

An
Bord
Pleanála

Board Order
ABP-312943-22

Planning and Development Acts 2000 to 2022

Planning Authority: Galway City Council

Planning Register Reference Number: 21/102

Appeal by Hilary and Leonie Heskin care of Brendan McGrath and Associates of Riverstown Cottage, Corrofin, County Clare against the decision made on the 10th day of February, 2022 by Galway City Council to grant subject to conditions a permission to Patrick Ryan care of Patrick McCabe Architects of Súil Nua Architecture Studio, Mincloon, Galway in accordance with plans and particulars lodged with the said Council.

Proposed Development: Development consisting of a six-storey plus penthouse level apartment building comprising 18 number units (12 number two-bed and six number one-bed), open space, landscaping, car parking and all associated site works and services, all at rear of Forster Street House (a Protected Structure RPS Number 4305 under Galway City Development Plan), 48 Forster Street and fronting on to Lough Atalia, Galway, as revised by the further public notices received by the planning authority on the 10th day of December, 2021 which included a Natura Impact Statement.

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 City Development Plan 2023 - 2029, including the residential zoning of the site, and the Urban Design and Building Height Study which accompanies the current Galway City Development Plan,
- (d) the "Urban Development and Building Heights Guidelines for Planning Authorities", issued by the Department of Housing, Planning and Local Government in December 2018,
- (e) the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities", issued by the Department of Housing, Local Government and Heritage in July 2023,
- (f) the "Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities", issued by the Department of Housing, Local Government and Heritage in 2024, and
- (g) 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 property in the vicinity, would not adversely impact upon the built heritage of the area, specifically the character and setting of Forster Street House, and would not have a significant impact on ecology or on European sites in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 the planning authority on the 19th 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 proposed 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 Natura Impact Statement (dated October 2021) which refer to environmental control measures contained in the Preliminary Construction Environmental and Demolition Waste Management Plan (dated November 2021) shall be implemented in full and shall be supervised by a suitably qualified ecologist.

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

3. All structural works on the site, including excavations, piling and the propping of any site boundary, shall be supervised by a suitably qualified engineer.

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

4. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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 operations (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

5. Landscaping shall be carried out as indicated on the Landscape Plan (Drawing Title 'Soft Landscaping'). Landscaping shall include only native species.

Reason: In the interest of visual amenity.

6. Prior to commencement of development, the developer shall submit a method statement to the planning authority for written agreement detailing the re-use of stone from the boundary wall along Lough Atalia Road and the stone archway and wooden lintel from this boundary wall within the development.

Reason: In order to conserve and retain material of heritage value.

7. Prior to commencement of development, the developer shall submit revised elevations/details to the planning authority for written agreement providing the following:
 - (i) All above ground windows on the side elevations of the apartment building shall be obscure glazed.
 - (ii) The screens to the sides of the balconies serving the penthouse apartments shall be 1.8 metres in height (measured from finished floor level) and obscure glazed.
 - (iii) Glass balustrades to balconies to the front and rear elevations shall be suitably obscured glazed to provide privacy to residents.

- (iv) Revised design proposals for the ground floor bicycle storage facility to provide for a minimum of two bicycles per unit with adequate measures to ensure the security and enclosure of the facility.
- (v) Details of the bicycle shelter to the front of the apartment building for use by visitors. This structure shall be of high-quality design and with a roof/awning of permanent construction (not comprise Perspex).

Reason: To in the interests of residential amenity and sustainable transport facilities.

- 8. The external finishes of the proposed development shall be as indicated on Drawing Numbers 18.110-PA-06/07 and 08 Rev. A – Nov 2021, unless otherwise agreed with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 9. 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.

- 10. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

11. The developer shall liaise with the Department of Defence/Irish Air Corps in advance of the erection of any crane(s) on the site.

Reason: In the interest of the safe navigation of aircraft.

12. The construction of the proposed 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 proposed 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 interest of amenities, public health and safety.

13. 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.

14. All parking areas serving the apartments shall be provided with ducting for 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.

15. The car parking spaces serving the development shall not be sold, rented, or otherwise sub-let or leased to parties who are not resident in the apartment block on the site.

Reason: In the interest of good traffic management.

16. No additional development shall take place above roof parapet level, including lift motor enclosures, lift overruns, plant, machinery, telecommunications structures, or any external fans, louvres or ducts, without a prior grant of planning permission.

Reason: In the interest of visual amenity.

17. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

18. During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest dwelling, shall not exceed:

(i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.

(ii) An Leq,15 min value of 45 dB(A) at any other time.

The noise at such time shall not contain a tonal component. All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

Reason: To protect the residential amenities of property in the vicinity of the site.

19. 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.

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the planning 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.

21. 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.


22. 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 of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion 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 of the development.



23. 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.



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

Dated this 23rd day of April 2024.