



An  
Bord  
Pleanála

**Board Direction**  
**BD-003633-19**  
**ABP-304203-19**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24/07/2019.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

Having regard to :

- a) the policies and objectives in the Galway County Development Plan 2015-2021,
- b) the policies and objectives of the Oranmore Local Area Plan 2012-2022,
- c) Rebuilding Ireland Action Plan for Housing and Homelessness,
- d) the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- e) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018,
- f) the Urban Development and Building Height Guidelines issued by the Department of the Environment, Community and Local Government in December 2018,
- g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013,

- h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009, issued by the Department of the Environment, Heritage and Local Government and the OPW in 2009,
- i) nature, scale and design of the proposed development and the availability in the area of a wide range of social infrastructure,
- j) pattern of existing and permitted development in the area,
- k) the planning history within the area and
- l) submissions and observations received.

### **Appropriate Assessment**

The Board considered the Screening Report for Appropriate Assessment, 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 considered the nature, scale and location of the proposed development, as well as the report of the Inspector.

### **Stage 1**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Galway Bay Complex SAC (Site Code:000268), the Inner Galway Bay SPA (Site Code:004031), the Cregganna Marsh SPA (Site Code:004142) and the Rahasane Turlough SPA (Site Code:004089) are the European sites for which there is a likelihood of significant effects.

The Board was satisfied that all other European Sites could be screened out of any further assessment because the remaining sites identified have no pathway for significant effects.

### **Stage 2**

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 European Sites, namely the Galway Bay Complex SAC (Site Code:000268), the Inner Galway Bay SPA (Site Code:004031), the Cregganna

Marsh SPA (Site Code:004142) and the Rahasane Turlough SPA (Site Code:004089), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the

- (i) 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,
- (iii) the Conservation Objectives for these European Sites, and
- (iv) the views of the Department of Culture, Heritage and the Gaeltacht.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of European sites in view of the sites' Conservation Objectives.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- The nature, scale and extent of the proposed development;
- The Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the planning application;
- The submissions from the Planning Authority, the observers and the prescribed bodies in the course of the application; and

- The Inspector's report.

The Board considered that the environmental impact assessment report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application.

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- Biodiversity: Biodiversity impacts which will be mitigated by the creation of an area of semi-natural grassland to the west of the site and measures set out in the Habitat Management Plan.
- Land and Soil: Land and soils impacts which will be mitigated by construction management measures including reuse of overburden material, minimal removal of topsoil and subsoil, reuse of excess material within the site and management and maintenance of plant and machinery.
- Hydrology: Hydrology and hydrology impacts which will be mitigated by management of surface water run-off during construction to attenuate surface water flow and avoid uncontrolled discharge of sediment, appropriate interceptor drainage and measures to avoid release of cement based products. Operational impacts will be mitigated by surface water attenuation to prevent flooding.
- Landscape and Visual: Landscape and visual impacts which will be mitigated by the retention and enhancement of existing trees and hedgerows and new

landscaping along the western site boundary and by the scale, design and external finishes of the proposed development.

- Cultural Heritage: Cultural heritage impacts which will be mitigated by a 20m exclusion zone around Moneyduff Castle (RMP no. GA095-084) and by a conservation and management plan for the monument and by landscaping.
- Traffic and Transport: Traffic and transportation impacts which will be mitigated by the management of construction traffic and by the construction of the Oranmore north/south distributor road and a new east/west connection to the N67 and by the phasing of delivery of these roads.

The Board completed an environmental impact assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects on the environment of the proposed development, by itself and in combination with other development in the vicinity, would be acceptable. In doing so, the Board adopted the report and conclusions of the Inspector.

### **Proper Planning and Sustainable Development**

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design and quantum of development and would also be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

**Reason:** In the interest of public health and to ensure a satisfactory standard of development.

3. The period during which the development hereby permitted may be carried out shall be 7 years from the date of this Order.

**Reason:** In the interests of proper planning and sustainable development.

4. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles.

In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense. Both the north south link road and the link road to the N67 shall be included in Phase One of the proposed development.

(b) The road layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii;

(c) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works,

(d) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

(e) All of the car parking spaces serving the residential units shall be provided with electric connections to the exterior of the units to allow for the provision of future electric vehicle charging points.

**Reason:** In the interests of traffic, sustainable transport and cyclist and pedestrian safety and to protect residential amenity.

5. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

**Reason:** In the interest of residential and visual amenity.

6. All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:

(a) Specific trees, the removal of which is authorised in writing by the Planning Authority to facilitate the development.

