

An
Bord
Pleanála

Board Direction
BD-009026-21
ABP-310348-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 07/09/2021.

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

In coming to its decision the Board had regard to -

- The location of the site in an established urban area in reasonable proximity to the centre of Galway, to places of employment and to commercial and social services including public transport
- The planning history of the site including the Strategic Housing Development authorised under ABP-304928-19 and the commercial development authorised under Reg. Ref. Nos. 18/363 and 20/292
- The provisions of the Galway City Development Plan 2017-2023 including the site's zoning under objective CI that allows for a mix of uses including residential
- The Rebuilding Ireland Action Plan for Housing and Homelessness 2016
- The National Planning Framework which identifies the importance of compact growth in cities
- The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying 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 2020
- The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- The nature, scale and design of the proposed development compared to that already authorised on the site
- the pattern of existing and permitted development in the area
- Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan or a Local Area Plan
- The submissions and observations received
- The Chief Executive Report from the Planning Authority; and
- The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to screening for appropriate assessment and environmental impact assessment.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development 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.

Environmental Impact Assessment

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), 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, which is below the threshold in respect of Class 10(b) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

(b) The planning history relating to the site and the limited scale of the changes that are proposed to the development authorised under ABP-304928-19,

(c) The location of the site on brownfield land in an established urban area that is zoned for a mix of commercial and other development under the provisions of the Galway City Development Plan 2017 – 2023, and the results of the strategic environmental assessment of that plan undertaken in accordance with the SEA Directive (2001/42/EC),

(d) The existing uses on the site and pattern of development in surrounding area,

(e) The availability of mains water and wastewater services to serve the proposed development,

(f) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)

(g) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),

(h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(i) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan, the Construction Waste Management Plan, the Operational Management Plan, the Engineering Planning Report and the Site Specific Flood Risk Assessment,

The Board did not consider that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of the safety and convenience of road users and would provide an acceptable form of residential amenity for future occupants. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Material Contravention

The Board considered that a grant of permission that would materially contravene the parking standards set out in the Galway City Development Plan 2016-2022 and the would be justified in accordance with Section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, having regard to SPPR8(iii) of the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2020 which states that there shall be a default of minimal or significantly reduced car parking provision for Build-to-Rent apartment developments.

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. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Apart from such alterations that were explicitly described on the plans and particulars submitted with the application or which are required by the conditions below, the authorised development on the site shall comply with the terms and conditions of the parent permission granted by the Board under ABP-304982-19. In particular the period during which the development hereby permitted may be carried out shall be the same as that of the parent permission and shall cease on 30th October 2026.

Reason: In the interest of clarity

2. The development hereby permitted shall be for build to rent units which shall operate in accordance with the definition of Build-to-Rent developments as set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (December 2020) and be used for long term rentals only. No portion of this development shall be used for short term lettings.

Reason: In the interest of the proper planning and sustainable development of the area and in the interest of clarity.

3. Prior to the commencement of development, the owner shall submit, for the written consent of the planning authority, details of a proposed covenant or legal agreement which confirms that the development hereby permitted shall remain owned and operated by an institutional entity for a minimum period of not less than 15 years and where no individual residential units shall be sold separately for that period. The period of 15 years shall be from the date of occupation of the first residential unit within the scheme.

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

4. Prior to expiration of the 15-year period referred to in the covenant, the owner shall submit for the written agreement of the planning authority, ownership details and management structures proposed for the continued operation of the entire development as a Build-to-Rent scheme. Any proposed amendment or deviation from the Build-to-Rent model as authorised in this permission shall be subject to a separate planning application.

Reason: In the interests of orderly development and clarity.

5. The proposed development shall be amended as follows:

(a) A ramp suitable for use by pedestrians with restricted mobility and cyclists shall be provided from the open space at the upper basement level to the south of Block G to the open space at lower basement level that shall provide a convenient, direct and passively supervised access for cyclists and those with impaired mobility to the open space and entrances to the apartment blocks at lower basement level.

(b) The proposed set down area for cars in front of the childcare facility shall be omitted.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to provide proper access to the proposed apartments for pedestrians and cyclists, to limit traffic movement in the immediate vicinity of the apartments and their communal open space

6. The materials, colours and finishes of the authorised buildings, the treatment of boundaries within the development and the landscaping of the site shall

generally be in accordance with the details submitted with the application, subject to the following amendments –

- Zinc or other high quality metal cladding shall be used on the elevations on the upper storeys in accordance with the finishes previously authorised under ABP-304928-19
- Outdoor amenity facilities suitable for those aged 12 to 17 shall be provided
- Full details of the location, type, size and control of all gates, fences, walls or other such structures that would be used to define boundaries or control movement on the site that comply with the requirements of the planning authority
- Planting schedules that are revised to comply with the requirements of the planning authority

Details showing the required amendments shall be submitted and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of visual and residential amenity

7. Proposals for street names, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and 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 placenames for new residential areas.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. 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.

9. 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 interests of public health

10. The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11. Other than that shown on the submitted drawings, 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

12. Prior to the opening/occupation of the development, a Mobility Management Strategy 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, walking and carpooling by residents, occupants and staff employed in the overall development on the site. The details to be agreed with the planning authority shall include the dedication for the use of the residents of the authorised apartments of the 109 car parking spaces that are shown on the submitted plans as being shared with the occupants of the commercial premises, in addition to the 138 spaces already dedicated for the exclusive use of the residents of the authorised apartments. It shall also include full details of the type and location of all bicycle storage facilities which shall ensure that they accommodate all types of bicycle and can be easily used by all cyclists.

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

13. A minimum of 10% of all car parking spaces should be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking 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, the development shall submit 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.

14. The construction of the development shall be managed in accordance with a final Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenities, public health and safety

15. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0700 to 1700 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

16. Construction and demolition waste shall be managed in accordance with a final 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

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

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

18. 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 200, as amended, in respect of costs to be incurred by the planning authority in connection with road improvement works in the area that would facilitate the proposed development including the signalisation and upgrade of the Tuam Road R336 and Joyce’s Road and the upgrade of the junction of Monivea road R339, Joyce’s Road, Wellpark Road and Connolly Road, as detailed in the engineering drawings submitted with the application. 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

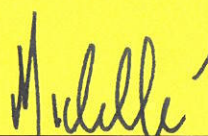
authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: It considered reasonable that the developer should contribute towards specific exceptional costs which are incurred by the planning authority that are not covered in the Development Contribution Scheme and that will benefit the proposed development.

19. 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


Michelle Fagan

Date: 07/09/2021

