

An
Bord
Pleanála

Board Direction
BD-010643-22
ABP-309753-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 06/05/2022.

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

Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development, the nature of the

receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information submitted as part of the appellant's Appropriate Assessment Screening Report and the Planning Inspector's Addendum Report (ref. ABP-309753-21). In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector and concluded that, by itself or in combination with other development plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such Sites, and that a Stage 2 Appropriate Assessment is not, therefore, required. In particular, the Board agreed with and adopted the Planning Inspector's assessment and conclusion that a Stage 2 Appropriate Assessment was not required.

Conditions

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

Reason: In the interest of clarity.

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

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

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

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

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

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

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

(a) details of all proposed hard surface finishes within the development;

(b) proposed locations of trees and other landscape planting in the development, including details of proposed screening to the private packaged wastewater treatment plant; and

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

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

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

6. (a) Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

(b) Prior to commencement of development the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

(c) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

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

Reason: In the interest of public health.

8. In the absence of a connection to a commissioned Spiddal Municipal Wastewater Treatment Plant, as part of the Spiddal Sewage Scheme:

(a) The proposed development shall be served by the proposed temporary packaged wastewater treatment system which shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled 'Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels' – Environmental Protection Agency, 1999. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

(b) Within three months of the first occupation of the development, the developer shall submit a report from a suitably qualified person with professional indemnity insurance, certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details, is working in a satisfactory manner in accordance with the standards set out in the EPA document and the final discharge does not exceed a chemical oxygen demand (COD) concentration of greater than 125mg/l.

(c) The development shall provide for a separate connection to the wastewater network fronting the site to enable a future connection to be made upon commissioning of the municipal wastewater treatment plant for the area and, within 3 months of connecting to the commissioned municipal wastewater treatment plant, the proposed packaged wastewater treatment plant shall be decommissioned and removed, with the resultant area to be suitably landscaped as part of the development.

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

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

Reason: In the interest of public health and the environment.

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

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

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

Reason: In the interest of nature conservation.

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

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

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

Reason: In the interests of amenity and public safety.

14. (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority.

(b) The tourist accommodation, business and food innovation hub and residential development hereby permitted shall not be made available for occupation by the developer until such time as all enabling infrastructure to serve each element of the development are completed to the written satisfaction of the planning authority.

Reason: To ensure the timely provision of services and facilities, for the benefit of the occupants and the satisfactory completion of the overall development.

15. (a) A minimum of 80% of the houses (i.e. five of the six houses) hereby permitted shall be restricted to use as a house by those who can demonstrate the ability to preserve and protect the language and culture of the Gaeltacht, unless otherwise agreed in writing with the planning authority, for a period of 15 years. The developer shall submit a completed Linguistic Impact Statement to the planning authority providing details of compliance with this requirement prior to the commencement of development.

(b) Prior to commencement of development, the developer shall enter into a legal agreement with the planning authority (under the provisions of section 47 of the Planning and Development Act 2000, as amended), the purposes of which shall be to restrict or regulate a portion of the residential elements of

the development hereby permitted for the use of occupants who have an appropriate competence/fluency in Irish. Details of the standard of Irish to be achieved and method of evaluating this shall be agreed in writing with the planning authority prior to the finalization of the agreement hereby conditioned. (Qualification for the Scéim Deontais Tithe will automatically qualify).

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

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

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

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

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

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

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

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

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

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;

- (c) Details of site security fencing and hoardings;
- (d) Details of on-site car parking facilities for site workers during the course of construction;
- (e) Features to obviate queuing of construction traffic on the adjoining pier and road network;
- (f) Features to prevent the spillage or deposit of clay, rubble or other debris on the pier and public road network;
- (g) Features addressing noise, dust and vibration, and observing/reviewing of such levels;
- (h) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (i) Means to ensure that surface water run-off is controlled; and
- (j) Details of the site manager, contact numbers (including out of hours) and public information signs at the entrance to the facility.

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

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

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

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

21. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400

hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

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

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

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

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, public open

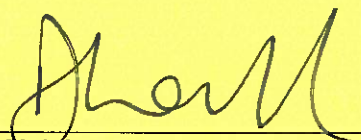
space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

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

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

Board Member



Dave Walsh

Date: 06/05/2022