



An
Bord
Pleanála

Board Direction
BD-006587-20
ABP-307344-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 29/09/2020.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following;

- (a) the central location of the site and the zoning of the site in the Galway City Development Plan 2017-2023,
- (b) to the provisions of the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009, the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December, 2015, 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 (2013 – 2020), and the Architectural Heritage Protection Guidelines For Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht (2011).
- (c) the nature, scale and design of the proposed development and the planning history relating to the site,
- (d) the proximity of the site to a third level institution, a wide range of social infrastructure and to public transport services,

- (e) to the pattern of existing and permitted development in the area, and
- (f) to the provisions of the Galway City Development Plan 2017-2023,
- (g) to the submissions received by An Bord Pleanála in relation to this application,
- (h) to the report of the Chief Executive of Galway City Council,
- (i) to the report of the planning inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board accepted and adopted the screening assessment carried out by the Inspector and the conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the following European sites:

- Lough Corrib SAC [000297]
- Lough Corrib SPA [004042]

in the light of their conservation objectives, having regard to the nature of the proposed development and the distances from the site to these European sites.

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) and the Inner Galway Bay SPA (Site Code:004031), 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.

Appropriate Assessment

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites, namely the Galway Bay Complex SAC (Site Code:000268) and the Inner Galway Bay SPA (Site Code:004031), 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.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board was satisfied that subject to compliance with the conditions attached below, the proposed development, having regard to its scale, massing and material finishes, provides an appropriate design solution and response having regard to its locational context and concluded that it would not impact negatively on the urban character of the area. In coming to its decision, the Board acknowledged the scale, massing and layout of the existing permitted and constructed development on site and the precedent it set. The Board was satisfied that the proposed development would, therefore, be in accordance with the design criteria set out in Section 3.2 of the Urban Development and Building Heights, Guidelines for Planning Authorities, (2018) in relation to design at a district level and would be in accordance with the proper planning and sustainable development of the area.

Furthermore, the Board is satisfied on the basis of the submissions made in connection with the planning application, that the private wastewater and water supply networks serving the site have the capacity and are operationally and structurally adequate to cater for the proposed development. The Board was satisfied that the applicant has sufficient legal interest to allow any works to be carried out to the satisfaction of Irish Water. The proposed development would, therefore, not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Report, supported by the documentation submitted with the application, identifies and describes

adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development on an urban site served by public infrastructure,
- (b) the absence of any significant environmental sensitivities in the area, and
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that the proposed development, having regard to its nature and scale, would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Note: Section 34. (13) applies

Conditions

1. The proposed 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, or as otherwise stipulated by conditions hereunder, and the proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2.
 - (a) The proposed development hereby permitted shall only be occupied as student accommodation, in accordance with the definition of student accommodation provided under section 13(d) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and shall not be used for any other purpose without a prior grant of planning permission for change of use.
 - (b) Full details of the hours of operation of the proposed café/ restaurant unit shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The unit shall not be used for the sale of hot fast food or intoxicating liquor for consumption off the premises.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

3. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

4. The proposed development shall be implemented as follows:
 - (a) The student accommodation and complex shall be operated and managed in accordance with the measures identified in a finalised Student Accommodation Management Plan which shall be submitted to and agreed in writing with the planning authority prior to first occupation of the development.
 - (b) Student Housing Units shall not be amalgamated or combined.

Reason: In the interests of the amenities of occupiers of the units and surrounding properties.

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity

6. No additional development shall take place above roof parapet level, including lift motor enclosures, 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 amenities of property in the vicinity and the visual amenities of the area.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

8. Details of all lighting and signage shall be as submitted to and agreed in writing with, the planning authority prior to occupation of the development.

Reason: In the interest of the amenities of the area/visual amenity.

9. Public lighting shall be provided in accordance with a scheme details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

10. The road network serving the proposed development, including junctions, surfaces, parking / set-down areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and the design standards outlined in the Design Manual for Urban Roads and Streets. In default of agreement the matter(s) in dispute shall be referred to An

Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety, and to ensure an appropriate standard of development.

11. Prior to the occupation of the development, a Mobility Management Strategy (including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns) shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, and walking by residents/occupants/staff employed in the development. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

12. A minimum of 10% of all car parking spaces shall be provided with electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later date. Details of such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

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

13. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilized for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

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

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

15. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity.

16. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

18. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compounds including areas identified for the storage of construction refuse,
- (b) Location of areas for construction site offices and staff facilities,
- (c) Details of site security fencing and hoardings,
- (d) Details of off-street car parking facilities for site workers during the course of construction,
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,

- (f) Measures to obviate queuing of construction traffic on the adjoining road network,
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) Alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road, cycleway or footpath during the course of site development works,
- (i) Details of appropriate mitigation measures for noise and dust, and monitoring of such levels,
- (j) Details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1 hertz to 80 hertz) and BS7385: Part 2 1990: Evaluation and Measurement for Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels,
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains,
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interests of amenities, public health and safety.

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

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

20. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

21. 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: 29/09/2020

Paul Hyde