of flooding. In accordance with the guidelines, a residential zoning is classed as a highly vulnerable use and is not an appropriate use of land in areas of flood risk. Within Flood Zone A only water compatible uses are considered appropriate. Such uses would include amenity open space and as such the current RA zoning is deemed an appropriate use.

The OPW in their submission to the City Council advise in relation to A.9, as follows:

Highly vulnerable usage is not appropriate in Flood Zone A unless all criteria of the Plan Making Justification Test have been satisfied.

The elected members rejected the CE's recommendation for the following reason:

To facilitate development.

Under NPO 57 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, 2009 (the Flood Guidelines). These 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 key message of the Flood Guidelines in the situation above is one of avoidance due to the risks involved, unless the development envisaged is critical to the functioning of a city or town centre, or extension to same for regeneration purposes, circumstances which the subject lands would not appear to justify and where a planmaking Justification Test has not been carried out.

1.7.2 A.13 Terryland from Recreation and Amenity (RA) to Residential (R)

The CE recommended that the Plan be made without material amendment A.13 stating:

The subject land is located within Flood Zone B. As set out in the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) a precautionary approach must be adopted in relation to areas of flood risk and development should be avoided in these areas. (...) As such the current RA zoning is deemed to be a compatible land use.

The OPW in their submission to the City Council advise in relation to A.13, as follows:

Highly vulnerable usage is not appropriate in Flood Zone A unless all criteria of the Plan Making Justification Test have been satisfied.

In relation to the flood risk that applies to the subject land, the Office notes that the land is partially within Flood Zone A, and partially in Flood Zone B.

The elected members rejected the CE's recommendation for the following reason:

The need for consideration of an entrance and exit to serve a residence.

The Offices notes that the lands the subject of the A.13 are located in both Flood Zone A and Flood Zone B, and as such the reason given by elected members does not, however, have regard to the fact that a residential zoning on the subject site would permit in principle a highly vulnerable use on the site that has a flood risk.

Further, while it is not specified where the land would provide access to an existing or proposed residence, the Office notes that the adjoining land to the south (zoned existing residential) lies in flood zone A, and is currently accessed from the Headford Road.

Again, the core message of the Flood Guidelines on flood risk is one of avoidance unless the development envisaged is critical to the functioning of a city or town centre or extension to same for regeneration purposes, circumstances which the subject lands would not appear to justify and where a plan-making Justification Test has not been carried out.

1.7.3 A.24 Menlo village extension - from Agriculture and High Amenity (G) to Residential (R2)

As set out above, MA Recommendation 2 also required the plan to be made without material amendment A.24 for reasons not related to flooding.

In relation to flooding, the CE recommended that the Plan be made without material amendment A.25 stating:

The subject land has a small overlap with Flood Zone B. As set out in the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) a precautionary approach must be adopted in relation to areas of flood risk and development should be avoided in these areas.

The OPW in their submission to the City Council advise in relation to A.24, as follows:

Highly vulnerable usage is not appropriate in Flood Zone B unless all criteria of the Plan Making Justification Test have been satisfied.

The commentary on this zoning in the SFRA Addendum states:

it would be prudent to have the R2 lands outside of the flood zone as R2 is considered a highly vulnerable land use.

The elected members rejected the CE's Recommendation to make the Plan without this amendment for the following reasons:

To provide for family housing.

The Flood Guidelines identify residential development as a highly vulnerable land use which is not appropriate in flood zone B unless all criteria of the plan-making Justification test have been satisfied. The lands the subject of R2 are located on lands that have a small overlap with flood zone B.

Although the lands are only partially located in flood zone B, the Office has also had regard to the submission of the OPW regarding the impacts of climate change which affect most of the area covered by A.24.

Having regard to these flood risks and the highly vulnerable nature of housing, the reasons provided by the elected members fail to provide a strategic planning reason as to why it is necessary develop these undeveloped lands for family housing when a range of other locations have been identified and are being progressed for such purposes.

1.7.4 A.25 Headford Road Extension from Natural Heritage, Recreation and Amenity (RA) to Residential (R2)

The CE recommended that the Plan be made without material amendment A.25 stating:

The OPW also raises concerns that the land is located in Flood Zone A stating that highly vulnerable usage such as residential is not appropriate.

The submission from the OPW, to the city council states:

The commentary on this zoning in the SFRA Addendum states that “These lands have been deemed not to meet the justification test as set out in the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

Highly vulnerable usage is not appropriate in Flood Zone A unless all criteria of the Plan Making Justification Test have been satisfied”.

The elected members rejected the CE’s recommendation for the following reason:

To provide housing adjacent to bus stops and to support the concept of a 15 minute city. Most of the land is well above sea level.

The Office acknowledges the location of these lands in relation to the city, and their relative distance from the coastline, and further the proximity of the lands to the Headford Road which is identified on the development plan map for a bus route.

Notwithstanding the elected member's reasons to zone the site for residential development, the Office notes the subject land is located within flood zone A. The planning authority's own independent flood risk assessment (the SFRA) and the OPW concur that these lands pose a flood risk and the reasons provided by the elected members fail to provide a strategic planning reason as to why it is necessary to develop these undeveloped lands for residential development purposes when a range of other locations have been identified and are being progressed for such purposes.

1.7.5 Consideration of reasons

NPO 57 seeks to avoid inappropriate development in areas at risk of flooding in accordance with the Flood Guidelines.

The Flood Guidelines 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
- 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, 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.

The reasons given by the elected members fail to address the substantive issue in the OPR recommendation, that the Plan be made without zoning amendments A.9, A.13, A.24 and A.25 because that would be inconsistent with NPO 57 of the National Planning Framework, which seeks to avoid inappropriate development in areas at risk of flooding in accordance with the Ministerial Guidelines issued under Section 28 of the Act, the Flood Guidelines. In respect of the guidelines, no adequate reasons have been provided to explain why the said guidelines have not been followed.

2. Opinion of the Office and Reasons

Having considered the adopted Development Plan, the Office also 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 letter received by the Office on 1st December 2022 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 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).
- Under section 31 AM(3)(a), the Office shall make, to the relevant planning authority, such recommendations in relation to the Office's evaluation and assessments 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) of the Act, 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

letters from the planning authority of the 5th September issued under section 12(5)(aa) and of 1st December 2022 issued under section 31AM(6), 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 adopted Development Plan includes zoning objectives and material amendments to the draft Plan which zone additional residential land in excess of what is required for Galway City as set out in the Core Strategy. These zoning objectives and amendments are located in peripheral and/or non-sequential locations and would encourage a pattern of development in particular locations which is inconsistent with national and regional policy objectives promoting compact forms of development (NPO 3 and RPO 3.2) and which fails to have regard to the policy and objective for a sequential approach to development in the Development Plans Guidelines issued under section 28 of the Act regarding the sequential approach. Furthermore no or no adequate reasons relating to the proper planning and sustainable development of the area have been provided to explain why the guidelines have not been implemented notwithstanding the express obligation on the planning authority under section 28(1A)(b) and 28(1B)(b) to do so.

