



An  
Bord  
Pleanála

## Board Order ABP-319509-24

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### Planning and Development Acts 2000 to 2022

**Planning Authority: Galway County Council**

**Planning Register Reference Number: 24/60081**

**Appeal** by David and Sally Jordan care of Enviroplan Consulting Limited of Suite 3, Third Floor, Ross House, Victoria Place, Eyre Square, Galway against the decision made on the 19<sup>th</sup> day of March, 2024 by Galway County Council to refuse permission.

**Proposed Development:** Construction of 14 number residential units in one number two-and-a-half-storey block, comprising of five number one-bed ground floor own-door apartments, two number two-bed ground floor own-door apartments, with three number two-bed own-door duplex units and four number three-bed own-door duplex units over. Connection to exiting public mains water supply and public sewer, together with on-site surface water drainage. Provision of public and private open spaces, bin storage, bicycle parking and site landscaping and provision for pedestrian and vehicular connection onto Bog Road, car parking (including provision for EV spaces), site signage, boundary treatments together with all associated site works and services, all at Bog Road, Oranmore, County Galway, as revised by the further public notices received by An Bord Pleanála on the 16<sup>th</sup> day of August, 2024 which gave notification of the submission of a revised Natura Impact Statement.

## **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**

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

- (a) the design, scale and layout of the proposed development,
- (b) the provisions of the Galway County Development Plan 2022-2028, and the Development Management Standards contained therein,
- (c) the zoning of the site as Existing Residential,
- (d) the Spatial Planning and National Roads Guidelines for Planning Authorities (2012),
- (e) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024),
- (f) the Sustainable Urban Housing Design: Standards for New Apartments Guidelines for Planning Authorities (2023),
- (g) the Galway County Council Noise Action Plan 2019-2023,
- (h) the submitted Natura Impact Statement,
- (i) the Appropriate Assessment conducted by the Board's Inspector, and
- (j) the report and recommendation of the Inspector.

Having regard to the above, it is considered that, subject to compliance with the conditions set out below, the proposed development can achieve unobstructed foul sewer access to the network, that adequate provisions have been made by way of setbacks to accommodate the proposed Galway to Athlone Cycleway, that the internal roadway would provide for sufficient manoeuvrability of vehicles, that the proposed development would be in accordance with Paragraph 2.7 of the Spatial Planning and National Roads Guidelines for Planning Authorities (2012) with respect to the adjacent intersection of Bog Road and the N67, that significant light spill to the N67 would not occur, that traffic and pedestrian safety would not be endangered, that the density and overall design of the proposed development would be appropriate to the location, that there would be no undue overlooking or overshadowing, that the communal open space would be of a good size and quality, that the 1.8-metre boundary wall and provision of triple glazing would mitigate road traffic noise impacting the residential amenity of future residents, and that the proposed development would not adversely affect, either individually or in combination with other plans or projects, the integrity of the Galway Bay Complex Special Area of Conservation (Site Code: 000268) and the Inner Galway Bay Special Protection Area (Site Code: 004031). The proposed development would, therefore, 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 determined, in accordance with Section 34(4)(a)(i) of the Planning and Development Act 2000, as amended, to permit the proposed development because the permissions/advice obtained from Galway County Council and Uisce Éireann confirmed the applicant's legal interest over and under the adjoining lands to make the required foul sewer connections.

### **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) the 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 the planning authority on the 26<sup>th</sup> day of January, 2024 and the (minor) revised plans received by An Bord Pleanála on the 15<sup>th</sup> day of April, 2024, 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 foul sewer connection to the existing manhole on the north-western side of the Carrowmoneash River, and the route of the proposed connection to Manhole 'EX.FS.M.H.1', shall be as depicted on the updated sewer layout drawing number 23109-107 Rev. A, as submitted with the planning appeal. Prior to commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and wastewater collection network.

**Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.

3. All of the windows in the proposed development facing Bog Road and the N67 shall be fitted with triple glazing.

**Reason:** In the interest of residential amenity for future residents.

4. All of the mitigation measures contained in Section 6 of the revised Natura Impact Statement submitted with the planning appeal shall be implemented in full.

**Reason:** To protect the integrity of European Sites.

5. 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 interest of visual and residential amenity.

6. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

**Reason:** To prevent flooding and in the interest of sustainable drainage.

7. If, during the course of site works, any archaeological material is discovered, the planning authority shall be notified immediately. In such an event, the National Monuments Service, Department of Housing, Heritage and Local Government, and the National Museum of Ireland shall also require notification in accordance with the National Monuments Act.

**Reason:** In the interest of preserving or preserving by record archaeological material likely to be damaged or destroyed in the course of development.

8. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the proposed development. 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.

9. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and 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.

10. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall include, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, 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, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interest of environmental protection, residential amenities, public health and safety and environmental protection.

11. The landscaping scheme shown on drawing number GF1298.DS2.300 Revision 0 shall be completed within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

12. Details of the materials, colours and textures of all the external finishes to the proposed buildings, structures and boundary walls 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 ensure an appropriate standard of development.

13. Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.



14. (a) Prior to commencement of the development, as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each duplex unit) pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified duplex unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified duplex units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified duplex unit.

**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. development.

15. 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 on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the planning authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of the development.

17. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transportation.

18. 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.

19. 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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Declan Moore

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

Dated this 17<sup>th</sup> day of APRIL 2025.