

An
Bord
Pleanála

Board Direction
BD-010500-22
ABP-312191-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 12/04/2022.

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

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

- (a) the policies and objectives set out in the Galway County Development Plan 2015-2021 and Variation No.2(b) Galway County Development Plan 2015-2021 Gaeltacht Plan,
- (b) The provisions of Housing for All, A New Housing Plan for Ireland (September 2021),
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013 (as updated)
- (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 Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (h) the nature, scale and design of the proposed development,
- (i) the availability in the area of a wide range of social, community and transport infrastructure,
- (j) the pattern of existing and permitted development in the area,
- (k) the planning history within the area,
- (l) the submissions and observations received,
- (m) the report of the Chief Executive of Galway County Council, and
- (n) the report of the Inspector

It is 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 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.

Appropriate Assessment Screening

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 on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and 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 Inspector's assessment and conclusion that a Stage 2 Appropriate Assessment was not required notwithstanding the submission of an NIS by the applicant for permission which proceeded on the basis that a Stage 2 Appropriate Assessment was required.

Environmental Impact Assessment

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Information Report submitted by the developer which contains the information as set out in Schedule 7A of the Planning and Development Regulations 2001, as amended and the Article 299B Statement submitted by the applicant.

Having regard to:

- (a) The nature and scale of the proposed development which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the site's location close to schools, a community centre, the Baile Chláir Corporate Park and frequent bus routes at the centre of Baile Chláir, within an established built up area on lands with a residential and open space zoning objective in the Galway County Development Plan 2015-2021 as amended by Variation No. 2(b) - Gaeltacht Plan (including settlements of An Cheatrua Rua, An Spideal and Baile Chláir),
- (c) the existing use on the site and pattern of development in the surrounding area,
- (d) the planning history relating to the site and 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 provisions of the guidance as 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 as set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and

(i) the features and measures proposed by the developer envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Environmental Management Plan.

It is considered that the proposed development would not be likely to have significant effects on the environment and that the effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Conclusion on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of surface water management and traffic and pedestrian safety and convenience.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plan for the area, a grant of permission could materially contravene provisions of the core strategy and density. The Board considers that, having regard to the provisions of section 37(2)(b)(i)(ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Galway County Development Plan 2015-2021 would be justified for the following reasons and considerations:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended):

The objectives of the development plan are not clearly stated in so far as the development is concerned, with regard to the density range proposed within 'DM Guideline DM1' and the application of Adopted Variation No. 2(b) to the Galway County Development Plan 2015-2021 - Gaeltacht Plan (including settlements of An Cheatrua Rua, An Spideal and Baile Chláir 2018 Objective CSB 13 – *Residential Densities* and the associated core strategy density provision.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

The Board considers that the proposed development materially contravenes the Core Strategy and Density as set out Galway County Development Plan 2015-2021.

In relation to Core Strategy, while the proposal is in breach of the housing yield of 76 units assigned to Baile Chláir, the development in all other regards accords with the principles of proper planning and sustainable development, and is of a scale and nature, that in the opinion of the Board, does not significantly undermine the county's settlement hierarchy, notwithstanding the breach of the housing target, or proposed pattern of growth and does not undermine the principles of compact growth and sustainable development for the county or town. In this regard the Board notes that in respect of the subject site, the lands are zoned for residential purposes, serviceable, and spatially sequential to the settlement, will provide for a development of a reasonable density with a range of house types, will enhance and improve pedestrian connectivity within Baile Chláir, as well as provide for and open up amenity lands. The Board have reviewed and considered the National Planning Framework, Regional Spatial and Economic Strategy and MASP, and Galway

County Development Plan Core Strategy relating to Baile Chláir and are satisfied, that notwithstanding the overarching principles and high level population targets in the National Planning Framework and Regional Spatial and Economic Strategy, there are no specific objectives or population targets in the national plans that the development plan is required to meet at a micro level relating to Baile Chláir. The development is in accordance with the broad principles and objectives of the national and regional planning framework documents. The proposal would contribute to the objectives of the adopted RSES and the Galway Metropolitan Area Strategic Plan (MASP) contained therein, where Baile Chláir is identified as a residential site in the MASP and the primary strategy is for consolidation and higher density development on zoned lands. The proposed development would be in keeping with the sustainable development of Baile Chláir and overall of the Galway Metropolitan Area in a reasonably compact and coherent form and would be consistent with the provisions of the National Planning Framework in this regard. It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the National Planning Framework, specifically National Policy Objective 27, 33 and 35; and the 'Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas May 2009' (in particular Chapter 5).

In relation to Density, it is the opinion of the Board that the proposed development is in accordance with the National Planning Framework, specifically NPO 27, 33, and 35; the Urban Development and Building Height Guidelines SPPR 4; and the 'Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas May 2009' (in particular Chapter 5).

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 minimum of 20% of the 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. 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). 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.

3. All mitigation and monitoring measures outlined in the plans and particulars, including the Flood Risk Assessment, Construction Management Plan and Ecological Impact Assessment, 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.

4. 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 prior to commencement of any development. No development shall commence on any subsequent phase of the development authorised by this permission until the planning authority has certified in writing that the works in the previous phase have been completed to a satisfactory extent.

Reason: To ensure the timely provision of services.

5. 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.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings and boundaries shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. 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 the full design details of the proposed footpath works on Lakeview Road for the written agreement of the planning authority. The developer shall coordinate with the planning authority during the detailed design and construction of the development.

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

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

8. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the development and where required, revised plans and particulars demonstrating compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:
 - (a) The details and the extent of all road markings and signage requirements on surrounding roads, shall be submitted to the Planning Authority for approval prior to the commencement of development.
 - (b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
 - (c) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings and car parking bays shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the planning authority for such road works.
 - (d) Cycle tracks within the development shall be in accordance with the guidance provided in the National Cycle Manual.
 - (e) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.

- (f) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

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

Reason: In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

9. 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, boundary treatments and includes measures for the protection of trees within and adjoining the site.

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

10. Prior to the opening 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 car pooling by staff employed and patrons of the crèche 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 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.

11. Electric charging facilities shall be provided for cycle parking and proposals shall be submitted to and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: In the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric cycles.

12. 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.

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.

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.

14. Proposals for an estate/street name, 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 estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

15. 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.

16. 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.

17. 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.

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

The Management Company shall include and manage the Community Building for the benefit of the residents of the apartments or the wider community as determined by the Planning Authority.

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

19. 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.

20. The construction of the development shall be managed in accordance with a Construction and Traffic 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 water sewers or drains. The

measures detailed in the construction management plan shall have regard to guidance on the protection of fisheries during construction works prepared by Inland Fisheries Ireland.

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.

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

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the 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.

23. 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

24. Prior to the commencement of any house or duplex unit in the development as permitted, the developer 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 and duplex units 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.

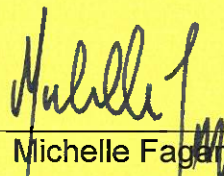
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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


Michelle Fagan

Date: 12/04/2022