

An
Bord
Pleanála

Board Order ABP-312649-22

Planning and Development Acts, 2000 to 2022

Planning Authority: Galway City Council

Application by Galway City Council for approval under section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including a Natura Impact Statement, lodged with An Bord Pleanála on the 7th day of February, 2022 and as amended by the further information received by the Board on the 19th day of March, 2024.

Proposed Development: Demolition of Number 17-20 Merchants Road Lower terraced dwelling houses and all ancillary outbuildings and boundary walls and the construction of a proposed 5-storey (with part 1-storey) mixed use development comprising; a café, cultural venue, 12 number social housing apartment units and accessible roof terrace.

The 5-storey (with part 1-storey) mixed use development will consist of:

- (a) Café,
- (b) Cultural Venue,
- (c) Covered courtyard at ground floor,
- (d) 12 number social housing units comprising of:
 - (i) 5 number one-bedroom apartments,
 - (ii) 7 number two-bedroom apartments with
 - (iii) accessible roof terrace; and
- (e) supporting development works including:
 - (i) access gate,

- (ii) signage,
- (iii) bin storage,
- (iv) plant equipment,
- (v) new site boundary treatment, and
- (vi) all other associated site development and ancillary works.

All at 17-20 Merchants Road Lower, Galway City.

Decision

APPROVE the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the European Union Habitats Directive (92/43/EEC),
- (b) the European Communities (Birds and Natural Habitats) Regulations 2011, as amended,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests, and special conservation interests for the Galway Bay Complex Special Area of Conservation (Site Code: 000268), Lough Corrib Special Area of Conservation (Site Code: 000297), and Inner Galway Bay Special Protection Area (Site Code: 004031),
- (e) Project Ireland 2040: National Planning Framework,

- (f) Northern and Western Regional Assembly Regional Spatial and Economic Strategy 2020-2032,
- (g) the policies and objectives of the Galway City Development Plan 2023-2029,
- (h) the nature and extent of the proposed works as set out in the application for approval,
- (i) the submission and observations received in relation to the proposed development, and,
- (j) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment Stage 1:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that Galway Bay Complex Special Area of Conservation (Site Code: 000268), Lough Corrib Special Area of Conservation (Site Code: 000297), and 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 Stage 2:

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, 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 Galway Bay Complex Special Area of Conservation (Site Code: 000268), Lough Corrib Special Area of Conservation (Site Code: 000297), and Inner Galway Bay Special Protection Area (Site Code: 004031) 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 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 integrity of 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, in view of the Sites' conservation objectives.

Proper Planning and Sustainable Development/Likely effects on the environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, give rise to a risk of pollution, be detrimental to the streetscapes of the area, seriously injure the amenities of property in the vicinity, adversely impact on the cultural, archaeological and built heritage of the area, or, interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In making its decision, the Board had regard to the further information submitted by Galway City Council on the 19th day of March 2024 in response to the notice issued on the 29th day of February 2024 by the Board under section 177AE(5)(a)(i) of the Planning and Development Act 2000, as amended. The Board considered that the further information received pursuant to the requirement made under section 177AE(5)(a)(i) did not contain significant additional data.

The Board noted that the Galway City Development Plan 2023-2029 was the applicable statutory plan in place at the date of the Board's decision. In this regard, the Board considered in full all relevant provisions of the statutory plan.

In doing so, the Board recognised that at the time of the Inspector's assessment, the Galway City Development Plan 2017-2023 was in place. The Board noted that the relevant provisions of the current statutory plan as they would relate to the proposed development are comparable and no material issue arises therefrom. The Board determined that the submissions received from the prescribed bodies and the public and the material considerations arising therefrom, are not affected by or material to the relevant provisions of the current plan in any manner which of themselves are not materially different to the previous plan and which did not form part of the basis of the decision of the Board.

CONDITIONS

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application and the further information received on the 19th day of March 2024, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in section 8 of the Natura Impact Statement, and section 4.2 of the Flood Risk Assessment, shall be implemented in full or as may be required in order to comply with the following conditions. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interests of protecting the environment, the protection of European Sites, and in the interest of public health.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and Flood Risk Assessment and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:
 - (a) all mitigation measures indicated in the Natura Impact Statement, the Flood Risk Assessment, the Archaeological, Architectural and Cultural Heritage Impact assessment, and
 - (b) specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness.

Reason: In the interest of protecting the environment and in the interest of public health.

4. (a) The construction of the development shall be managed in accordance with a Construction and Traffic Management Plan.
- (b) Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays, except in exceptional circumstances.

Reason: In the interests of amenity, public health, and safety.

5. The local authority and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. In this regard the local authority shall:
 - (a) employ a suitably qualified archaeologist prior to the commencement of development who shall assess the site and monitor all site investigations and other demolition and excavation works, and,
 - (b) provide suitable arrangements acceptable to the Department of Housing, Local Government and Heritage for the recording and removal of any archaeological material which it is considered appropriate to remove.

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.

6. An appropriate number of bicycle parking spaces shall be provided within or adjacent to the site, commensurate with the requirements of the Galway City Development Plan 2023-2029.


Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

7. External finishes shall be as shown on the plans and particulars submitted.

Reason: In the interest of visual amenity.

8. The roof garden shall not be used between the hours of 2200 and 0700.

Reason: In the interest of residential amenity.


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

Dated this 1st day of May 2024