



An  
Bord  
Pleanála

Board Order  
ABP-318465-23

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Galway City Council**

**Planning Register Reference Number: 23/129**

**Appeal** by Cairn Homes Properties Limited care of MKO Planning and Environmental Consultants of Tuam Road, Galway against the decision made on the 19<sup>th</sup> day of October, 2023 by Galway City Council to refuse permission.

**Proposed Development:** (1) Demolition of a small lean-to stone shed structure. (2) Construction of 148 number residential units comprising: (i) 93 number houses (four number two-bed units, 81 number three-bed units, and eight number four-bed units); (ii) 20 number duplex units (10 number two-bed ground floor units and 10 number three-bed upper floor units); (iii) 35 number apartment units (19 number one-bed units and 16 number two-bed units). (3) Provision of shared communal and private open space, an Active Travel pedestrian and cycle path, car and bicycle parking, site landscaping and public lighting, site services, vehicular and pedestrian access with Letteragh Road and pedestrian and cycle access with Bóthar Dhiarmuida and all associated site development works. (4) Erection of a gabion retaining wall faced with local limestone with additional 1.2-metre-high estate railing along parts of the western boundary of the site to be constructed in the event the subject site is developed prior to the proposed N6 Galway City Ring Road

Strategic Infrastructure Development (An Bord Pleanála reference: PL07.302885-18). (5) Temporary permission for a period of three years for the erection of marketing signage on the site, all at a site South of the Letteragh Road (L1323), Ragoon, Letteragh, Galway. The proposed development was revised by further public notices received by the planning authority on the 25<sup>th</sup> day of September 2023.

## **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**

The Board had regard to the following:

- (a) the policies and objectives of the Galway City Development Plan 2023-2029,
- (b) the nature, scale and design of the proposed development and the availability in the area of infrastructure,
- (c) the pattern of existing and permitted development in the area,
- (d) the provisions of Housing for All – A New Housing Plan for Ireland 2021,
- (e) the policies and objectives set out in the National Planning Framework,
- (f) the Climate Action Plan 2023,

- (g) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024),
- (h) the Department of Environment, Climate and Local Government Spatial Planning and National Roads Guidelines for Planning Authorities (2012),
- (i) the Design Manual for Urban Roads and Streets (DMURS), 2019,
- (j) the Planning System and Flood Risk Management (including the associated Technical Appendices) (2009),
- (k) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (the 'Apartment Guidelines'),
- (l) the Childcare Facilities – Guidelines for Planning Authorities (2001),
- (m) the Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999,
- (n) the Urban Development and Building Heights – Guidelines for Planning Authorities, 2018,
- (o) the Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018 (updated 2019),
- (p) the Environmental Protection Agency Guidelines on the Information to be contained in Environmental Impact Assessment Reports 2022,
- (q) the grounds of the appeal,
- (r) the submissions on file,
- (s) the report of the planning authority, and
- (t) the report of the Planning Inspector,



and considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the totality of the file. The Board noted the planning authority considered it appropriate to provide the vehicular access onto Letteragh Road and, that the applicant proposed cycle and pedestrian routes connecting the development to Diarmuid Road linking the development with, adjoining residential development, the bus corridor on Ragoon Road and employment lands.

The Board considered it appropriate to include a condition requiring the permeable route, specifically the route that runs parallel to the western boundary of the site and shown on drawing reference numbers 1520-OMP-00-ST-DR-A-1101 and 1520-OMP-00-ST-DR-A-1102 to be in place prior to the occupation of any of the residential units and evidence of same to be submitted to the planning authority for written agreement.

The Board considered that Letteragh Road is in transition, with significant works being conducted as part of development occurring further east along the road. The Board noted that the proposed development provides a set back and paths that align with the adjoining development to the east. The Board also noted the upgrade of the road is an objective of the development plan and is provided for in the list of projects in the Galway City Development Contribution Scheme 2020.

The Board noted that the route to the west of the proposed development, along Letteragh Road, is currently rural in character and leads away from the city. Pedestrian infrastructure beyond the site frontage would not contribute to creating a 15-minute city for the future residents of the scheme. The scheme



as proposed provides for footpaths to be continued as development progresses on adjoining lands.

On balance the Board considered that the proposed development accorded with Section 4.2 of the Galway City Development Plan 2023-2029, increasing the network of permeable routes and creating cycle and pedestrian linkages to public transport.

The Board noted that Transport Infrastructure Ireland's submission received on the 25<sup>th</sup> day of September, 2023, which states that "DN-STR-03012 does not permit the use of gabion structures". In their appeal the applicant has revised the boundary treatment replacing the gabion structure with a crib wall. The Board considered this response addressed the issue raised by Transport Infrastructure Ireland and recommend the details of this boundary treatment shall be agreed with the planning authority prior to commencement of development.