Moreover, having considered the reasons given by the elected members as set out above, the Office remains of the view that provisions of the development plan as made are inconsistent with section 10(2)(n), National Planning Objectives NPO 3, NPO 57, NPO 62, and NPO 72(a-c), Regional Policy Objective RPO 3.2 and fails to have regard to the section 28 Development Plans Guidelines and Flood Guidelines and that the inclusion of such provisions, individually and cumulatively means the plan as made fails to set out an overall strategy for the proper planning and development of the area because such zoning objectives and amendments:

- represent an extensive pattern of residential zoning in peripheral areas that would undermine the potential of the city to deliver its 50% compact growth target in NPO 3, RPO 3.2 and Policy 1.4 of the adopted plan and which undermines the value of greenbelts and green spaces;
- encourage a pattern of residential development in particular locations not in accordance with the proper planning and sustainable development of such

areas, planned and sequential development and the wider provisions of the Core Strategy of the development plan;

- facilitate residential and commercial development in unserviced peripheral locations, often in highly sensitive environments;
- facilitate a pattern of car-dependent development inconsistent with objectives to promote sustainable settlement and transportation strategies; and
- zone land for residential development highly vulnerable to flood risk in areas known to be at risk of flooding without passing the provisions of the sequential approach and plan-making Justification Test detailed in the Flood Guidelines.

Further, 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 4.4 of the *Development Plans Guidelines* to ensure enough land is zoned and to avoid zoning too much land and the planning authority provides no adequate reasons relating to the proper planning and sustainable development of the area to explain why the guidelines have not been followed.

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 contained in the *Development Plans Guidelines* and/or the *Flood Guidelines* 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).

In making the Development Plan with the subject zoning objectives and amendments, 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 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 of the Act.

Having regard to the matters set out, above, 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. National Policy Objectives NPO3, NPO 57, NPO 62, and NPO 72(a-c), Regional Policy Objective RPO 3.2, which state:

NPO 3

Deliver at least half (50%) of all homes that are targets in the five cities and suburbs of Dublin, Cork, Limerick, Galway and Waterford within existing built-up footprints.”

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.*

NPO 62

Identify and strengthen the value of greenbelts and green spaces at a regional and city scale, to enable enhanced connectivity to wider strategic networks,

prevent coalescence of settlements and to allow for the long-term strategic expansion of urban areas.

NP0 72 (a-c)

a. Planning Authorities will be required to apply a standardized, tiered approach to differentiate between i) zoned land that is serviced and ii) zoned land that is serviceable within the life of the plan.

b. When considering zoning land for development purposes that cannot be serviced within the life of the relevant plan, such lands should not be zoned for development.

RPO 3.2

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.

- ii. *The Development Plans, Guidelines for Planning Authorities (2022), which state:*

Section 6.2.3 - Sequential Approach to Zoning for Residential Development

In undertaking the zoning function for new residential development at individual settlement scale, planning authorities are required to adopt a sequential approach which reflects the compact growth, utilisation of existing infrastructure and town regeneration national policy objectives of the NPF, further developing the Tiered Approach.

It is a policy and objective of these Guidelines that planning authorities adopt a sequential approach when zoning lands for development, whereby the most spatially centrally located development sites in settlements are prioritised for new development first, with more spatially peripherally located development sites being zoned subsequently.

- iii. *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.;

- iv. The Core Strategy Table in the adopted Development Plan.
- v. The Chief Executive's reports on submissions on the draft Development Plan and material alterations to the draft Development Plan.
- vi. The relevant requirements of section 10, section 12(11), 12(18) and section 28 of the Act.
- vii. 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.
- viii. The Office's statutory obligations under the Act.

In light of the 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.

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) A.4 Coolagh Road – i.e. subject land reverts to Agriculture and High Amenity (G) from Enterprise, Light Industry and Commercial (CI)

- (ii) A.6 Ragoon – i.e. subject land reverts to Agriculture (A) from Residential (R)
- (iii) A.9 Off Headford Road and Sandyvale Lawn – i.e. subject land reverts to Recreation and Amenity (RA) from Residential (R)
- (iv) A.11 Dublin Road – i.e. subject land reverts to Recreation and Amenity (RA) from Residential (R)
- (v) A.13 Terryland – i.e. subject land reverts to Recreation and Amenity (RA) from Residential (R)
- (vi) A.15 Quarry Road, Menlo – i.e. subject land reverts to Agriculture (A) from Residential (R2)
- (vii) A.16 Ballindoooley – i.e. subject land reverts to Agriculture (A) from Residential (R2)
- (viii) A.17 Off Circular Road – i.e. subject land reverts to Agriculture (A) from Residential (R2)
- (ix) A.18 Off Circular Road – i.e. subject land reverts to Agriculture (A) from Residential (R2)
- (x) A.19 Menlo Village Extension – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xi) A.20 Quarry Road – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xii) A.21 Roscam – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xiii) A.23 Roscam – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xiv) A.24 Menlo Village Extension – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xv) A.25 Headford Road – i.e. subject land reverts to Recreation and Amenity (RA) from Residential (R2).

(b) Delete the following zoning objectives from the adopted Plan, i.e. the subject land is unzoned:

- (i) Land zoned Residential R2 in the adopted Plan at Cappagh consistent with the recommendation of the chief executive's report dated 16th June 2022
- (ii) Figure 11.20 Ballindooley
- (iii) Figure 11.26 Coolagh area
- (iv) Figure 11.31 Coolagh area
- (v) Figure 11.29 Quarry Road Menlo and two further sites on Monument Road Menlo
- (vi) Figure 11.27 in the Castlegar area
- (vii) Figure 11.28 in the Castlegar area
- (viii) Figure 11.24 in the Roscam area
- (ix) Figure 11.30 in the Roscam area
- (x) Figure 11.14 in the extended Roscam area
- (xi) Figure 11.25 Murrough

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 at plans@opr.ie.

Yours sincerely,



Niall Cussen

Planning Regulator

DRAFT DIRECTION IN THE MATTER OF SECTION 31

OF THE PLANNING AND DEVELOPMENT ACT 2000 (as amended)

Galway City Development Plan 2023 – 2029

“Development Plan” means the Galway City Development Plan 2023 – 2029

“Planning Authority” means Galway City Council

WHEREAS the powers and duties of the Minister for Housing, Local Government and Heritage under the Planning and Development Act 2000 (as amended) ("the Act"), 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, 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 City Development Plan 2023 - 2029) 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) A.4 Coolagh Road – i.e. subject land reverts to Agriculture and High Amenity (G) from Enterprise, Light Industry and Commercial (CI)

- (ii) A.6 Ragoon – i.e. subject land reverts to Agriculture (A) from Residential (R)
- (iii) A.9 Off Headford Road and Sandyvale Lawn – i.e. subject land reverts to Recreation and Amenity (RA) from Residential (R)
- (iv) A.11 Dublin Road – i.e. subject land reverts to Recreation and Amenity (RA) from Residential (R)
- (v) A.13 Terryland – i.e. subject land reverts to Recreation and Amenity from Residential
- (vi) A.15 Quarry Road, Menlo – i.e. subject land reverts to Agriculture (A) from Residential (R2)
- (vii) A.16 Ballindooley – i.e. subject land reverts to Agriculture (A) from Residential (R2)
- (viii) A.17 Off Circular Road – i.e. subject land reverts to Agriculture (A) from Residential (R2)
- (ix) A.18 Off Circular Road – i.e. subject land reverts to Agriculture (A) from Residential (R2)
- (x) A.19 Menlo Village Extension – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xi) A.20 Quarry Road – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xii) A.21 Roscam – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xiii) A.23 Roscam – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xiv) A.24 Menlo Village Extension – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)
- (xv) A.25 Headford Road – i.e. subject land reverts to Recreation and Amenity (RA) from Residential R2.

(b) Delete the following zoning objectives from the adopted Plan: i.e. the subject land is unzoned:

- (i) Land zoned Residential R2 in the adopted Plan at Cappagh consistent with the recommendation of the chief executive's report dated 16th June 2022
- (ii) Figure 11.20 Ballindooley
- (iii) Figure 11.26 Coolagh area
- (iv) Figure 11.31 Coolagh area
- (v) Figure 11.29 Quarry Road Menlo and two further sites on Monument Road Menlo
- (vi) Figure 11.27 in the Castlegar area
- (vii) Figure 11.28 in the Castlegar area
- (viii) Figure 11.24 in the Roscam area
- (ix) Figure 11.30 in the Roscam area
- (x) Figure 11.14 in the extended Roscam area
- (xi) Figure 11.25 Murrough

STATEMENT OF REASONS

- I. The Development Plan as made includes land zoned for residential development that 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 Core Strategy in the adopted Plan.