(b) Trees which are agreed in writing by the Planning Authority to be dead, dying or dangerous through disease or storm damage, following submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

**Reason:** In the interests of amenity, ecology and sustainable development.

7. Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species.

**Reason:** In the interests of amenity, ecology and sustainable development.

8. Mitigation and monitoring measures relating to biodiversity outlined in the plans and particulars, including the environmental impact assessment and natura impact assessment submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission. In this regard:

(a) The applicant shall make available a single document of the mitigation measures/recommendations relating to biodiversity that are outlined in the various documents that form part of the application, for the written agreement of the planning authority. This document shall include a programme for the implementation of the mitigation measures including any monitoring requirements by a suitably qualified ecologist. It shall be submitted for the written agreement of the Planning Authority at least 5 weeks in advance of site clearance works

(b) The applicant shall appoint and retain the services of a qualified ecological consultant for the duration of the development. The consultant shall ensure that the mitigation measures recommended are implemented in full. In particular, the consultant shall supervise the erection of bird nest boxes at secluded/unlit retained trees.

(c) A pre-construction survey shall be undertaken to ensure no protected species



of fauna have moved onto the site. This survey shall be undertaken by a suitably qualified ecologist, within a timeframe that allows for management of such an occurrence, for example securing appropriate licences.

- (d) Vegetation clearance and tree removal shall take place outside the bird breeding season (March 1<sup>st</sup>- August 31<sup>st</sup>).
- (e) All buildings proposed for demolition and all mature trees proposed for felling shall be examined for evidence of bats prior by a bat specialist to any works, including an examination of internal roof features. If required, an NPWS derogation licence shall be obtained.
- (f) The applicant shall appoint a bat ecologist to carry out a bat survey, during the appropriate period, prior to commencement of development on site, to revise the assessment of potential impacts in the Ecological Impact Assessment Report and to determine if a derogation licence for bats would be required. The bat survey shall include a range of trees and buildings by several surveys on several nights. The bat ecologist shall also review the proposed lighting plan for the development and, if necessary, make such recommendations for adjustments to the plan to mitigate light spill on feeding bat habitats, which shall then be implemented.
- (g) After installation of the external lighting, a report shall be submitted, prepared by the bat specialist, for the written satisfaction of the planning authority, confirming that it is operating according to specification
- (h) If required, the applicant shall commission and implement a Japanese Knotweed Control/Eradication Plan, prior to the commencement of development for the written agreement of the planning authority.

**Reason:** In the interest of protecting the environment and to address any potential impacts on biodiversity

9. Details of the materials, colours and textures of all the external finishes, including pavement and road finishes shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. There shall be no render finish on the apartment/duplex blocks.

**Reason:** In the interest of visual amenity.

10. a) All boundary walls facing open spaces shall be finished in local stone.

b) All internal side and rear boundaries between dwelling houses shall be 1.8 metres in height and shall be constructed of plastered brickwork or concrete post and panel fencing.

c) All boundaries to the side and front of the dwelling units shall be finished in local stone.

**Reason:** In the interest of visual amenity.

11. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

12. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall carry out site testing and monitor all site investigations and other excavation works, following demolition, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site.

14. Prior to commencement of development, the applicant 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 social and affordable housing in accordance with the requirements of section 96 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 (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

15. Prior to commencement of development, a phasing programme for the development shall be submitted to the planning authority for agreement. The full length of the north-south distributor link road and the and the link road to the N67 shall be constructed as part of the first phase of development (as permitted under PL07.237219 and extended under Reg. 15/1334). No development shall commence on any subsequent phase of the development authorised by this permission until such time as the planning authority has certified in writing that the works in the previous phase have been completed to its satisfaction.

**Reason:** To provide for the orderly development of the site.

16. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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, and in particular recyclable materials, in the interest of protecting the environment.

17. 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 on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.

18. A final site specific detailed Construction and Environmental Management Plan (CEMP) shall be submitted, for the written agreement of the planning authority at least 5 weeks in advance of site clearance and site works commencing

**Reason:** To protect the environment during the construction phase and also to avoid impacts on water quality, fisheries, sustainable drainage and flooding

19.A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

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

20.Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

**Reason:** To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

21.No additional development shall take place above roof parapet level, , air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenity of property in the vicinity and the visual amenity of the area.

22.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 provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open

space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance 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 the Board for determination.

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

23. The developer shall 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 footpath on the south side of the Old Limerick Road L4103, unless an alternative agreement between the developer and the planning authority can be agreed for the carrying out and completion of the proposed works. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**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.

24. 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.

**Board Member**

**Date:** 26/07/2019

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Terry Prendergast