

Planning and Development Acts 2000 to 2022

Planning Authority: Galway County Council

Planning Register Reference Number: 22/404

Appeal by TML Properties Limited of Unit 15, Park West Road, Park West Industrial Estate, Dublin against the decision made on the 13th day of October, 2022 by Galway County Council to refuse permission:

Proposed Development: 1. The construction of 27 number dwellinghouses comprising the following:- Block A - two-storey terrace comprising three number three-bed terraced units, Block A1 - three-storey block comprising two number three-bed terraced units, two number one-bed single-level units, two number duplex units, Block B - two-storey block comprising six number two-bed single level units, Block C - three-storey block comprising six number one-bed single level units, six number two-bed duplex units. 2. Provision of 49 number car parking spaces, including three number disabled spaces. 3. Provision of footpaths and pedestrian crossing. 4. The proposed development includes for all site development works, site landscaping and public service connections; all at Westport Road, Clifden, County Galway.

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 the -

- (a) "Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities" issued by the Department of the Housing, Local Government and Heritage issued in January, 2024
- (b) Quality Housing for Sustainable Communities: Best Practice Guidelines issued by the Department of the Environment, Heritage and Local Government,
- (c) Design Manual for Urban Roads and Streets,
- (d) Galway County Development Plan 2022 – 2028, and
- (e) Clifden Local Area Plan 2018 – 2024,

it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the residential zoning objective for the site, and would exhibit an appropriate density for the site within its context. This proposed development would afford an acceptable standard of amenity to future residents, and would not seriously injure the visual and residential amenities of the area. The proposed development would be acceptable in terms of traffic safety and convenience and proposed access arrangements would be satisfactory. The proposal would mitigate any biodiversity loss from the site. No outstanding water or appropriate assessment

issues would arise. The proposed development would, therefore, 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 European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application as part of the Natura impact statement and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development has the potential to have a significant effect on the Twelve Pins/Guaran Complex Special Area of Conservation (site code: 002031) in view of the site's conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is, therefore, required.

Appropriate Assessment

The Board considered the Natura impact statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites in view of the conservation objectives for the Twelve Pins/Gaurav Complex Special Area of Conservation (Site Code: 002031). The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the assessment, the Board considered, in particular, the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects, the mitigation measures which are included as part of the current proposal and the conservation objectives for the European Site. In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment

carried out in the Inspector's report of the potential effects of the proposed development on the aforementioned European Site, having regard to the sites' conservation objectives. In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of this European Site in view of the site's conservation objectives.

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 submitted to the planning authority on the 1st day of July, 2022 and the 20th day of September, 2022 and by the further plans and particulars received by An Bord Pleanála on the 9th day of November, 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. The proposed development shall be amended as follows:
 - (a) the proposed 36 number cycle spaces shall be increased to 40 number cycle spaces and these spaces shall be provided in covered accommodation,
 - (b) proposed car parking spaces denoted as number 31 and numbers 43 – 46 (inclusive) shall be omitted. The former space shall be incorporated into the paved area for pedestrians and the latter spaces shall be used in conjunction with any regrouping of cycle

spaces that may be needed to ensure that 40 no. covered cycle spaces are provided.

Revised drawings 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 the amenities of future residents, the avoidance of excessive car parking spaces, and the provision of an adequate number and a satisfactory specification of cycle parking spaces.

3. 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.

4. Details of the materials, colours and textures of all the external finishes to the proposed residential blocks and the hard surfaces comprised in the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

6. Prior to commencement of development, the invasive species, the Giant Rhubarb, shall be eradicated from the site. Written confirmation of such eradication shall be submitted to the planning authority by a recognised expert in the field.

Reason: In order to safeguard biodiversity in the interest of environmental protection.

7. Storm water drainage arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. Street lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

9. 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.

10. 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.

11. Proposals for an estate/street name, dwelling numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. 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. The landscape masterplan, shown on drawing number DWG.01 revision E and accompanied by a commentary in the document entitled "Landscape Masterplan, Design Rationale & Specification of the Landscape" dated March 2022, 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.

13. The management and maintenance of the proposed development comprising the public open space, and on-site access and drainage arrangements, following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event that the open space, access and drainage arrangements are 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.

14. 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 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 prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (f) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (g) 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;
- (h) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (i) 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.

Reason: In the interest of amenities, public health and safety.

15. Prior to the commencement of development, a construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of good traffic management and road safety.

16. 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.

17. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of sustainable transportation.

18. 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 residential amenities of property in the vicinity.

19. Prior to the commencement of 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 residential unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential 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.

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.

20. Stage 3 and 4 Road Safety Audits shall be undertaken of the proposed access arrangements to the site. Any recommendations shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of road safety.

21. Prior to the commencement of occupation of any of the residential units, the realignment of St. Anne's Road adjoining the site shall be completed, along with the proposed addition of footpaths on the northern side of the carriageway to Westport Road within the vicinity of the site.

Reason: In the interest of road safety and in order to improve pedestrian access to the site from the outset of the use of the new development.

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 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.

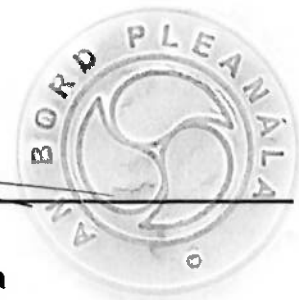
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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.


Liam Bergin

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



Dated this 06th day of February 2024.