- b. Land zoned for residential development in peripheral and unserved locations in a piecemeal and non-sequential manner inconsistent with the requirement for compact growth in NPO 3(a-c) and RPO 3.2 of the RSES and to strengthen the value of greenbelts and green spaces under NPO 62, the requirement under section 10(2)(n) for objectives of the Act to promote sustainable settlement and transport strategies to reduce energy use and to reduce GHG emissions, and fails to have regard to the sequential approach to development having regard to the policy and objective of the Development Plans Guidelines for Planning Authorities (2022) (“the Development Plan Guidelines”) regarding the sequential approach to zoning for residential development (section 6.2.3).
- II The Development Plan as made includes extensive areas of land zoned Residential R2 in a piecemeal manner in unserved and peripheral and/ or isolated locations, and more often in areas otherwise zoned Agriculture or Agriculture and High Amenity, that would undermine the potential of the city to deliver its 50% compact growth target in NPO 3(a-c), and inconsistent with NPO 62 to strengthen the value of greenbelts and green spaces at a city level.
- III Land zoned for Enterprise, Light Industry and Commercial (CI) at an unserved and remote location at Coolagh Road (material amendment A.4) inconsistent with the tiered approach to zoning under NPO 72 (a-c) of the NPF, the requirement under section 10(2)(n) for objectives of the Act to promote sustainable settlement and transport strategies to reduce energy use and to reduce GHG emissions, and fails to have regard to Development Plans Guidelines regarding sequential development in a city context, in particular in relation to the prioritisation of new development along high quality public transport corridors.
- IV Land zoned for residential development in areas known to be at risk of flooding inconsistent with NPO 57 of the NPF, which seeks to avoid inappropriate development in areas at risk of flooding in accordance with Ministerial Guidelines issued under Section 28 of the Act, The Planning System and

Flood Risk Management, Guidelines for Planning Authorities (2009) ("the Flood Guidelines").

- V No adequate reasons nor explanations relating to the proper planning and sustainable development of the area have been provided to explain why lands have been zoned in such a way and how this approach (involving a failure to zone lands having regard to the Development Plan Guidelines and Flood Guidelines) is consistent with an overall strategy for the proper and sustainable development of the area.
- VI 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 of the Act.
- VII In light of the matters set out at I-VI above, the Minister is of the opinion that the Development Plan as made fails to set out an overall strategy for the proper planning and sustainable development of the area.
- VIII In light of the matters set out at I to VI, 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

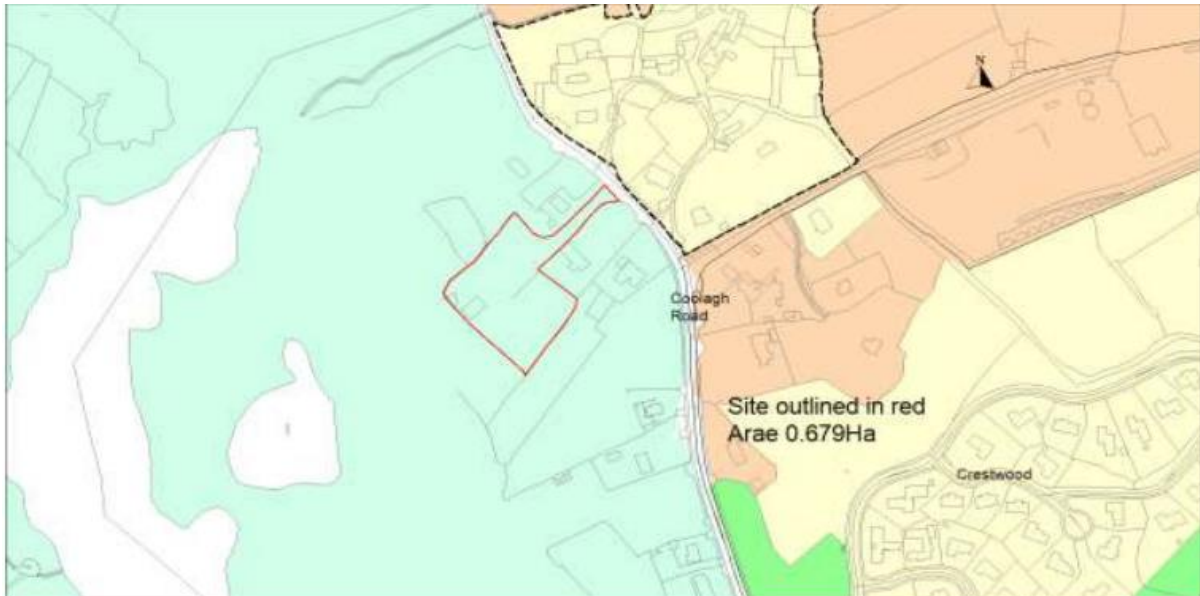
Appendix A

Material Amendment Zonings

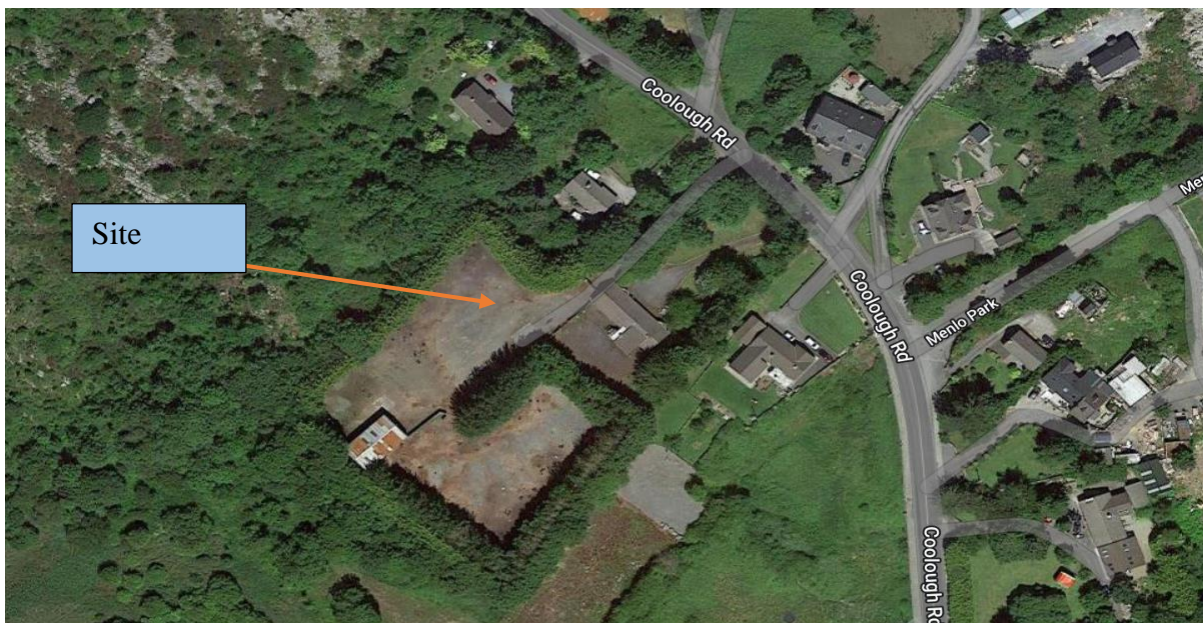
Reinstate the following zoning objectives to that of the draft Plan

