

Planning and Development Acts 2000 to 2021

Planning Authority: Galway County Council

Planning Register Reference Number: 21/1374

Appeal by T.W. Trustees Limited care of McCarthy Keville O'Sullivan (trading as MKO) of Tuam Road, Galway against the decision made on the 16th day of September 2021 by Galway County Council to refuse permission for the proposed development.

Proposed Development: The construction of (a) two-storey apartment building incorporating six number apartments, four number two bedroom units and two number three bedroom units, (b) new vehicular and pedestrian access to the site from Barrack Street with the removal of associated car parking, (c) proposed landscaping, car parking and all associated site services on previously approved site for a garden centre under planning reference number 04/1179 at Barrack Street, Loughrea, County Galway.

Further public notices were received by An Bord Pleanála on the 8th day of December, 2021, outlining that a Revised Natura Impact Statement was received by An Bord Pleanála on the 12th day of October, 2021.

CMG

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.

Reasons and Considerations

Having regard to:

- (a) the design, scale and layout of the proposed development,
- (b) the pattern of development in the area,
- (c) the provisions of the Galway County Development Plan 2022-2028,
- (d) the Loughrea Local Area Plan 2012 (as extended), including the zoning of the site, and
- (e) the conclusion of the Appropriate Assessment,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not be visually intrusive, would not seriously injure the amenities of the area or the residential amenities of properties in the vicinity, would not adversely affect the environment, and would 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 information for the Screening for Appropriate Assessment submitted with the application and the appeal, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board accepted and adopted the report of the Inspector and concluded that, by itself or in combination with other plans or projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites other than European Sites Lough Rea Special Protection Area (Site Code: 004134) and Lough Rea Special Area of Conservation (Site Code: 000304), which are the European sites for which the proposed development has the potential to have a significant effect and must, therefore, be subject to Appropriate Assessment.

Appropriate Assessment Stage 2

The Board considered the Natura Impact Statement received with the application and the revised Natura Impact Statement received by An Bord Pleanála on the 12th day of October 2021, and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development on the European Sites Lough Rea Special Protection Area (Site Code: 004134) and Lough Rea Special Area of Conservation (Site Code: 000304), in view of the sites' conservation objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

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

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, 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 Lough Rea Special Protection Area (Site Code: 004134) and Lough Rea Special Area of Conservation (Site Code: 000304), in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

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 An Bord Pleanála on the 12th day of October, 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. All mitigation measures in the revised Natura Impact Statement, received by An Bord Pleanála on the 12th day of October 2021, (including the Environmental Construction and Construction Waste Management Plan) shall be implemented in full and shall be supervised by a suitably qualified ecologist.

Reason: In the interest of environmental protection, public health and orderly development.

3. The in-curtilage car parking to the front of the site shall be omitted and a pedestrian entrance only shall be provided onto Barrack Street. The area to the front of the site indicated as in-curtilage car parking shall comprise permeable paving. A revised landscape plan reflecting this amendment shall be submitted to the planning authority for its written agreement prior to commencement of development.

Reason: In the interests of proper planning and sustainable development and environmental protection.

4. The single bedrooms within Units 1, 3, 4, and 6 shall be amended to double bedrooms, and shall have a minimum floor area of 11.4 square metres. Prior to commencement of development, the developer shall submit revised floor plans to the planning authority for its written agreement showing this.

Reason: In order to ensure that the development complies with the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' (2020).

5. The western site boundary shall be supplemented with mature screen planting to the inner/eastern side of the low wall and railing.

Reason: In the interest of residential amenity.

6. Landscaping shall be carried out in accordance with the details set out in the 'Landscape Plan' (Drawing No. DRW.01) submitted to the planning authority on the 27th day of July, 2021. Landscaping shall include only native species.

Reason: In the interest of visual amenity.

7. 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 the 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.

7. The external finishes to the proposed development shall be as indicated on 'Proposed Section and Elevations' Drawing No. 21.002-005 Rev. 3, unless otherwise agreed with the planning authority prior to commencement of development. Render/plaster finishes shall be neutral in colour.

Reason: In the interest of visual amenity.

8. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.

Reason: In the interest of public health.

9. 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.

10. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan and Method Statement (as per the mitigation measures of the submitted and revised Natura Impact Statement), 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 compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of areas for construction site offices and staff facilities;

- (c) Details of site security fencing and hoardings;
- (d) Details of 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;
- (e) Measures to obviate queuing of construction traffic on the adjoining road network;
- (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (g) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (i) 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;
- (j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (k) 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 interests of amenities, public health and safety.

11. Proposals for naming and numbering of the proposed scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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.

12. 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 amenities of property in the vicinity.

13. 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.

14. Lighting shall be provided in accordance with Drawing No. SES 06921 and the specifications thereon.

Reason: In the interests of amenity and environmental protection.

15. 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 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.

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 the commencement of development.

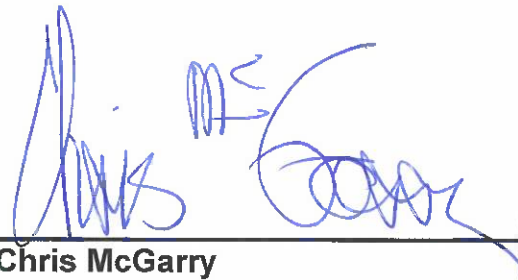
Reason: To ensure the satisfactory completion and maintenance of this development.

17. 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.

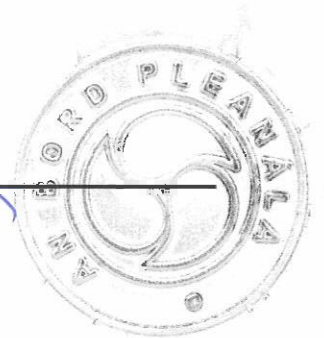
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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.



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



Dated this 9th day of August 2022