

Planning and Development Acts 2000 to 2020

Planning Authority: Galway City Council

Planning Register Reference Number: 20/184

Appeal by An Taisce-Galway Association-Planning Committee care of 26 Manor Avenue, Kingston, Galway against the decision made on the 11th day of February, 2021 by Galway City Council to grant subject to conditions a permission to Cleveson Limited care of Simon J. Kelly Architects of 21 Middle Street, Galway in accordance with plans and particulars lodged with the said Council:

Proposed Development described in public notices as: Demolition of an ESB Unit enclosure and construction of a seven/eight-storey development including four number retail units, a gym and student accommodation (254 number student beds) comprising of the following:

- Ground floor (2,385 square metres) incorporates four number retail units: Unit number 1 (329 square metres), Unit number 2 (273 square metres), Unit number 3 (207 square metres), Unit number 4 (1,145 square metres); ground floor entrance to upper floor student accommodation, student entrance hall, office, front desk area, toilet facilities; ground floor entrance to upper floor gym.

- First floor (2,041 square metres) incorporates Retail Unit number 2 – upper floor (614 square metres) and ancillary lobby areas, Unit number 3 – upper floor (199 square metres), Unit number 4 – upper floor (1,211 square metres).
- Second floor (1,778 square metres) incorporates a gym (272 square metres), study space, common roof, toilet facilities, staff room, ancillary lobby spaces, student open space (437 square metres) and 41 number student beds including three number one bed studios, three number two bed twin studios, one number four bed unit, three number five bed units, one number six bed unit and one number seven bed unit.
- Third floor (1,481 square metres) incorporates a study space, ancillary store and lobby areas and 47 number student beds including four number one bed studios, three number two bed twin studios, one number four bed unit, four number five bed unit, one number six bed unit, one number seven bed unit.
- Fourth floor (1,481 square metres) incorporates a study space, ancillary store and lobby areas, and 47 number student beds including four number one bed studios, three number two bed twin studios, one number four bed unit, four number five bed unit, one number six bed unit, one number seven bed unit.
- Fifth floor (1,481 square metres) incorporates a study space, ancillary store and lobby areas, and 47 number student beds including four number one bed studios, three number two bed twin studios, one number four bed unit, four number five bed unit, one number six bed unit, one number seven bed unit.
- Sixth floor (1,481 square metres) incorporates a study space, ancillary store and lobby areas, and 47 number student beds including four number one bed studios, three number two bed twin studios, one number four bed unit, four number five bed units, one number six bed unit, one number seven bed unit.
- Seventh floor (891 square metres) incorporates an external plant and internal plant areas, ancillary store and lobby areas, and 25 number

student beds including one number one bed studio, one number four bed unit, four number five bed units.

The proposed development also included for vehicular access onto Headford Road via a double height void over ground floor, extension of footpath at Headford Road to facilitate landscaping and street furniture, 25 number external bicycle parking spaces, 114 number internal bicycle parking spaces over two levels (Level 0.5 and Level 1.5), bin storage areas, 11 number car parking spaces, outdoor seating area, loading area, substation, telecoms room, water pump, switch room, firefighting stair emergency generator, signage, landscaping and all ancillary site development works and services, all at Headford Road in the townland of Townparks, Galway.

Further information was received by the planning authority on the 18th day of December 2020 to revise the proposed development to seven storeys and 223 number student bed spaces.

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:

- (a) the provisions of the Galway City Council Development Plan 2017-2023,
- (b) the existing pattern of development at this location,
- (c) the design, scale and layout of the proposed development,
- (d) the submissions and observations on file, and
- (e) the report of the Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the provisions of the Development Plan, would not seriously injure the visual amenities of the area or the amenities of adjoining properties, would be acceptable in terms of traffic safety and convenience, and would be acceptable in the context of flood risk management and surface water drainage. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board agreed with the screening assessment and adopted the conclusion carried out in the Inspector's report that the Lough Corrib Special Area of Conservation (Site Code 000297), Galway Bay Complex Special Area of Conservation (Site Code 000268) and the Inner Galway Bay Special Protection Area (Site Code 004031) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.



Appropriate Assessment

The Board considered the Natura impact statement and associated documentation submitted with the application for permission, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely, Lough Corrib Special Area of Conservation (Site Code 000297), Galway Bay Complex Special Area of Conservation (Site Code 000268) and the Inner Galway Bay Special Protection Area (Site Code 004031), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Site, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

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Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and as amended by the further plans and particulars submitted to the planning authority on the 18th day of December 2020, 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. 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.

3. (a) The development hereby permitted shall only be occupied as student accommodation, including use as visitor or tourist accommodation outside academic term times, and for no other purpose, without a prior grant of planning permission for change of use.