- (i) MA A.4 Coolagh Road – i.e. subject land reverts to Agriculture and High Amenity (G) from Enterprise , Light Industry and Commercial (CI)

Adopted Plan Zoning Objective 'Enterprise , Light Industry and Commercial'

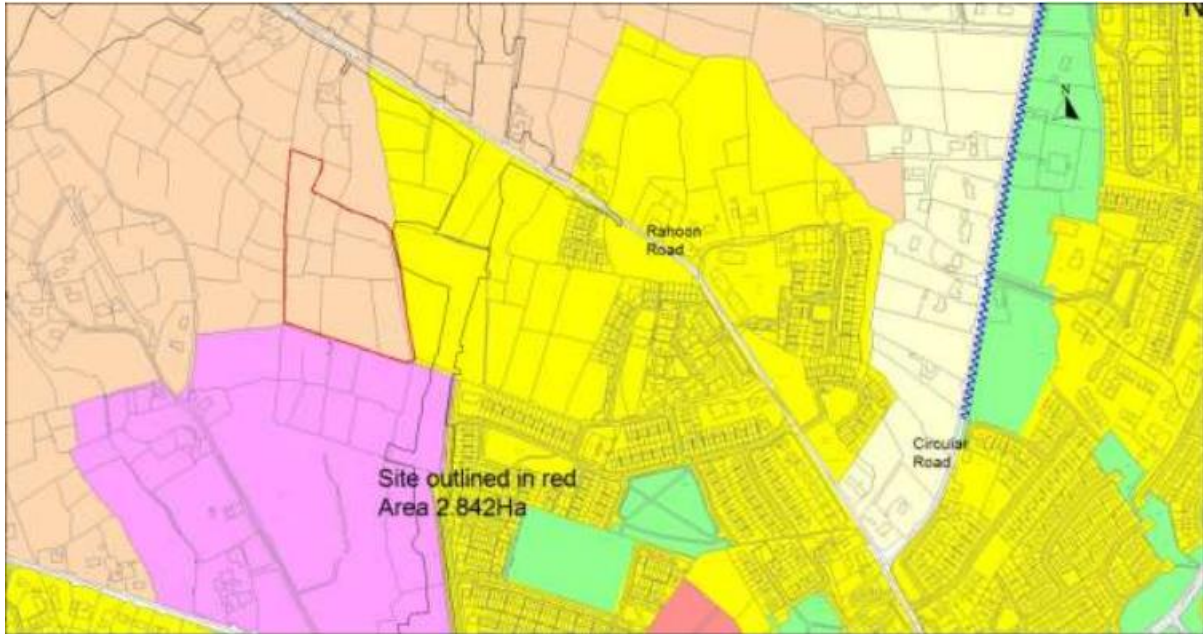


Aerial View



- (ii) A.6 Rahoon – i.e. subject land reverts to Agriculture (A) from Residential (R)

Adopted Plan Zoning Objective 'Residential'



Aerial View



- (iii) A.9 Off Headford Road and Sandyvale Lawn – i.e. subject land reverts to Recreation and Amenity (RA) from Residential (R)

Adopted Plan Zoning Objective 'Residential'



Aerial View



- (iv) A.11 Dublin Road – i.e. subject land reverts to Recreation and Amenity (RA) from Residential (R)

Adopted Plan Zoning Objective 'Residential'



Aerial View



- (v) A.13 Terryland – i.e. subject land reverts to Recreation and Amenity from Residential

Adopted Plan Zoning Objective 'Residential'



Aerial View

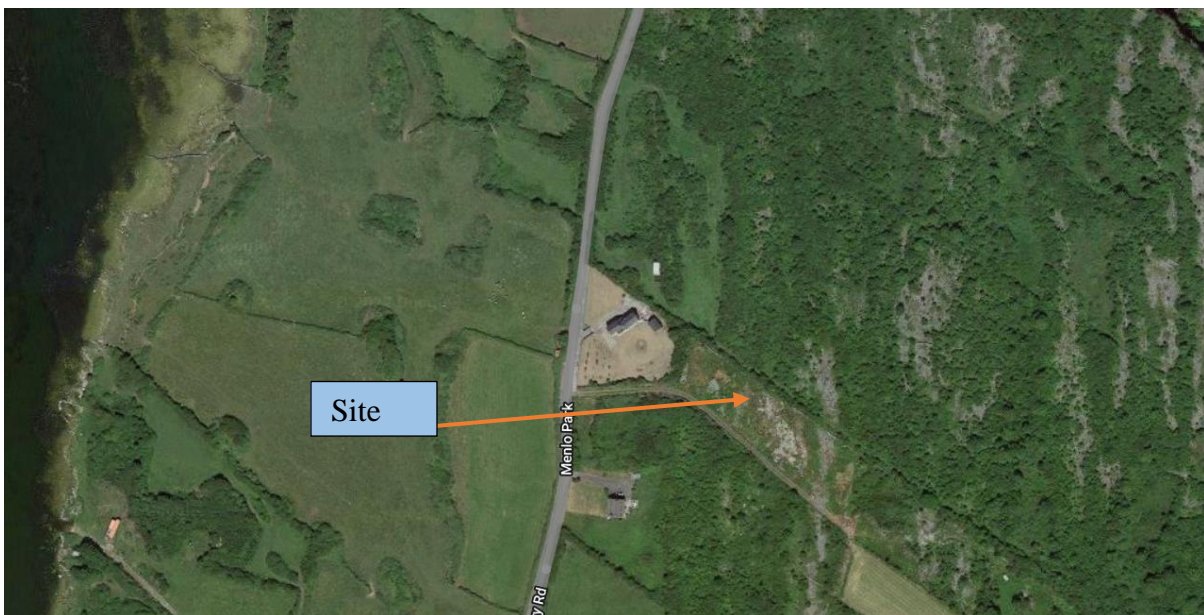


- (vi) A.15 Quarry Road, Menlo – i.e. subject land reverts to Agriculture (A) from Residential (R2)

Adopted Plan Zoning Objective Residential R2

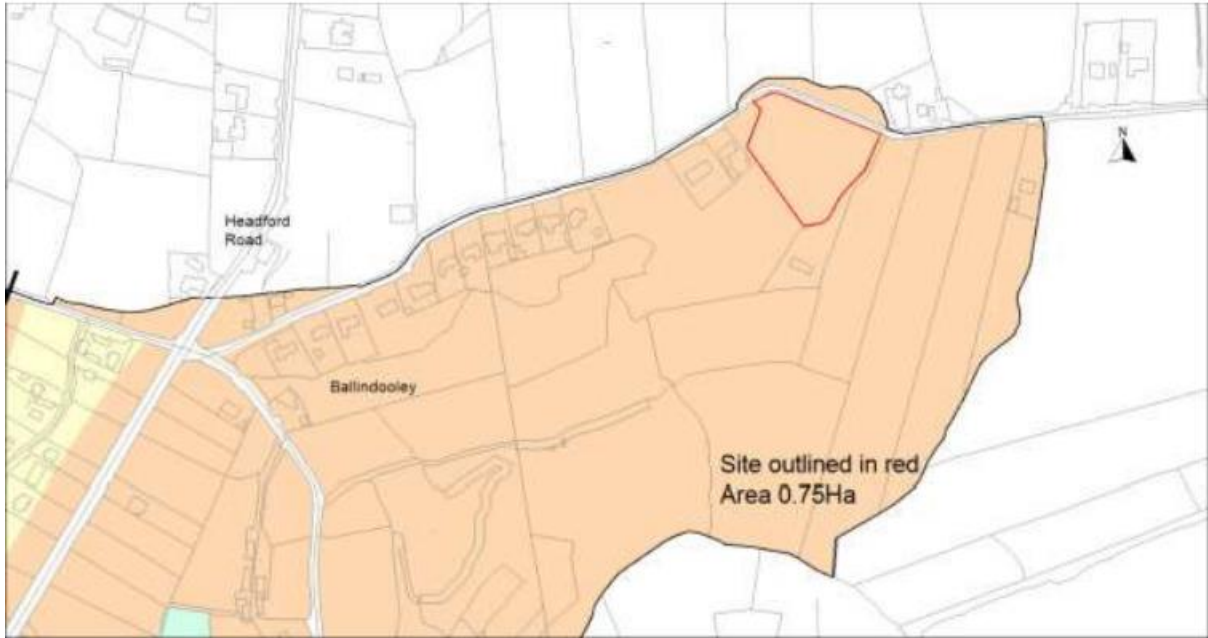


Aerial View



- (vii) A.16 Ballindooley – i.e. subject land reverts to Agriculture (A) from Residential (R2)

