

An
Bord
Pleanála

Board Order ABP-316109-23

Planning and Development Acts 2000 to 2022

Planning Authority: Galway County Council

Planning Register Reference Number: 22/61303

Appeal by RHOC Athenry Limited care of Planning Consultancy Services of Suite 3, Third Floor, Ross House, Victoria Place, Eyre Square, Galway against the decision made on the 24th day of February, 2023 by Galway County Council to refuse permission.

Proposed Development: Demolition of two number single-storey dwellings and associated structures along with removal of existing partly demolished house and rubble. Construction of a mixed-use office, enterprise and residential development within four number building blocks. Building number 1 will consist of a three-storey duplex building to accommodate two number home office/start-up units and four number one-bed apartments on the ground floor, and six number two-bed apartments on the first and second floor. Building number 2 will consist of a three-storey duplex building to accommodate two number home office/start-up units and six number one-bed apartments on the ground floor, and eight number two-bed apartment units on the first and second floor. Building number 3 will consist of a single storey building to accommodate incubator/start-up offices. Building number 4 will consist of a three-storey duplex building to accommodate a ground floor Enterprise Centre and eight number two-bed apartments on the first and second floor. Provision of a new vehicular and pedestrian access from the Caheroyan Road.

Provision of an ESB substation. Provision of carparking, including a number of dedicated electrical charge spaces and ducting to all spaces for future charging points. Provision of public and private open spaces, bicycle parking, bin storage, site landscaping, play spaces and public lighting. Provision of landscaping and riverside amenity area and associated drainage swales. Connection to existing services, revised boundary treatments, footpath connections, signage locations and all associated site development works, all at Caherroyn, Athenry, County Galway.

Decision

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

Reasons and Considerations

Having regard to the Galway County Development Plan 2022-2028, as well as 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 not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic and pedestrian safety and visual amenity, and would constitute an acceptable form of residential and commercial development on this serviced urban site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Galway Bay Complex Special Area of Conservation (Site Code: 000268) and the 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 in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on the Galway Bay Complex Special Area of Conservation (Site Code: 000268) and the Inner Galway Bay Special Protection Area (Site Code: 004031) in view of the sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

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 European Sites.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

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 An Bord Pleanála on the 22nd day of March 2023, 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. The proposed development shall be amended in accordance with the drawings numbered 3300, 3301 and 3303 received by An Bord Pleanála on the 22nd day of March, 2023 which provide for a gradual step-up in height at Building 02 and which amend upper floor unit numbers 17-20 within Building 02 from four number two-bed duplexes to four number one-bed duplex units. Revised plans and particulars setting out this amendment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to define the development.

3. All mitigation and monitoring commitments identified in the Natura Impact Statement and other particulars submitted with the planning application, and as amended by the further plans and particulars received by the planning authority on the 16th day of February, 2023, shall be implemented in full as part of the proposed development, except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the proposed development.

4. 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 and surface water management.

5. The developer shall enter into water and wastewater connection agreements with Uisce Éireann prior to commencement of development.

Reason: In the interest of public health.

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

Reason: In the interest of visual amenity.

7. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the proposed development and, where required, revised plans and particulars demonstrating compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:
- (a) The details and the extent of all road markings and signage requirements on surrounding roads shall be submitted to the planning authority for written agreement prior to commencement of development.
 - (b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
 - (c) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings and car parking bays shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the planning authority for such road works.
 - (d) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.
 - (e) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and shall submit this to the planning authority for agreement and shall carry out and cover all costs of all agreed recommendations contained in the audit.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In the interest of traffic, cyclist and pedestrian safety and sustainable travel.

8. All roads and footpaths shown connecting to adjoining lands shall be constructed up to the boundaries with no ransom strips remaining 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.

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

9. The site shall be landscaped (and earthworks carried out) in accordance with a detailed scheme of landscaping, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

The scheme shall include provisions for hard and soft landscaping within the site, boundary treatments and shall include measures for the protection of trees within and adjoining the site.

Reason: In order to ensure the satisfactory completion of the development.

10. Proposals for an estate/street name, apartment 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 apartment numbers shall be provided in accordance with the agreed scheme. 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 and to ensure the use of locally appropriate place names for new residential areas.

11. 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 installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

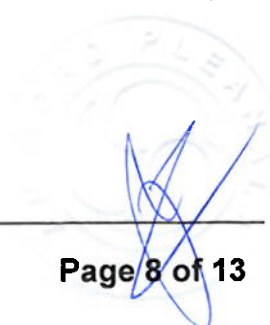
Reason: In the interest of amenity and public safety.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained on the site. 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.

13. A plan containing details for the management of waste within the proposed 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.



14. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a properly constituted Owners' 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. Membership of this company shall be compulsory for all purchasers of property in the apartment blocks. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit. The Management Company shall include and manage the Community Building for the benefit of the residents of the apartments or the wider community as determined by the planning authority.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

15. Prior to commencement of development, the developer 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 file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to 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.

16. The construction of the proposed development shall be managed in accordance with a Construction and Traffic 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) The location of the site and materials compounds, including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction.
 - (b) 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; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
 - (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
 - (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to the guidance on the protection of fisheries during construction works prepared by Inland Fisheries Ireland.

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.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays, inclusive, 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 residential amenities of property in the vicinity.

18. Prior to the commencement of any 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 (such agreement must specify the number and location of each duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all 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.

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.

19. Prior to commencement of development, the applicant or any 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.

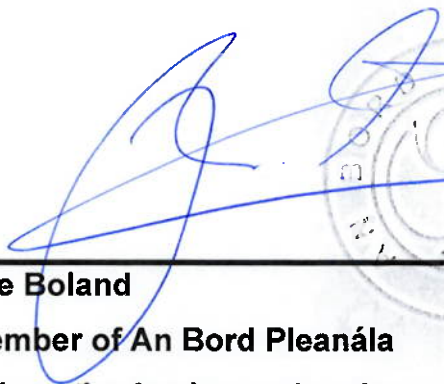
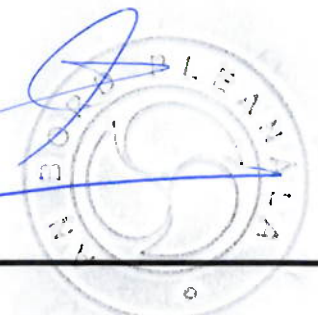
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

20. 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 planning authority of roads, footpaths, watermains, drains, public 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 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.

21. 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.

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

Dated this 11TH day of April 2024.