

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Galway City

Planning Register Reference Number: 14/248

An Bord Pleanála Reference Number: PL 61.245292

APPEAL by Kenny Developments and Company Limited care of O'Neill O'Malley of Second Floor, Technology House, Galway Technology Park, Parkmore, Galway against the decision made on the 16th day of July, 2015 by Galway City Council to refuse permission in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Planning permission for development on lands at Mincloon, Clybaun Road and Mincloon Cross, Galway. The development will consist of 58 number residential units made up of 32 number four bedroom semi-detached two and a half storey houses, 12 number four bedroom two and a half storey detached houses, two number five bedroom that is part two and a half storey and part two storey detached houses, six number four bedroom two and a half storey terraced houses and six number three bedroom two and a half storey terraced houses. Six of the residential units with on-site parking are proposed to have individual vehicular access directly from the Clybaun Road. Development also to include all associated communal and private open spaces, hard and soft landscaping, site development works and services including connection to the main sewer and proposed internal road layout with one new vehicular access to the site from the Clybaun Road, with new paths and new boundary walls and served by 102 number shared surface parking and the realigning/widening of the Clybaun Road for part of the length of the proposed new development fronting onto the Clybaun Road and the provision of a new public footpath along the

Clybaun Road and Ragoon Road, as amended by the further public notice received by the planning authority on the 19th day of June, 2015 and as amended by the revised public notice received by An Bord Pleanála on the 24th day of December, 2015 as follows: which omitted 11 number units and provided for 26 number apartments and 47 number houses, a total of 73 number units rather than 58 number originally applied for. Also provided are revised proposals for the omission of all housing footpaths, roads and services from the area of the application identified as “Phase 6”, this area set out as a landscaped open space pending confirmation of the preferred route corridor for the N6 Galway Transportation Project and boundary treatment, footpath and sight distance proposals for the area where “Phase 6” abuts public roadways and the proposed internal road.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the site’s ‘R’ zoning objective in the Galway City Development Plan 2011–2017 which is ‘to provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods’, to the planning history of the site, to the pattern of development in the area, to the submissions and documentation on file and to the nature and extent of the development proposed, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objective for the site as set out in the development plan, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable of the area.

The Board adopted the Inspector's report in relation to Appropriate Assessment and agreed with the Inspector that, having regard to the nature, scale and location of the proposed development the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on a European site. The Board further concurred with the Inspector that a Stage 2 Appropriate Assessment is not necessary in this instance.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted that the Inspector's sole refusal reason was in respect of the Emerging Preferred Route Corridor and that the Inspector considered all other aspects of the development to be acceptable. Having regard to the amended scheme, which omits housing development in Phase 6, and the new public notices submitted in response to the Board's section 132 request, the Board considered that the proposed development was acceptable.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 10th day of August, 2015 and as amended by the further information in response to section 132 notice with revised proposals and public notices to An Bord Pleanála on the 24th day of December, 2015, 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. A two metre high concrete block wall, capped and rendered on both sides, shall be constructed, on lands within the application site, along the full length of the eastern site boundary. Full details of the proposed screen wall, including its location, shall be submitted to, and agreed, in writing, with the planning authority prior to the commencement of development.

Reason: In the interests of residential and visual amenity.

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

Reason: In the interest of visual amenity.

4. 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.

5. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

6. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

7. 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.

8. 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.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

9. 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 placenames for new residential areas.

10. The site shall be landscaped in accordance with details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

11. 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 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 97(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 for the area.

12. The construction of the development shall be managed in accordance with a Construction 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

13. 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 for this 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 development.

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

Reason: To ensure the satisfactory completion of the development.

15. 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 the 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.

Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2016.