Adopted Plan Zoning Objective Residential R2

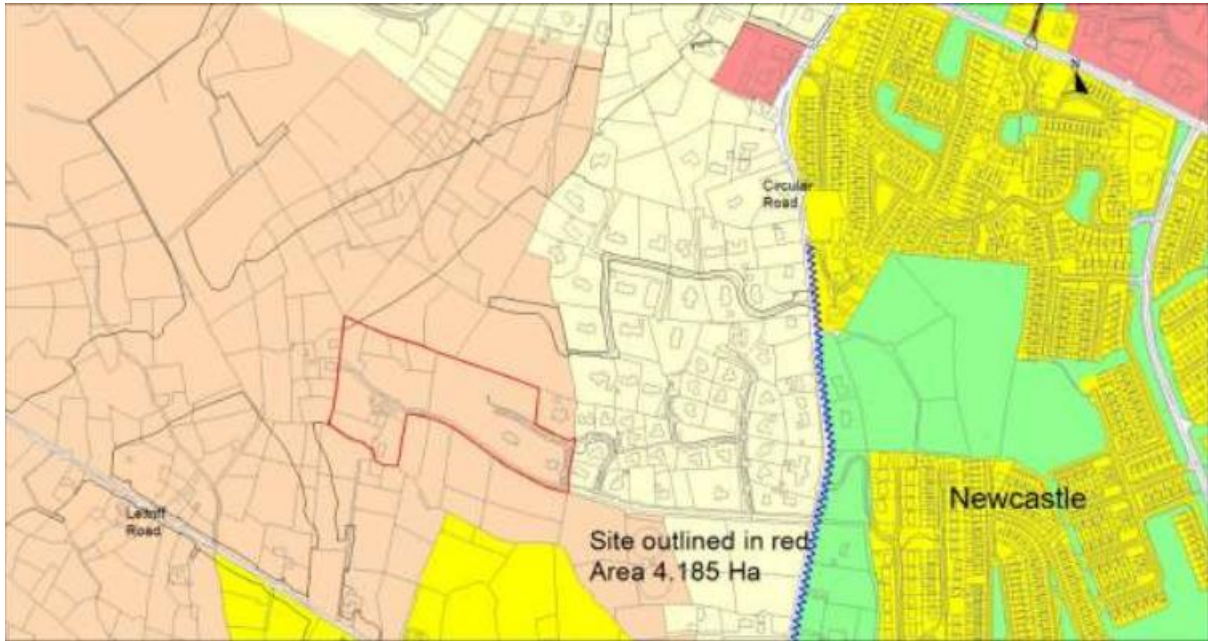


Aerial View



- (viii) A.17 Off Circular Road – i.e. subject land reverts to Agriculture (A) from Residential (R2)