The Board considered that the revised layout of the ground floor of the Duplex Units submitted at further information stage is acceptable, because; the second access to the ground floor unit animates and provides a level of surveillance to the cycle and pedestrian route and, it provides direct access for the residents of the units to the rear amenity space.

The Board considered the option to provide a creche in lieu of two apartments that was submitted with the further information to the planning authority on the 5<sup>th</sup> day of September, 2023, and concurred with the Inspector that the creche should be provided in accordance with the details submitted.

The Board noted the planning authority's concerns regarding the narrow linear nature of the proposed open space provision. The Board concurred with the Inspector that having regard to the constraints on the site, the use of the open space to provide connectivity to adjoining areas, the revisions made to the



duplex units, the positioning of the apartments at further information stage, and the provision of a substantial area of open space in the centre of the scheme that the open space is useable, functional, safe, convenient and accessible and therefore accords with the development plan. The Board noted that the terms communal and public open space were used interchangeably in the documents submitted. The Board considered that drawing reference number 1520-omp-00-ST-DR-A-1107, titled public open space plan, provided clarity regarding the distinction between both categories of open space and confirmed that the area of open space being provided accorded with the Development Plan and Planning Guidelines requirements.

### **Appropriate Assessment Screening**

The Board considered the information on the file, and concluded that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any European site, and notwithstanding the applicant submission of a Natura Impact Statement, a Stage 2 Appropriate Assessment is not therefore required.

### **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 5<sup>th</sup> day of September 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. Prior to the commencement of development, the developer shall submit the following details, for the written agreement of the planning authority:

- (a) The design of the retaining wall and other detailed shared boundary design elements that interface with the proposed alignment of the N6. The details shall include the replacement of the proposed Gabion Structure with a structure that accords with the Transport Infrastructure Ireland publication, Design for Durability (DN-STR-03012).
- (b) The alignment of the footpath and cycle path along the western boundary of the site, with diversion in line with the details submitted on appeal (removing the encroachment from within the Compulsory Purchase Order boundary, see Figure 2.3 of DBFL, Technical note Ragoon -230190-DBFL-TR-XX-TN-D-001, received with appeal on the 15<sup>th</sup> day of November, 2023) unless otherwise agreed with the planning authority.

**Reason:** To ensure the development does not impinge on the proposed alignment of the N6.

3. The proposed creche, details as submitted at further information stage, shall be provided in lieu of two ground floor apartments. This childcare facility shall not operate outside the period of 0800 to 1900 hours Monday to Friday inclusive except public holidays, and shall not operate on Saturdays, Sundays, or public holidays.

**Reason:** In the interest of residential amenity.



4. The footpath and cycle path along the western boundary of the site linking the development to Diarmuid Road (from the entrance to the site at Letteragh Road to Diarmuid Road) shall be completed, and available for the use of future residents, prior to the occupation of any residential unit. Evidence of this shall be submitted to the planning authority for their written agreement prior the occupation of any unit.

**Reason:** In the interest of providing cycle and pedestrian routes that will encourage sustainable mobility.

5. All potential future pedestrian and cyclist linkages identified on drawing reference numbers 1520-OMP-00-ST-DR-A-1101 and 1520-OMP-00-ST-DR-A-1102, shown to adjoining lands, shall be constructed up to the boundaries with no barriers to providing access to adjoining lands.

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

6. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

7. The permitted development shall be landscaped, and boundary treatments provided in accordance with a detailed comprehensive scheme of landscaping and boundary treatments, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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, 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 interests of residential and visual amenity.

8. Prior to the commencement of development, a drawing indicating the areas proposed to be taken in charge shall be submitted to the planning authority for written agreement. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's taking in charge policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction.

9. 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 operation (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.

10. 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 interests of public health and surface water management.

11. 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.

12. 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.

13. Details of the materials, colours, and textures of all the external finishes to the proposed building shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interest of visual amenity.

14. A plan containing details for the management of waste 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 house/apartment and non-residential 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.

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

15. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal 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.

**Reason:** In the interests of amenity and public safety.

16. Proposals for an estate/street name, house/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 house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

17. Prior to commencement of development, the developer 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.

18. 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 Environmental Protection Agency'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.

19. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

20. A minimum of 10% of all car parking spaces serving the apartments shall 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 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.

22. Prior to the commencement of any house or duplex unit in the development as permitted, the developer 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, that is, 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, (including access roads that have yet to be taken in charge) 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 (including access roads that have yet to be taken in charge). 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

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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.



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**Mary Henchy**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this *11<sup>th</sup>* day of *March* 2024.