

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

## Galway County

**Planning Register Reference Number: 16/147**

An Bord Pleanála Reference Number: PL 07.247446

**APPEAL** by David Green of 5 Woodbury, Barna Demesne, Barna, County Galway against the decision made on the 28<sup>th</sup> day of September, 2016 by Galway County Council to grant subject to conditions a permission to Tribal Investments Limited care of Simon J. Kelly and Partners of Corrib Castle, Waterside, Galway in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** 1. Modifications and improvements to two number existing two-storey street-front houses, new public footpath and access to the houses, on-street car parking spaces and boundary treatments. Construction of one number new infill one-bedroomed terraced house between the existing street-front houses. 2. Demolition of existing partially-built garage structure on the site. 3. Construction of 15 number new houses as follows: Four number in a terrace and two number semi-detached Type A Houses: two-storey, three-bedroomed houses with optional future attic conversion. Five number in a terrace Type B houses: 2.5-storey three-bedroomed houses. Four number in a terrace Type C houses: 2.5-storey three-bedroomed houses, arranged around a shared landscaped home zone/village green amenity space. 4. Connection of all houses to existing drainage and watermain services, provision of new access road and associated car parking spaces on site accessed from the main street (R336) at Bearna Village, County Galway.

## **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 policy framework for the area, the pattern of development in the vicinity, the location of the site within the village core and the wide mix of uses available, it is considered that, subject to compliance with the conditions set out below, the proposed development would consolidate the village core in accordance with the provisions of the Bearna Local Area Plan 2007-2017 and would provide an appropriate form and density of development in this location. It is considered that the proposed development would not seriously injure the residential or visual amenities of the area, would not detract from the character or setting of the thatched cottage (Protected Structure), would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board carried out a screening exercise in relation to potential impacts on nearby European sites, and having regard to the nature and scale of the proposed development, the nature of the receiving environment, the submissions on file and the report of the Inspector, the Board concluded that, on the basis of the information available, the proposed development would not be likely to have a significant effect on any European site, either individually or in combinations with other plans and projects.

## 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 9<sup>th</sup> day of September 2016, 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 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. Prior to commencement of development, the developer shall submit to and agreed in writing with, the planning authority a detailed design for the proposed junction of the site access road with the adjoining regional road in accordance with the requirements of the Design Manual for Urban Roads and Streets (2013) and the requirements of the planning authority. The junction shall be designed so that kerb radii do not exceed three metres.

**Reason:** To ensure safe and proper access from the site.

3. A minimum of 20% of the houses hereby permitted up to a maximum of 100% 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.

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 same shall be agreed in writing with the planning authority prior to the finalisation of the agreement hereby conditioned. (Qualification for the Sceim Deontais Tithe will automatically qualify).

**Reason:** To ensure that development in the area in which the site is located is appropriately restricted.

4. The management and maintenance of the proposed development following its completion 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 commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

5. Details of the materials, colours and textures of all the external finishes to be proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Front doors shall be in solid wood only.

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

6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

This scheme shall include the following;

- (a) a plan of not less than 1:500 showing-
  - (i) proposals for screen planting along the eastern boundary adjacent to the graveyard and along the rear boundary of the terrace of House Type C;
  - (ii) detailed proposals for hard and soft landscaping to provide for active and passive recreation and including play facilities for children;

- (iii) details of the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder; Cupressocyparis x leylandii shall not be used in any part of the site; and
- (iv) details of types of paving to be used in the home zone area.

(b) Timescale for implementation.

All planting shall be adequately protected from damage until established.

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

7. Prior to commencement of development, details of site boundary walls and house garden walls to include height and finish shall be submitted to, and agreed in writing with, the planning authority. All walls shall be suitably capped.

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

8. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall be in accordance with the requirements of the planning authority for such works. Prior to commencement of development the developer shall submit to, and agreed in writing with, the planning authority details confirming that water discharges from the proposed attenuation tank shall not exceed the receiving capacity of the existing stream.

**Reason:** To ensure adequate servicing of the development and to prevent flooding and pollution.

9. The internal road network serving the proposed development including parking areas, footpaths, kerbs etc. shall comply with the detailed standards of the planning authority for such road works.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

10. 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.

11. 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 the development. Thereafter, all estate and street signs and house numbers shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

**Reason:** In the interest of urban legibility.

12. 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.

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 -
  - (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 monitor all site investigations and other excavation works, and

- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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.

- 14. Site development and building works shall be carried out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

- 15. 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.

16. Prior to the 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 the Board for determination.

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

17. 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.



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.

**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.

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

**Dated this            day of            2017.**