Adopted Plan Zoning Objective Residential R2

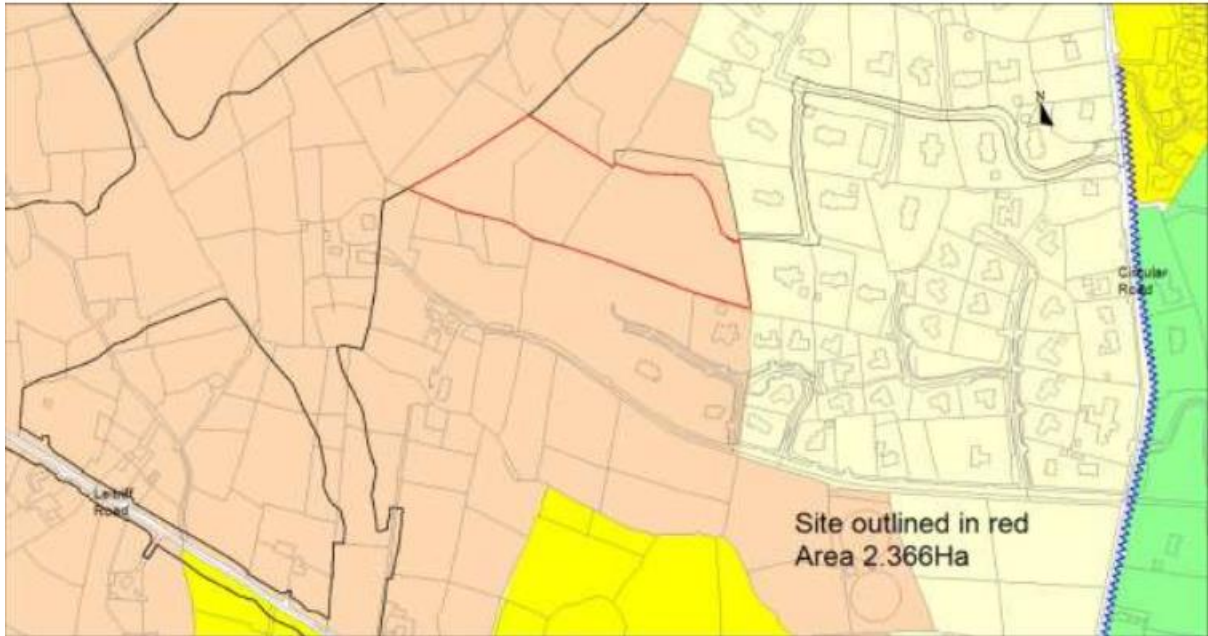


Aerial View

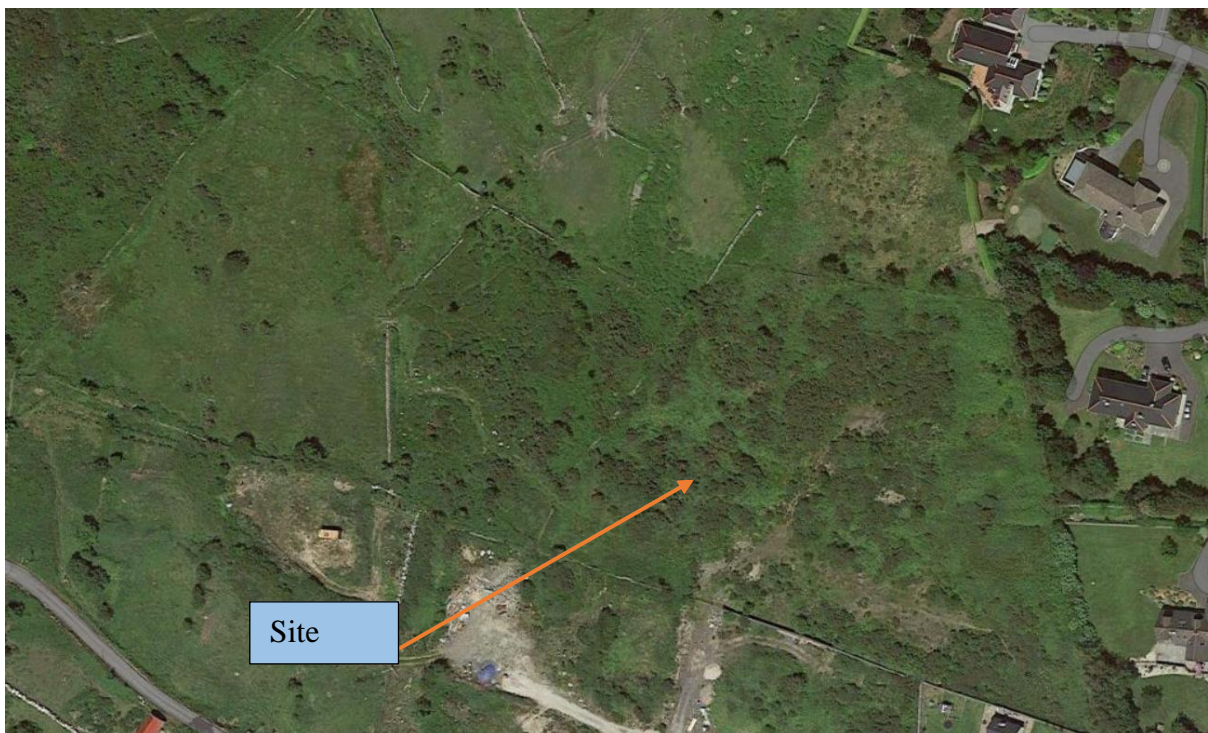


- (ix) A.18 Off Circular Road – i.e. subject land reverts to Agriculture (A) from Residential (R2)

Adopted Plan Zoning Objective Residential R2

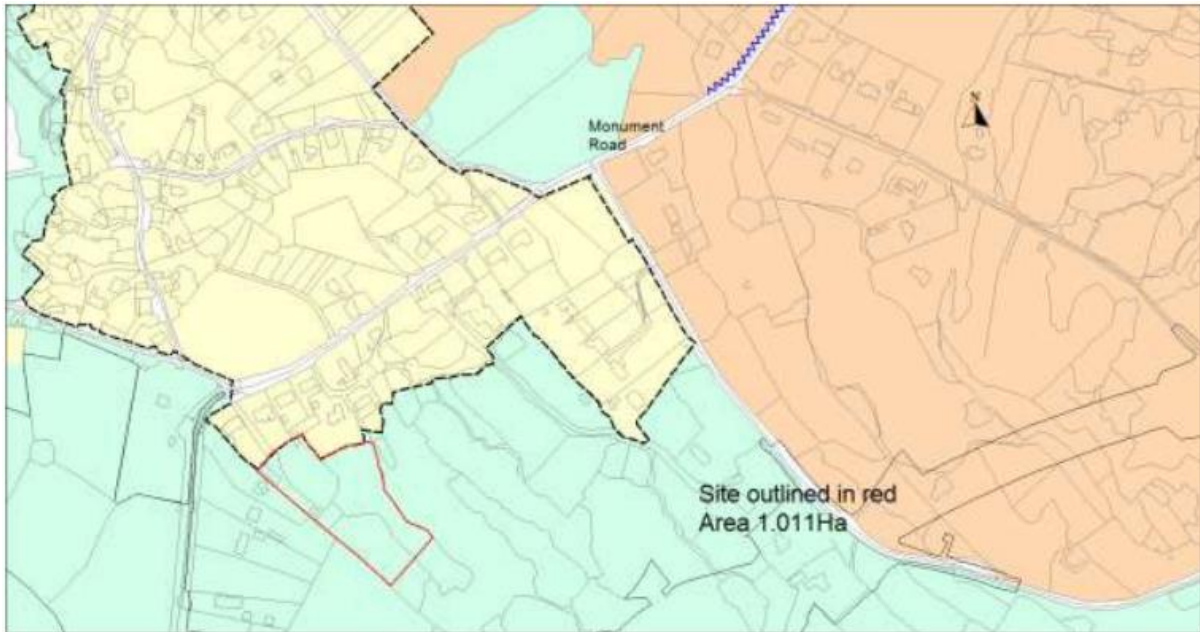


Aerial View



- (x) A.19 Menlo Village Extension – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)

Adopted Plan Zoning Objective Residential R2

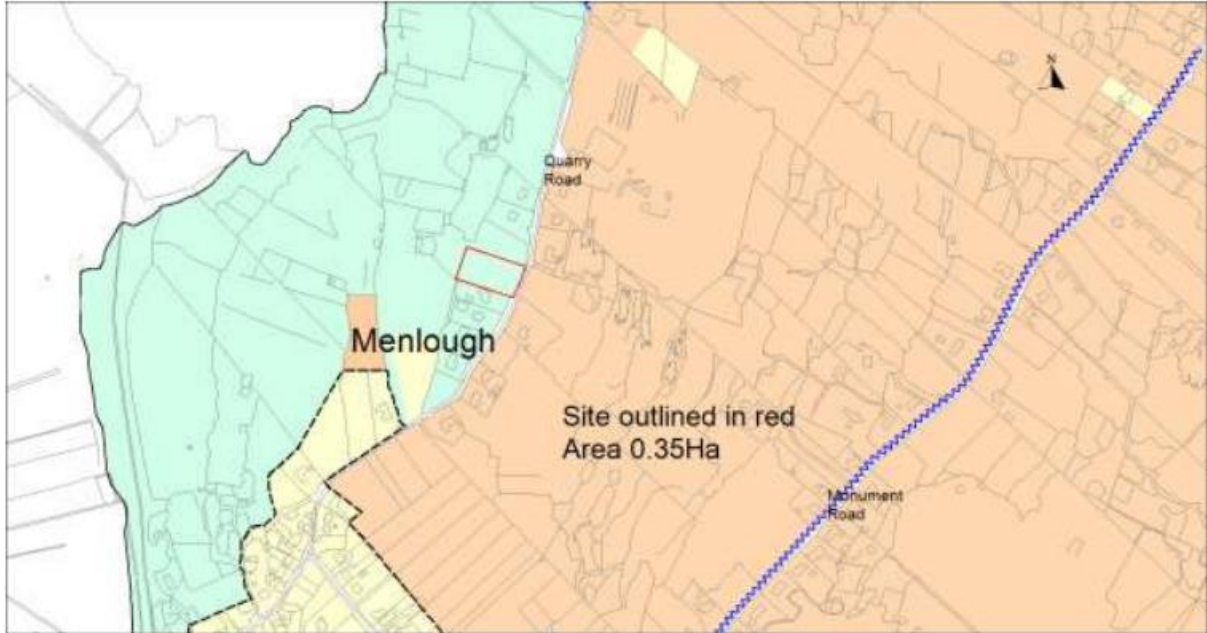


Aerial View



- (xi) A.20 Quarry Road – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)

Adopted Plan Zoning Objective Residential R2



Aerial View



- (xii) A.21 Roscam – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)

