



An
Bord
Pleanála

Board Order
ABP-316265-23

Planning and Development Acts 2000 to 2022

Planning Authority: Galway County Council

Planning Register Reference Number: 2360031

Appeal by BRTW Oranmore 2 Limited care of MKO of Tuam Road, Galway against the decision made on the 14th day of March, 2023 by Galway County Council to refuse permission for the proposed development.

Proposed Development: (i) Construction of 70 number residential units comprising of: a. 40 number dwellings (three number two bedroom, 27 number three bedroom, 10 number four bedroom units) b. 30 number apartment units (10 number one bedroom, 15 number two bedroom units, and five number three bedroom units), (ii) Provision of an on-site Wastewater Pump Station, (iii) Provision of car and bicycle parking, and vehicular and pedestrian access on site, (iv) Provision of public open space, shared communal and private open space, site landscaping, public lighting, bin stores, and site services, (v) All ancillary and associated site development works all on a site of 1.94 hectares in the townland of Oranhill, Oranmore, 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 location of the site within the existing built up area of Oranmore on zoned and serviced lands, the provisions of the Galway County Development Plan 2022-2028 and the Oranmore Metropolitan Settlement Plan 2022-2028, the pattern of development in the area, and the nature, design and scale of the proposed development including the public space, it is considered that, subject to compliance with the conditions set out below, the proposed development would not materially contravene the current development plan for the area, would be consistent with the Core and Settlement Strategies of the development plan, would be appropriate in terms of density, would not result in the creation of a traffic hazard and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that, in the absence of mitigation measures to prevent construction related pollutants reaching Galway Bay, the proposed development might have a significant effect on four European Sites, Cregganna Marsh Special Protection Area (Site code: 004142), the Rahasane Turlough Special Protection Area (Site code: 004089), the Galway Bay Complex Special Area of Conservation (Site code: 000268), and the Inner Galway Bay Special Protection Area (Site code: 004031). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of the European sites in light of their conservation objectives.

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 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 available scientific knowledge in the field.

The Board was satisfied the proposed development would not adversely affect the integrity of the Cregganna Marsh Special Protection Area (Site code: 004142), the Rahasane Turlough Special Protection Area (Site code: 004089), the Galway Bay Complex Special Area of Conservation (Site code: 000268), nor the Inner Galway Bay Special Protection Area (Site code: 004031), or any other European site, in view of the site's Conservation Objectives. This conclusion has been based on a complete assessment of all implications of the project alone, and in combination with plans and projects.

In completing the assessment the Board considered, in particular, the following:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of the aforementioned designated sites.
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Cregganna Marsh Special Protection Area (Site code: 004142), the Rahasane Turlough Special Protection Area (Site code: 004089), the Galway Bay Complex Special Area of Conservation (Site code: 000268), nor the Inner Galway Bay Special Protection Area (Site code: 004031). This is based upon the updated and revised documentation that was required by the NPWS and duly submitted with this appeal.

In completing the AA, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications 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 would not adversely affect the integrity of European sites in view of the sites' Conservation Objective and there is no reasonable scientific doubt as to the absence of such effects.

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 plans and particulars received by An Bord Pleanála on the 11th day of April, 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 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 rear laneway that serves plot 30 shall be closed off and the space to be incorporated into the rear and side garden areas of plots 31 and 32. The rear garden of plot 30 shall be accessed from a laneway to the rear of plot 29 and gardens shall be adjusted accordingly.
 - (b) A revised boundary treatment that is secure and provides visual screening along the extent of the apartment block at its interface with the public road (N67) shall be prepared.

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 visual and residential amenity.

3. The pedestrian path connecting the site to Coill Clocha and Cnoc an Chaisleain, shall be completed to the satisfaction of the planning authority and shall be available for public use, prior to the first occupation of any of the proposed residential units.

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

4. All of the mitigation measures cited in Section 6 of the Natura Impact Statement received by An Bord Pleanála on the 11th day of April 2023 and Section 7.5.1 of the Preliminary Construction Environmental Management Plan received by the planning authority on the 20th day of January, 2023, shall be implemented in full.

Reason: In the interest of the natural heritage of the area and protecting the environment.

5. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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 operation (including hydrological and geotechnical investigations) relating to the proposed development, and
 - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

6. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, 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 unit.

Reason: In the interests of amenity and public safety.

7. Proposals for an estate/street name, house/apartment numbering scheme and public space naming scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and dwelling numbers, shall be provided in accordance with the agreed scheme. 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.

8. 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.

9. 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.

10. (a) The site shall be landscaped and paving and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted to the planning authority on the 20th day of January, 2023, unless otherwise agreed in writing with, the planning authority prior to commencement of development.
- (b) The palette of materials to be used, including street furniture, paving to be used in public spaces, and measures for the protection of trees and hedgerows within and adjoining the site shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of residential and visual amenity.

11. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the 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 approval prior to the 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) Cycle tracks within the development shall be in accordance with the guidance provided in the National Cycle Manual.
- (e) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.
- (f) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.
- (g) Prior to the occupation of units within the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for information to encourage the use of public transport, cycling, and walking by residents. The mobility strategy shall be prepared and implemented by the management company for all units within the proposed development.

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

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

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development, in the interest of residential amenity.

13. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park areas shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

14. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

15. (a) 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 and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted to and agreed in writing with the planning authority.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

16. The construction of the development shall be managed in accordance with a Construction and Environmental 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 on-site car parking facilities for site workers during construction;
 - (e) 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;
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) 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;
 - (i) Details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels;

- (j) 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;
- (k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants/contaminants enter local surface water sewers or drains;
- (l) 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;
- (m) Measures to fully remediate the site in accordance with a Construction Stage Invasive Plant Species Management plan, in advance of the commencement of construction activities.

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

17. A suitably qualified/experienced Ecologist shall be appointed in the role of Ecological Clerk of Works, who shall be responsible for the implementation, management and monitoring of the identified construction mitigation measures, and the Construction and Environmental Management Plan.

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

18. Site development and building works shall be carried out only between the hours of 0700 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. 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 interests of visual and residential amenity.

20. 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.

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 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 (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, 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.

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.

23. 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.

24. 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.



Mick Long

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

Dated this 24th day of May 2024