

An
Bord
Pleanála

Board Direction
BD-009320-21
ABP-310797-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/10/2021.

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 following:

- (a) the policies and objectives set out in the NPF and NWRA-RSES
- (b) the policies and objectives set out in the Galway City Development Plan 2017-2023.
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (d) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (g) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended

- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history of the site and within the area,
- (m) the submissions and observations received,
- (n) the report of the Chief Executive of Galway City Council, and
- (o) the report of the Inspector

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the:

- Galway Bay Complex SAC (000268), and
- Inner Galway Bay SPA (004031)

are the European sites for which there is a likelihood of significant effects.

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 in view of the above sites' Conservation Objectives.

The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best available scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- Site Specific Conservation Objectives for these European Sites,
- Current conservation status, threats and pressures of the qualifying interest features, likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,

- Submissions from observers,
- Mitigation measures which are included as part of the current proposal.

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. The Board identified that the main likely impact arising from the proposed development on the European Sites would arise from potential construction related discharges from the proposed development site to the ground and surface water systems and the potential for these effects to reach the downstream European Sites. Having regard to the potential loading of any such discharge, avoidance, and mitigation measures as set out in the Natura Impact Statement, the Board concluded that the proposed development, subject to the identified mitigation measures, would not adversely affect any of the habitats within the relevant European sites. In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European sites in view of the site's conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

Environmental Impact Assessment

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

- (a) the nature, scale, location and extent of the proposed development,
- (b) the environmental impact assessment report and associated documentation submitted with the application,
- (c) the submissions from the planning authority, the observers and the prescribed bodies in the course of the application, and
- (d) 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:

- Positive impacts on population due to the increase in housing stock in the Galway Metropolitan area.
- Biodiversity Impacts which will be mitigated by design, landscaping and compensatory planting; tree protection measures; pre-construction surveys; mitigation measures detailed in the Construction Management Plan; and surface / ground water management measures.
- Noise and Vibration Impacts during construction which will be mitigated by appropriate management measures.
- Air impacts during construction which will be mitigated by construction management measures, dust management and plant management.
- Landscape and visual impacts, which will be mitigated by construction management measures and by the retention and enhancement of existing trees and new landscaping.
- Traffic and transportation impacts, which will be mitigated by construction traffic management, by the provision of pedestrian facilities and works to existing pedestrian facilities.
- Water impacts, which will be mitigated by construction management measures, surface water management and monitoring.

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 Chapter 15 of 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.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that the proposed development is, apart from the density parameters, broadly compliant with the current Galway City Development Plan 2017-2023 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Galway City Development Plan 2017-2023, it would materially contravene the Plan with respect to a specific objective relating to plot ratio. The Board considers that, having regard to the provisions of section 37(2)(b) (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the development plan would be justified for the following reasons and considerations:

- (i) It is considered that permission for the proposed development should be granted having regard to Government policy set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the area, including the requirement that cities outside of Dublin significantly increase their population share. Under National Policy Objective 2b half (50%) of future population and employment growth will be focused in the existing five Cities and their suburbs (including Galway). The site is within the Galway MASP area as defined in the NPF Implementation Road Map and RSES and while a relatively small number of units are proposed (102 in total) it is a notable contributor to the population growth targets for the Galway MASP area detailed in the Regional Spatial and Economic Strategy of 27,500 persons to 2026 and a further 14,500 to 2031. Furthermore, National Policy Objective 35 of the NPF is to increase residential density in settlements.

- (ii) It is considered that permission for the proposed development should be granted having regard to Section 28 Guidance set out in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009); the Urban Development and Building Height Guidelines for Planning Authorities (2018); and the Sustainable Urban Housing Design Standards for New Apartment Guidelines for Planning Authorities (2020). SPPR4 of the Urban Development and Building Height Guidelines seeks increased densities within urban areas in accordance with the minimum densities set out in the Sustainable Residential Development in Urban Areas Guidelines. The Sustainable Residential Development in Urban Areas Guidelines promote densities of 35-50 units per hectare at outer suburban and greenfield locations such as this, stating that development at net densities of less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency. The Sustainable Urban Housing Design Standards for New Apartment Guidelines for Planning Authorities state that peripheral and / or less accessible urban locations, such as this, are suitable for residential development of any scale that will include a minority of apartments at low-medium densities.