Adopted Plan Zoning Objective Residential R2

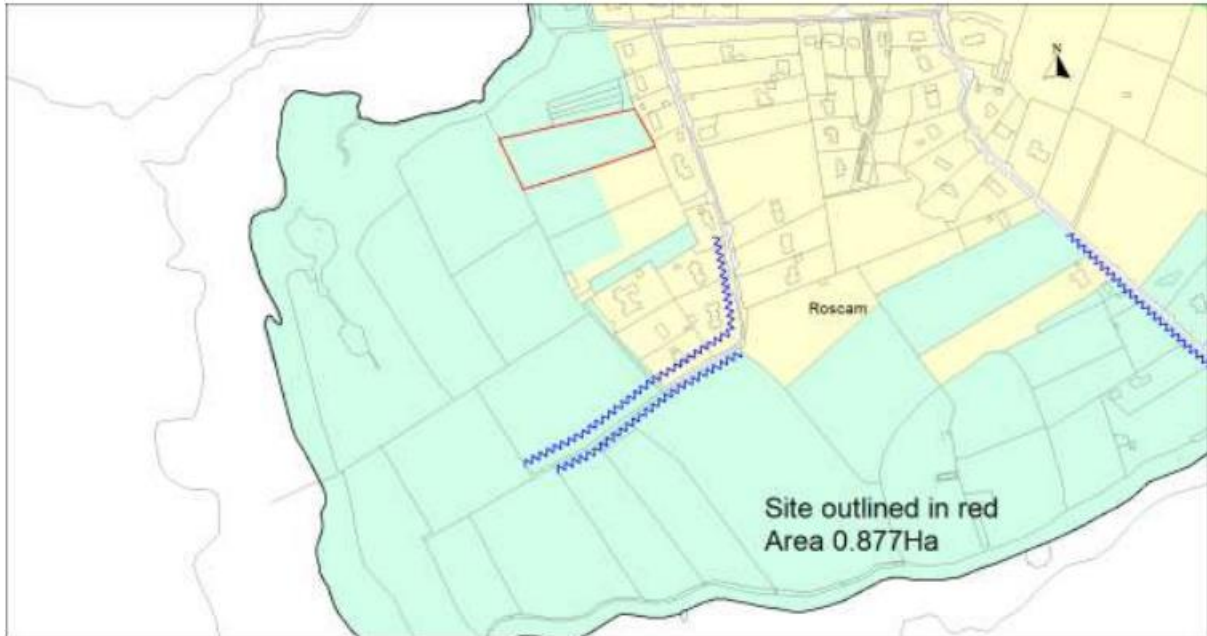


Aerial View



- (xiii) A.23 Roscam – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)

Adopted Plan Zoning Objective Residential R2



Aerial View



- (xiv) A.24 Menlo Village Extension – i.e. subject land reverts to Agriculture and High Amenity (G) from Residential (R2)

Adopted Plan Zoning Objective Residential R2



Aerial View



- (xv) A.25 Headford Road – i.e. subject land reverts to Recreation and Amenity (RA) from Residential R2.

