

An  
Bord  
Pleanála

Board Order  
ABP-318687-23

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Galway City Council**

**Planning Register Reference Number: 23/3**

**Appeal** by Glenveagh Living Limited care of MKO of Tuam Road, Galway against the decision made on the 15<sup>th</sup> day of November, 2023 by Galway City Council to refuse permission for the proposed development.

**Proposed Development:** A large scale residential development which consists of: (1) provision of 227 number residential apartments in seven number blocks comprising the following: (a) Block A1: 14 number one bed apartments and 24 number two bed apartments in a block ranging between three and five storeys in height; (b) Block A2: 25 number one bed apartments and 15 number two bed apartments in a block ranging between 1.5 and five stories in height; (c) Block B1: three number one bed apartments, 18 number two bed apartments and three number three bed apartments in a block ranging between three and four storeys in height; (d) Block B2: 13 number one bed apartments and 21 number two bed apartments in a block ranging between three and five storeys in height; (e) Block B3: five number one bed apartments, 22 number two bed apartments and one number one bed apartment in a block ranging between three and five storeys in height; (f) Block B4: 11 number one bed apartments and 26 number two bed apartments

in a block ranging between three and five storeys in height; (g) Block B5: 13 number one bed apartments and 13 number two bed apartments in a block ranging between three and four storeys in height; (2) Provision of 1,009.5 square metres of ground floor commercial units as follows: (i) Unit A101: 411.7 square metres; (ii) Unit A102: 138.2 square metres; (iii) Unit B201: 99.7 square metres; (iv) Unit B202: 133.9 square metres; (v) Unit B301: 226.2 square metres; (3) Provision of a community facility (117.8 square metres); (4) Provision of tenant amenity facilities (99.4 square metres); (5) Provision of a childcare facility (335.5 square metres) as well as an external secure play area (225.8 square metres); (6) Provision of 49 number surface car parking spaces including EV charging spaces; (7) Provision of bicycle parking comprising 114 number short stay and 436 number long stay spaces; (8) Provision of realigned road between Gort na Bró and Gateway Retail Park Road; (9) Change of use of existing underground void to 181 bay underground car park; (10) Provision of shared communal and private open spaces, bin storage, public lighting, site landscaping, services, signage, substation and all associated site development works required to accommodate the proposed development, all at Gort na Bró, Ragoon, Galway. The proposed development was revised by further public notices received by the planning authority on the 22nd 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

In coming to its decision, the Board had regard to the following:

- (a) the location of the site in the established urban area of Galway,
- (b) the policies and objectives of the Galway City Development Plan 2023-2029,
- (c) the provisions of Housing for All, A New Housing Plan for Ireland (2021),
- (d) the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (2024),
- (e) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023),
- (f) the Urban Development and Building Heights, Guidelines for Planning Authorities (2018),
- (g) the Design Manual for Urban Roads and Streets (DMURS) (2013),
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices) (2009),
- (i) the provisions of the Climate Action Plan 2023,
- (j) the policies and objectives set out in the National Planning Framework,
- (k) the policies and objectives of the Regional and Spatial Economic Strategy for the Northern and Western Regional Assembly,

- (l) the Environmental Impact Assessment Report submitted with the application,
- (m) the nature, scale and design of the proposed development (as amended),
- (n) the availability in the area of a wide range of social, community, transport and water services infrastructure,
- (o) the pattern of existing and permitted development in the area,
- (p) the planning history within the area,
- (q) the submissions and observations received, and
- (r) the report of the Inspector.

### **Appropriate Assessment**

#### **Appropriate Assessment: Stage 1**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application, the Inspector's Report, and submissions on file.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that European Sites Galway Bay Complex Special Area of Conservation (Site Code: 000268) and Inner Galway Bay Special Protection Area (Site Code: 004031) were the only European Sites in respect

of which the proposed development has the potential to have significant effects.

## **Appropriate Assessment-Stage 2**

The Board considered the Natura Impact Statement (as updated) and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment.

The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely Galway Bay Complex Special Area of Conservation (Site Code: 000268) and 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 adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

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

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, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

#### **Environmental Impact Assessment (EIA):**

The Board completed an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale, location and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application,
- (c) the submissions from the planning authority, the observers and the prescribed bodies in the course of the application, and
- (d) the Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development, and adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board completed an Environmental Impact Assessment in relation to the proposed development and, in doing so, agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report, associated documentation submitted by the applicant, and submissions made in the course of the planning application, and adopted the Inspector's assessment in this regard.

### **Reasoned Conclusions on the Significant Effects**

The Board considered and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- (a) A positive impact with regard to population and material assets due to the increase in housing stock and retail facilities that would be made available in Galway.
- (b) Traffic and Transport: Potential for moderate short-term negative impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area in the operational phase and any potential impact will be mitigated by way of design and implementation of a Mobility Management Strategy for the development.
- (c) Potential negative effects arising from noise and air during the construction and operational phases, which will be short term in nature and will be mitigated by appropriate construction management and design measures outlined in the relevant section of the Environmental Impact Assessment Report. Operational effects will be longer term but will be mitigated through design and operational practices and are not considered to be significant.



- (d) Visual Impacts: There will be changed views from various locations given the change from a largely greenfield site to a residential and commercial development. The lands are zoned for development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists in the immediate and wider area. The potential impact will be positive.
- (e) Potential indirect impacts on water during the construction and operational phase, which will be mitigated by construction management measures and implementation of sustainable drainage system measures.

**Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be consistent with national, regional and local planning policy, would be acceptable in terms of urban design, scale, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, 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 submitted to the planning authority on the 23<sup>rd</sup> day of August, 2023 and by the further plans and particulars received by An Bord Pleanála on the 12<sup>th</sup> day of December 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including Chapter 16 of the Environmental Impact Assessment Report, 'Schedule of Mitigation' submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

3. The development shall be carried out in accordance with a phasing scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. This scheme shall provide for the completion of upgrade works to cycle and pedestrian facilities on Gort na Bro Road in tandem with the occupation of the development.

**Reason:** To ensure the timely provision of services and facilities, for the benefit of the occupants of the proposed dwellings and the satisfactory completion of the overall development.

4. Details of the following shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:
  - (a) The childcare facility capacity provision, internal and external layout and hours of operation.
  - (b) Details, including samples, of the materials, colours and textures of all the external finishes to the proposed buildings.
  - (c) The specifications and finishes of the landscaping elements, paving, ducting, lighting, in addition to the general positioning of benches/bicycle racks, and all other public realm finishes, relating to the Civic Plaza.
  - (d) Landscaping, planting, boundary and surface treatments which shall generally conform to the landscaping scheme submitted with the application. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and shall be maintained and/or replaced thereafter.
  - (e) Waste management storage, screening, planting and boundary detailing to service the retail units, with particular attention to the interaction with the public realm adjoining units to the rear of Blocks D and E.

- (f) Details for the provision of 24-hour access to all areas of the public realm and basement level car and cycle parking areas.
- (g) Details of all signage and shopfronts associated with the development, including the crèche.
- (h) No freestanding signage for the Gateway Retail Park shall be permitted as part of this permission.
- (i) Public art for the proposed development.
- (j) Full details of wayfinding through the site including details of access to lifts.

**Reason:** In the interests of visual amenities, permeability, connectivity and good urban design.

5. Commercial units shall not be amalgamated or subdivided, unless authorised by a further grant of planning permission. No external security shutters shall be erected for any of the commercial premises (other than at services access points) unless authorised by a further grant of planning permission. Details of all internal shutters shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** To prevent unauthorised development.

6. Except for details relating to the retail and commercial units covered by condition number 4 above, no advertisement or advertisement structure shall be erected or displayed on the buildings (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

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

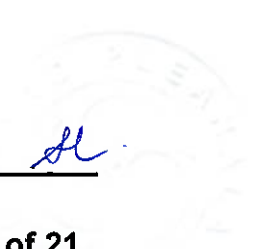
7. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
- (a) The roads and traffic arrangements serving the site (including sightlines, footpath connections and 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.
    - (i) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths, corner radii and pedestrian crossings.
    - (ii) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
    - (iii) A Mobility Management Plan shall be prepared and submitted to the planning authority for approval prior to commencement of development.



- (iv) The developer shall carry out a Stage 2 Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit), which shall be submitted to the planning authority for its written agreement. The developer shall carry out all agreed recommendations contained in the audits, at the developer's expense.
  
- (b) Within six months of substantial completion of the development, a Stage 3 Quality Audit (including Road Safety Audit, Access Audit, Cycle Audit and Walking Audit) of the constructed development shall be submitted to the planning authority for approval.
  
- (c) All car parking spaces shall be provided with electric vehicle charging points. Details of how it is proposed to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
  
- (d) Clearly designated spaces for car share use shall be provided.
  
- (e) A detailed Construction Traffic Management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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



8. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

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

9. No additional development shall take place above roof parapet level of the apartment buildings, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area, and to allow the planning authority to assess the impact of any such development through the planning process.

10. 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.

11. Proposals for a development name and numbering 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 unit/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.

12. The developer shall enter into water and waste water connection agreements with Uisce Eireann, prior to commencement of development.

**Reason:** In the interest of public health.

13. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interests of public health and surface water management.

14. 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 amenity of property in the vicinity.

15. Prior to commencement of development, the developer shall submit and obtain the written agreement of the planning authority, 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 for the ongoing operation of these facilities.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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. Details of the Invasive Species Management Plan for this site shall be incorporated within this plan 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. 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.

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

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

19. A minimum of 10% of all car parking spaces serving the apartments and duplex units 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.

20. (a) All the environmental, construction and ecological mitigation measures, as set out in the Natura Impact Statement and associated documentation submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.
- (b) The developer shall retain the services of a recognised and suitably qualified ecologist to oversee the construction of the subject development and advice on the specified measures as set out in the application. The developer shall confirm the name of the ecologist prior to commencement of subject development for the written agreement of the planning authority.

- (c) The developer shall provide bat boxes as required, ensuring that bat roosting nests are provided along tree lines around the subject site so as to prevent loss or reduction of existing habitats for commuting bats.

**Reason:** To avoid any potential harmful effects to the Natura Network and to ensure environmental sustainability of the subject site.

21. 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.

22. (a) 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 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) All ground reduction shall be subject to a programme of archaeological monitoring, under licence, by a suitably qualified archaeologist.

- (c) Where archaeological material is shown to be present, avoidance, preservation in situ, or preservation by record may be required. Works may be halted pending receipt of advice from the National Monuments Service, Department of Housing, Local Government and Heritage who will advise the applicant / developer with regard to these matters.
- (d) On completion of monitoring of ground reduction and any archaeological excavations arising, the archaeologist shall submit a written report to the planning authority and to the Department of Housing, Local Government and Heritage for consideration.

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

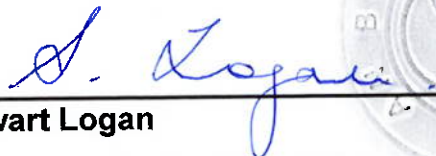
23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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 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.



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**Stewart Logan**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

Dated this 10<sup>th</sup> day of April 2024.