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b) (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

Furthermore, 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 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 and would 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, or as otherwise stipulated by conditions hereunder, and the 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 development shall be carried out on a phased basis, in accordance with a phasing scheme submitted with the planning application, (unless otherwise agreed in writing with the planning authority prior to commencement of any development.)
 - (b) No dwelling shall be occupied until such time as the realigned junction at Rosshill Road and the proposed footpath connection between the site and the existing public footpath at Ross Alta on the Rosshill Road is fully completed and operational.
 - (c) Not more than 50% of residential units shall be made available for occupation before completion of the childcare facility unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed (at this time).

Reason: To ensure the timely provision of services and facilities, for the benefit of the occupants of the proposed dwellings and in the interest of pedestrian and traffic safety.

3. The proposed development shall be amended as follows:
 - (a) The proposed roof garden shall be omitted and an area of communal space with minimum area of 220 sq.m shall be provided in the central car

parking block located to the rear (east) of the apartment block. This will result in the loss of 14 no. car parking spaces.

(b) All rear garden walls shall be 1.8 metres in height above ground level, and shall be concrete block or concrete post and panel, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

(c) The site services layout shall be revised to avoid all trees that are identified for retention and protection.

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 the interests of residential amenity and visual amenity.

4. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 15 of the EIAR 'Summary of Mitigation Measures', shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

5. The mitigation measures detailed in the Natura Impact Statement shall be implemented in full.

Reason: In the interest of clarity and to ensure the protection of European sites.

6. 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 undertake geophysical surveys targeted testing prior to the commencement of any groundworks (as detailed in the EIAR) and monitor all site investigations and other excavation works, and
(c) provide arrangements, acceptable to the planning authority and in consultation with the national monuments services, for the preservation, protection, or recording and removal of any archaeological material found. 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 of any remains that may exist within the site.

7. The following details shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development:

(a) Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of development. The proposed nap plaster finish shall be omitted on principal elevations of the apartment block and replaced with high quality and durable finishes such as brick or stone.

(b) Details of covered, secure and convenient cycle parking to serve the apartment units, creche and retail / commercial unit.

(c) Final details relating to the realignment and appropriate restoration to the existing junction at Rosshill Road.

(d) Details of a wayfinding through the site to ensure clear and legible access to the principal doorways, parking area, and open spaces.

Reason: In the interests of visual amenities, permeability, connectivity and good urban design.

8. No external security shutters shall be erected for any of the commercial premises unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
Reason: In the interest of the amenities of the area/visual amenity.

9. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.
Reason: In the interest of visual amenity.

10. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.
Reason: In the interests of clarity and public health.

11. Details of works to the public road to facilitate the proposed development shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development. All works to the public roads / footpaths shall be completed to the satisfaction of the Planning Authority.
Reason: In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

12. 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 surface water management.

13. No additional development shall take place above roof parapet level of the apartment block, 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.

14. The site shall be landscaped (and earthworks carried out) in accordance with the detailed scheme of landscaping, which shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development. The scheme shall include provisions for hard and soft landscaping within the site and details of children's play features and boundary treatments.

Reason: In order to ensure the satisfactory completion of the development.

15. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s), shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees, shrubs, or hedging which are to be retained on the site.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

16. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. 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.

17. 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/ staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

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

18. A minimum of 10% of all communal car parking spaces should 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 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.

19. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority.

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

20. Proposals for a development naming and unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

21. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with the planning authority prior to installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

22. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained in the site. 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.

23. 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.

24. The management and maintenance of the proposed development following its completion, save for areas that are to be taken in charge, 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.

25. 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.

26. The construction of the development shall be managed in accordance with a Construction and 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 compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;
- (b) 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; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface or ground waters.

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 interest of amenities, public health and safety.

27. Site development and building works shall be carried out only between the hours of 0700 to 1900 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.

28. 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 local authority 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 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 An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

29. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on and adjoining the site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

30. 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.

31. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

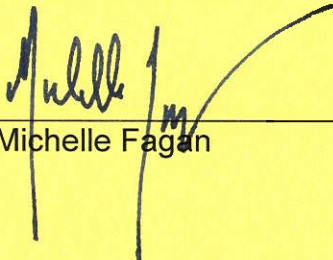
32. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.

33. 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 proposed greenways (secondary) and primary walking cycle routes (Dublin Road) that will benefit the proposed development. 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.

Board Member



Michelle Fagan

Date: 26/10/2021