



An  
Bord  
Pleanála

Board Order  
ABP-310794-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Galway County Council**

**Planning Register Reference Number: 21/732**

**Appeal** by Bilberrylane Limited care of BMA Planning of Taney Hall, Eglinton Terrace, Dundrum, Dublin against the decision made on the 24<sup>th</sup> day of June, 2021 by Galway County Council to refuse permission for the proposed development.

**Proposed Development:** Modifications to the development permitted under register reference 19/1673 and will comprise the provision of 32 number residential dwellings in lieu of previously permitted 23 number residential dwellings. The proposed 32 number dwelling units (six number two bed duplex units over six number one bed apartment units, nine number two bed terraced houses and 11 number three bed terraced and semi-detached houses) will be arranged around a central public open space (1,661 square metres) with private amenity spaces comprising rear gardens for the proposed houses and terraces/balconies for the proposed duplex and apartment units. Communal amenity spaces (totalling circa 434 square metres) are also proposed to the rear of the duplex and apartment units. Permission is also sought for bin storage enclosures, hard and soft landscaping, car parking, cycle parking, boundary treatments, vehicular and pedestrian access from Caheronaun Park Road including provision of a footpath on the south western

boundary of the site and all associated site development and infrastructure works on a site (0.98 hectares) at Caheronaun Park Road, Loughrea, County Galway (lands generally bound by a greenfield site to the east, the Danesfort residential to the south, the Caheronaun Park Road and Carrig Mor residential estate to the west and the N65 to the north).

## **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 planning history and the zoning provisions of the site, the pattern of permitted development in the area, to the provisions of the Galway County Development Plan 2015-2021 and the Loughrea Local Area Plan 2012-2022, and to the layout and design as submitted, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of adjoining properties, would not seriously injure the residential amenities of future occupants and would be acceptable in terms of traffic safety and convenience. 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 designated European sites, taking into account the nature, scale and location of the proposed development, the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, on the basis of the information on the file, the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the integrity of the European sites, Lough Rea Special Area of Conservation (site code 000304), Lough Rea Special Protection Area (site code 004134), Rahasane Turlough Special Area of Conservation (site code: 000322) and Rahasane Turlough Special Protection Area (site code: 004089) or any European site, in view of the sites' conservation objectives and a Stage 2 Appropriate Assessment is not, therefore, required.

## 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 to the planning authority on the 4<sup>th</sup> day of June 2021, 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. Prior to the commencement of any development on site, the developer shall agree in writing with the planning authority, proposals for the provision of a safe pedestrian access to the public footpath to the west of Carheronaun Park Road. The associated works shall be carried out and completed prior to the occupation of any of the proposed residential units. The cost for the provision of the pedestrian crossing shall be borne by the developer.

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

3. External finishes including all materials, colours and textures shall be in accordance with the details submitted to the planning authority, unless otherwise agreed prior to commencement of development.

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

4. Water supply and drainage arrangements, including the 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. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

**Reason:** In the interest of public health.

6. 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.

7. 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.

8. Site development and building works shall be carried out only between the hours of 0700 and 1800 from Mondays to Fridays inclusive, between the hours of 0800 and 1300 on Saturdays, and not at all on Sundays or 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 the interest of protecting residential amenity.

9. The development hereby permitted, including all roads, footpaths, and public lighting, shall be carried out in accordance with the standards and requirements of the planning authority for taking in charge. The development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by a private management company.

**Reason:** In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.



10. 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 development.

11. All of 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.

12. The open spaces shall be developed for and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots.

**Reason:** In order to ensure the development of the public open space areas, and their continued use for this purpose.

13. 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 noise

management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of clarity, orderly development and amenity.

14. A Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic and parking during the construction phase, the location of the compound for storage of plant and machinery and for storage of deliveries to the site.

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

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 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 Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

16. Prior to the commencement of any house or duplex unit in 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, as amended, 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.

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 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 until taken in charge, 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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Terry Ó Niadh

Member of An Bord Pleanála

duly authorised to authenticate  
the seal of the Board.

Dated this 7<sup>th</sup> day of January 2022.