(b) Full details of the hours of operation of any coffee shop/restaurant unit shall be submitted to, and agreed in writing

with, the planning authority prior to commencement of development. No unit shall be used for the sale of hot fast food or intoxicating liquor for consumption off the premises.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

4. Prior to the first occupation of any of the student accommodation, the developer shall submit a detailed "management and operations plan", which outlines how it is intended to manage and operate the student accommodation, as required in accordance with section 11.29 of the Galway City Development Plan 2017-2023. This shall include details of staffing, on-site management/security, arrangements for changeover at the start/end of academic year and servicing. Details of the full nature and extent of use of the facilities outside of term time shall also be provided.

Reason: In the interest of the amenities of the area.

5. Prior to the occupation of any of the retail unit, details of the intended occupier shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of orderly development.

6. Prior to the commencement of development, revised plans providing for bicycle parking to cater for, at minimum, 70% of the full occupancy level of the proposed student accommodation shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of orderly development.

7. The access route from the Headford Road and the area highlighted as 'SHARED SURFACE (pedestrians, cyclists and vehicles)' on the submitted site layout plan, drawing number P100 Rev D, dated the 11th day of December 2020, shall allow for general public accessibility and shall, from first occupation of the building, allow for direct access to lands at the rear of the site currently used as a public car park. The exact extent of this area, any alterations required to activate this access on the western side, agreement with respect to operation and the provision of a public right-of-way or transfer of land shall be agreed with the planning authority in writing prior to commencement of development.

Reason: In order to ensure access, permeability and vibrancy in accordance with the Galway City Development Plan 2017-2023.

8. The development constructed shall comply with the standards and specifications set out in of the Design Manual for Urban Roads and Streets (DMURS) issued in 2013.

Reason: In the interests of road safety and to ensure that the streets in the authorised development facilitate movement by sustainable transport modes in accordance with the applicable standards set out in DMURS.



9. Prior to the commencement of development, the applicant/developer shall consult with the planning authority and submit for written agreement, details of any alterations to the public roads surrounding the site including road layout, traffic markings, pedestrian crossings and cycle path provision.

Reason: In the interest of orderly development and traffic safety.

10. Prior to commencement of development, a detailed landscape plan shall be submitted to, and agreed in writing with, the planning authority. The agreed plan shall be fully implemented in the first available planting season following either the substantial completion of the development or the first occupation of the building, whichever is the sooner, and thereafter the planting undertaken shall be maintained. Any plants or tree 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 visual amenity.

11. Any alterations to public services, public areas or utilities necessitated by the development shall be carried out at the developer's expense having firstly obtained the agreement in writing from the planning authority or other bodies responsible for such areas or utilities, before any alterations are carried out.

Reason: In the interest of orderly development.



12. Prior to occupation of the development, a co-ordinated overall design shall be submitted to, and agreed in writing with, the planning authority for all external and internal signage, including any temporary construction hoarding signage, associated with the development. Use of the Irish language/bilingual signage shall be incorporated within the signage regime.

Reason: In the interest of visual amenity and orderly development.

13. No internal or external security shutters, projecting signs/spotlights or other appliances shall be erected on any of the ground floor commercial premises without a prior grant of planning permission.

Reason: In the interest of visual amenity.

14. The developer shall undertake to implement the measures outlined in the Mobility Management Plan and to ensure the future tenants of the proposed development comply with this strategy. Prior to the occupation of the development, a mobility manager for the overall scheme shall be appointed to oversee and co-ordinate the preparation of individual plans. Within three months of first occupancy, the updated Mobility Management Plan shall be submitted to the planning authority with annual reviews thereafter.

Reason: In the interest of sustainable transportation.

15. All signage and road markings shall be provided in accordance with the Traffic Signs Manual published by the Department of Transport and Guidelines for setting and managing speed limits in Ireland.

Reason: In the interest of orderly development.

16. Details of a lighting scheme within the development and a statement of the public lighting design standard including public road interface impacts with a full Lux Level contour map shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public safety, visual amenity and the proper planning and sustainable development of the area.

17. (a) No additional development shall take place above roof parapet level, 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.
- (b) The mitigation measures and commitments identified in the Flood Risk Assessment and other plans, in particular those submitted with the planning application, shall be implemented in full by the developer.

Reason: In the interest of clarity and to address the risk of flooding in the area and to protect the residential amenities of property in the vicinity and the visual amenities of the area

18. 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.

19. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

20. 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 interest of visual and residential amenity.

21. 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 and for the ongoing operation of these facilities within each block 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.

22. All plant, including extract ventilation systems and refrigerator condenser units, shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

Reason: In the interest of residential amenity.

23. 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:
- (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 on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets,



- (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) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater, and
- (e) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

Reason: In the interest of amenities, public health and safety.

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

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.

Reason: In the interest of sustainable waste management.

26. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably qualified archaeologist prior to commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:-

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report containing the results of the assessment shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

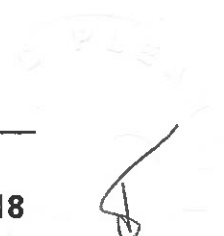
In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.



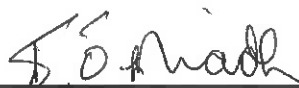
27. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains,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



28. 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



Terry Ó Niadh

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

Dated this 12th day of July, 2021.