Adopted Plan Zoning Objective Residential R2



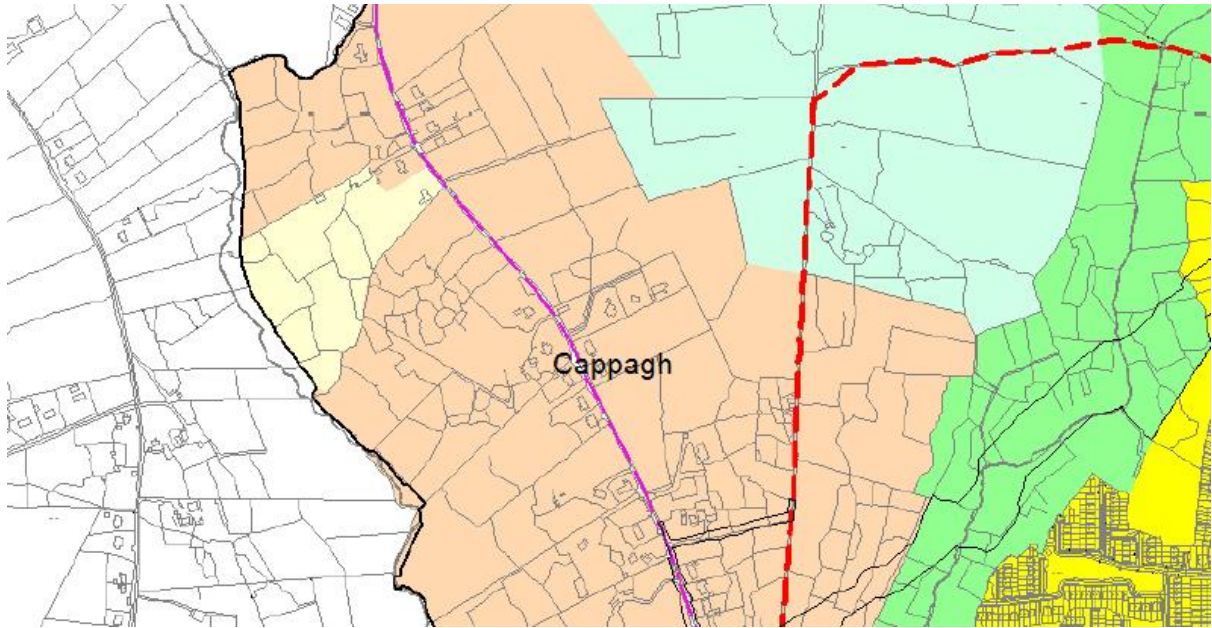
Aerial View



Appendix B

Mapping

Lands at Cappagh



Aerial View

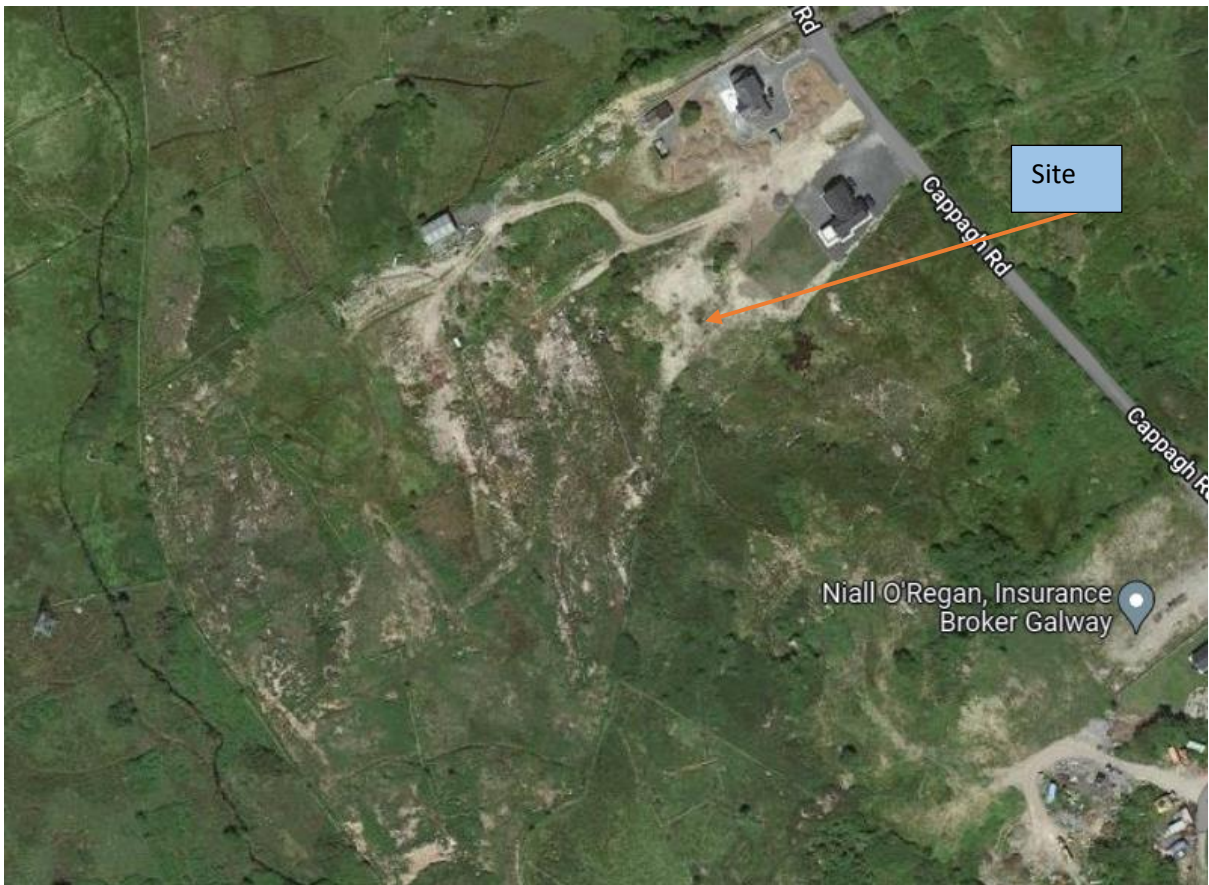


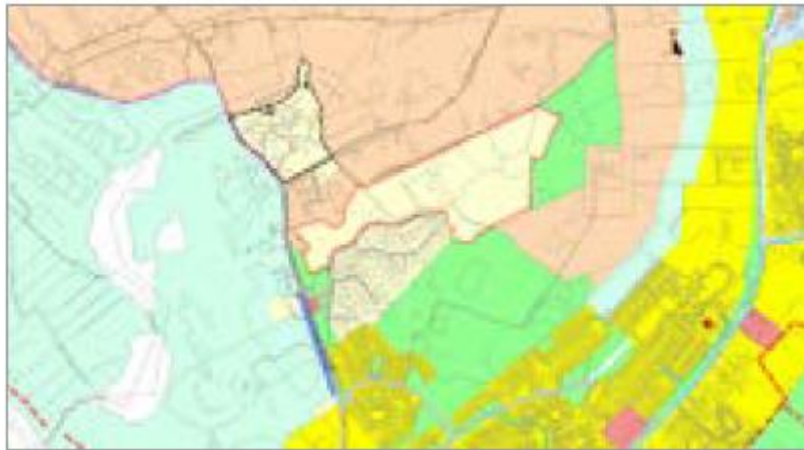
Figure 11.20 Ballindooley



Aerial View



Figure 11.26 Coolagh



Aerial View



Figure 11.31 West of Coolagh Road



Aerial View



Figure 11.29 Quarry Road, Menlo



Aerial View



Figure 11.27 East of Castlegar N.S.



Aerial View



Figure 11.28 Castlegar Road, Castlegar



Aerial View

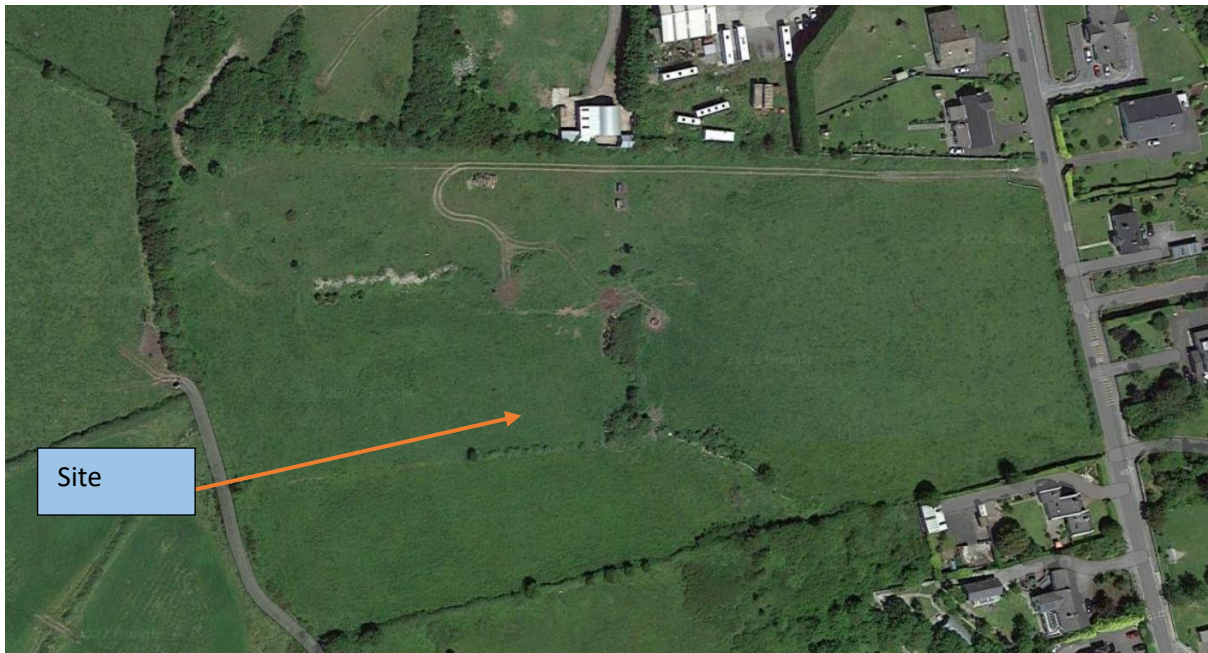
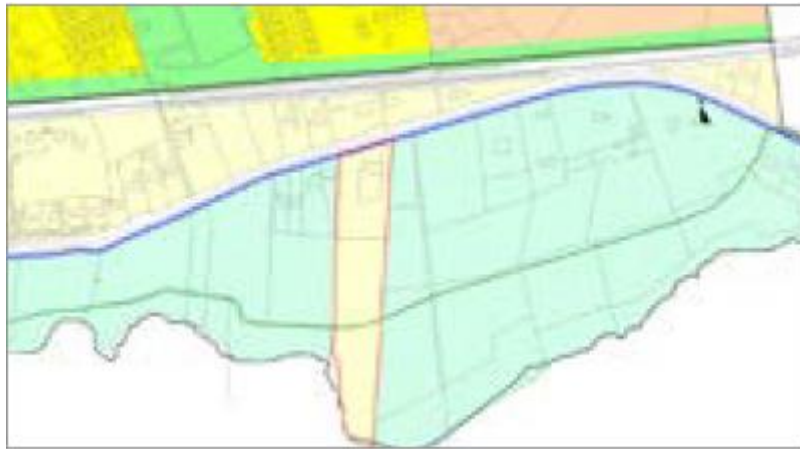


Figure 11.24 Roscam, Coast Road



Aerial View



Figure 11.30 Roscam



Aerial View



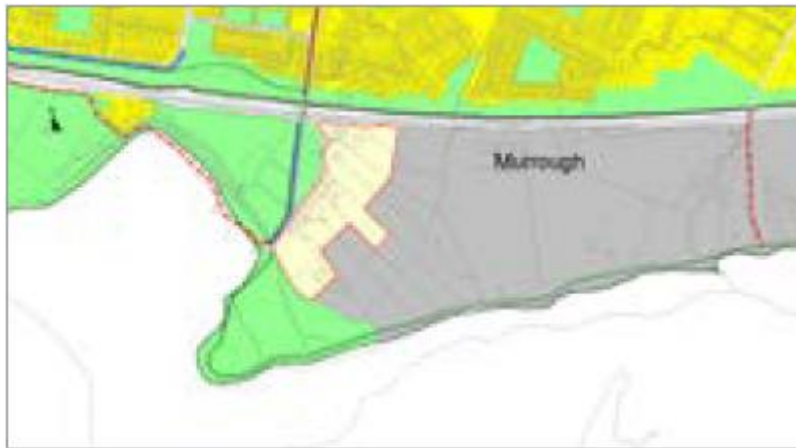
Figure 11.14 Roscam Village



Aerial View



Figure 11.25 Murrough



Aerial View

