

An
Bord
Pleanála

Board Order
ABP-312381-22

Planning and Development Acts 2000 to 2022

Planning Authority: Galway County Council

Planning Register Reference Number: 21/408

Appeal by Oranhill Property Management Company CLG care of Winters Property Management care of Reddy Charlton Solicitors of 12 Fitzwilliam Place, Dublin and by Other and by JAPET Investments care of James O'Donnell Planning Consultancy Services of Suite 3, Third Floor, Ross House, Victoria Place, Eyre Square, Galway against the decision made on the 1st day of December, 2021 by Galway County Council to grant subject to conditions a permission to the said JAPET Investments in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of 43 number residential dwellings comprising of: eight number three bedroom two-storey semi-detached units, 19 number three bedroom two-storey terraced units and 16 number two bedroom two-storey terraced units. Provision for public realm landscaping including shared public open spaces and playground. Provision for 78 number carparking spaces, 15 number visitor bicycle parking spaces and bin collection areas. Provision of ESB sub-station and construction of new vehicular access road, with pedestrian and cycle links to connect with Oranhill Drive, together with all associated enabling works including connection to existing public water mains infrastructure, connection to existing foul drainage network to serve the development, together with all associated site development works and services at Oranhill Drive, Oranhill, Oranmore, County Galway.

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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

The Board considered the submitted legal documentation, including details of property folios and maps which state that the applicants have consent to use the access road and to connect into the piped water services within the roadway. The Board noted that the planning authority accepted that the applicants had demonstrated sufficient legal interest in this instance. The Board noted and agreed with the Inspector's view that the applicants have demonstrated sufficient legal interest in terms of access to the internal service road and the water services within the service road; however, having regard to Section 34(13) of the Planning and Development Act 2000 (as amended) an applicant shall not be entitled solely by reason of a permission under this section to carry out any development.

Having regard to the location of the site within the 'existing built up area' of Oranmore on zoned and serviced lands, the provisions of the Galway County Development Plan 2022-2028 and the Oranmore Metropolitan Settlement Plan 2022-2028, the pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the Core and Settlement Strategies of the Development Plan, that the proposed density of development is appropriate and that the development would not result in the creation of a traffic hazard or seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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Appropriate Assessment – Stage 1

The Board carried out a Screening for Appropriate Assessment, and concluded that the project, individually or in combination with other plans or projects, could have significant effects on the Cregganna Marsh Special Protection Area (Site Code: 004142), the Galway Bay Complex Special Area of Conservation (Site Code: 000268), the Inner Galway Bay Special Protection Area (Site Code: 004031) and the Rahasane Turlough Special Protection Area (Site Code: 004089), and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment – Stage 2

The Board considered the Natura Impact Statement (NIS), the Inspector's Report, and all the other relevant submissions on the file, and carried out an Appropriate Assessment of the implications of the proposed development on Cregganna Marsh Special Protection Area (Site Code: 004142), the Galway Bay Complex Special Area of Conservation (Site Code: 000268), the Inner Galway Bay Special Protection Area (Site Code: 004031) and the Rahasane Turlough Special Protection Area (Site Code: 004089) 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 as well as the report of the Inspector.

In completing the assessment, the Board considered the following:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of the aforementioned designated sites.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.

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 site.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the Cregganna Marsh Special Protection Area (Site Code: 004142), the Rahasane Turlough Special Protection Area (Site Code: 004089), the Galway Bay Complex Special Area of Conservation (Site Code: 000268) and the Inner Galway Bay Special Protection Area (Site Code: 004031) or any other European Site in view of the sites' Conservation Objectives, 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 and as amended by the further plans and particulars submitted on the 9th day of August, 2021 and the 4th day of November, 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. 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. Prior to the commencement of development, proposals for increased on-site attenuation in accordance with the Greater Dublin Regional Code of Practice for Drainage Works, shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of public health.

3. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann prior to the commencement of development.

Reason: In the interest of public health.

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

Reason: In the interests of visual and residential amenities.

5. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of permeability and proper planning and sustainable development.

6. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs and car parking bay sizes shall comply with the requirements of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in May 2019, in particular carriageway widths and corner radii within the development shall be in accordance with the guidance provided in the National Cycle Manual issued by the National Transport Authority.
- (b) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

Revised drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of pedestrian, cyclist, and traffic safety.

7. All of the mitigation measures cited in Section 3.1 of the Natura Impact Statement and Section 5 of the Ecological Impact Assessment submitted to the planning authority on the 19th day of March, 2021 shall be implemented in full.

Reason: In the interest of the natural heritage of the area and protecting the environment.

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8. Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

9. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

Reason: In the interests of amenity and of the proper planning and sustainable development of the area.

10. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

11. The landscape masterplan shown on drawing number 20322-3-100, as submitted to the planning authority on the 9th day of August, 2021, shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], 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 residential and visual amenity.

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12. All of the houses with on-curtilage parking 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, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

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

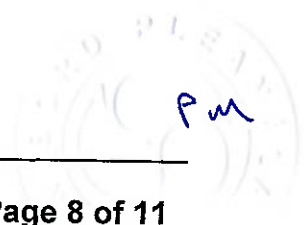
Reason: In order to safeguard the residential amenities of property in the vicinity.

14. The construction of the development shall be managed in accordance with a Construction Waste 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 public safety and residential amenity.

15. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority full details of the proposed public lighting, including the lighting levels within open areas of the development.

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

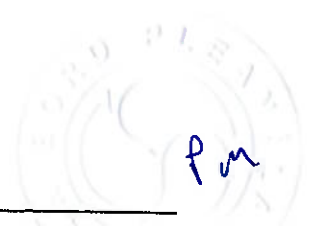


16. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority evidence of a properly constituted management company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Confirmation that this management company has been established shall be submitted to the planning authority prior to the occupation of the first residential unit. The Management Company shall be solely responsible for all ancillary infrastructure, services, utilities, access roads, open space and other communal areas within the site.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

17. Prior to the commencement of any house 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), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses 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.

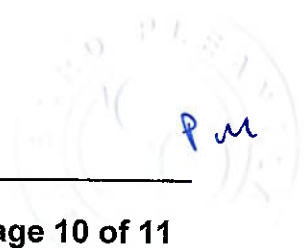


18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 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 for the area.



19. 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.



20. 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.



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

Dated this 13th day of October, 2023