

An  
Bord  
Pleanála

**Board Direction**  
**BD-019438-25**  
**ABP-319509-24**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/04/2025.

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

#### **Reasons and Considerations**

The Board had regard to the following when reaching its decision; the design, scale and layout of the proposed development, the provisions of the Galway County Development Plan 2022 - 2028, and the Development Management Standards contained therein, the zoning of the site as Existing Residential, the Spatial Planning and National Roads Guidelines for Planning Authorities 2012, the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities 2024, the Sustainable Urban Housing Design: Standards for New Apartments, Guidelines for Planning Authorities 2023, the Galway County Council Noise Action Plan 2019 – 2023, the submitted Natura Impact Statement, the Appropriate Assessment conducted by the Board's Inspector and to the Inspector's detailed report.

Having regard to all of the above, it is considered that the proposed development can achieve unobstructed foul sewer access to the network, that adequate provisions have been made by way of setbacks to accommodate the proposed Galway to Athlone Cycleway, that the internal roadway provides for sufficient manoeuvrability of vehicles, that the proposal accords with paragraph 2.7 Spatial Planning and National Roads Guidelines for Planning Authorities (2012) with respect to the adjacent intersection of Bog Road and the N67, that significant light spill to the N67 will not occur, that traffic and pedestrian safety will not be endangered, that the density and overall design of the proposed development is appropriate to the location, that there will be no undue overlooking or overshadowing, that the communal open space is of a good size and quality, that the 1.8 metre boundary wall and provision of triple glazing will mitigate road traffic noise impacting the residential amenity of future residents, and that the proposed development would not adversely affect, either individually or in combination with other plans or projects, the integrity of the Galway Bay Complex SAC or the Inner Galway Bay SPA.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission the Board determined, consistent with Section 34 (4) (a) (i) of the Planning and Development Act, 2000, as amended, to permit the proposed development because the permissions/advice obtained from Galway County Council and Uisce Eireann confirmed the applicant's legal interest over and under the adjoining lands to make the required foul sewer connections.

#### Notes

The Board agreed with the Inspector's assessment that the revised proposal submitted by the applicant with the appeal contained minor changes that would not be prejudicial to the interests of third parties and did not therefore need to be circulated to them.



The Board noted the Inspector's view that the specific foul sewer connection proposed at appeal stage was a *new issue* but also noted that the matter of sufficient legal interest to make a foul sewer connection had already been raised by Observers and the Planning Authority, legal interest has subsequently been established to the satisfaction of the Board.

The Board also noted that the Inspector's report assessed in detail each reason for refusal issued by the Planning Authority, the Board agreed with the outcomes of that assessment, particularly with respect to any grant of permission not giving rise to a material contravention of the Galway County Development Plan 2022 - 2028.

### **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 received by the planning authority on 26 of January 2024 and the (minor) revised plans received by An Bord Pleanála on 15 April 2024, 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.

**Reason:** In the interest of clarity.

2. The foul sewer connection to the existing manhole on the northwestern side of the Carrowmoneash River, and the route of the proposed connection to Manhole 'EX.FS.M.H.1', shall be as depicted on updated sewer layout Drawing No. 23109-107 Rev. A, submitted with the appeal. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

3. All windows in the proposed development facing Bog Road and the N67 shall be fitted with triple glazing.

**Reason:** In the interests of residential amenity for future residents.

4. All mitigation measures contained in Section 6 of the Natura Impact Statement (NIS), submitted with the Appeal shall be implemented.

**Reason:** To protect the integrity of European Sites.

5. 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.

6. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

**Reason:** To prevent flooding and in the interests of sustainable drainage.

7. If, during the course of site works any archaeological material is discovered, the City/County Archaeologist/Planning Authority shall be notified immediately. (The applicant/developer is further advised that in this event that under the National Monuments Act, the National Monuments Service, Dept. of Housing, Heritage and Local Government and the National Museum of Ireland require notification.)

**Reason:** In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.



8. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the proposed development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

**Reason:** In the interest of amenity and public safety.

9. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [within each house plot and/or for each apartment unit] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and 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.

10. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interest of environmental protection, residential amenities, public health and safety and environmental protection.

11. The landscaping scheme shown on drawing number GF1298.DS2.300 Revision 0, as submitted to the planning authority 26 January 2024 shall be completed within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

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

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

13. Site development and building works shall be carried out between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

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

14. (a) Prior to the commencement of 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 relevant residential 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.



(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**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. development.

15. 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 on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this

17. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

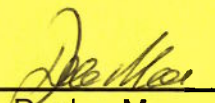
**Reason:** In the interest of sustainable transportation.

18. 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.

19. **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**

  
Declan Moore

**Date:** 14/04/2025