

An
Bord
Pleanála

Board Order ABP-313768-22

Planning and Development Acts 2000 to 2022

Planning Authority: Galway City Council

Planning Register Reference Number: 21/307

Appeal by James Kelly care of John M. Gallagher of 1 Oldfield, Kingston, Galway and by Others against the decision made on the 16th day of May, 2022 by Galway City Council to grant subject to conditions a permission to K. King Construction care of O'Neill O'Malley Architecture of Block 2/3 Technology House, Galway Technology Park, Parkmore, Galway in accordance with plans and particulars lodged with the said Council.

Proposed Development: (A) Provision of six number blocks of terrace housing encompassing 24 housing units and one number detached housing unit, (B) Provision of surface car parking for housing units, (C) Provision of new entrance onto the public road, access road, signage, bin store, cycle parking, lighting, landscaping and all ancillary site works and services, all at Rockbarton Court, Salthill, Galway as revised by further public notices received by the planning authority on the 21st day of March, 2022.

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,
- (d) Guidelines for Planning Authorities, the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) issued by the Department of the Environment, Heritage and Local Government in May 2009, 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 be acceptable in terms of traffic safety, would not have a significant impact on ecology or on European sites in the vicinity, and would be in accordance with the proper planning and sustainable development of the area.

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 the planning authority on the 20th day of January 2022, and the 19th day of April, 2022 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. This development hereby permitted relates to 22 number houses.

Reason: In the interest of clarity.

3. The height of Block E and Block F shall be reduced as indicated on drawing numbers 3140 Rev C, 3202 Rev D, 3207 Rev B, and 3144 Rev C, submitted to An Bord Pleanála on the 13th day of July, 2022.

Reason: To protect the residential amenity of adjacent property.

4. A pre and post condition survey, undertaken by a qualified Arborist, shall be carried out of the trees/hedgerow which form the eastern boundary of the site, and are situated within Gort Ard Avenue. In the event that the retaining walls along the eastern site boundary result in significant damage, or the failure of the existing trees and hedgerow located within Gort Ard Avenue, the developer shall replace any specimen with the same/similar species or height.

Reason: To record the condition of existing trees/hedgerow along the eastern boundary of the site, and/or to remedy any damage to same.

5. Details of how the areas providing access to the rear of properties within the scheme are to be managed, and how access to these areas is to be reserved for residents shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect residential amenity.

6. Details of the bicycle store, including material finishes, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity.

7. All mitigation measures set out in the Natura Impact Statement submitted to the planning authority on the 20th day of September 2021, shall be implemented in full and shall be supervised by a suitably qualified ecologist.

Reason: In the interest of environmental protection and nature conservation.

8. The mitigation measures outlined in the Ecological Impact Assessment submitted to the planning authority on the 20th day of September 2021, shall be carried out in full, except where otherwise required in order to comply with the conditions of this permission.

Reason: In the interest of environmental protection and nature conservation.

9. Prior to commencement of development the developer shall submit to and agree in writing with the planning authority a revised/updated Landscape Masterplan reflecting the changes made to the scheme in response to the further information and clarification of further information. Landscaping shall be carried out as indicated on the revised Landscape Masterplan. Landscaping shall include only native species.

Reason: In the interests of visual amenity and of clarity.

10. Detailed measures in relation to the protection of bats including the location of bat boxes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These measures shall be implemented as part of the development.

Reason: In the interest of nature conservation and wildlife protection.

11. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled and/or contoured, as applicable, soiled, seeded, and landscaped in accordance with the revised updated Landscape Masterplan. This work shall be completed before any of the dwellings are made available for occupation and such areas shall be maintained as public open space by the developer until taken in charge by the planning authority.

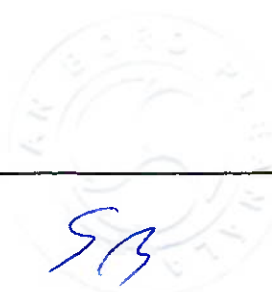
Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

12. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

13. All boundary walls within the scheme and at interfaces with adjacent third party properties shall be rendered on both sides and suitably capped.

Reason: In the interest of residential and visual amenity.



14. 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.

15. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreements with Uisce Éireann.

Reason: In the interest of public health.

16. 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:

- (a) location of the site and materials compounds including areas 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, and
- (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 available 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.

17. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details

shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

18. 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 names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the names of the development, shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

Reason: In the interest of urban legibility.

19. All parking spaces 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.

20. 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. All car parking within the development shall be allocated to specific houses.

Reason: In the interest of good traffic management.

21. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

22. 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. 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.

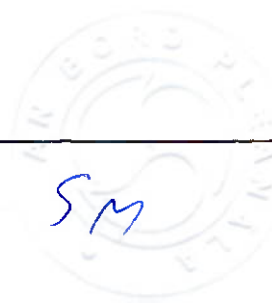
23. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

24. 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 the commencement of development.

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

25. (a) 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 pursuant to Section 47 of the Planning and Development Act 2000, that restricts any such residential units permitted (the number and location of each housing unit being specified in such agreement), pursuant to Section 47 of the Planning and Development Act 2000, 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.
- (b) An agreement pursuant to Section 47 of the Planning and Development Act, 2000, as amended, shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in accordance with paragraph (b) shall be subject to receipt by the planning authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.



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.

26. 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.

27. 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.

28. 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.



Stephen Brophy

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

Dated this 23rd day of November 2023.