

An
Bord
Pleanála

Board Order ABP-320747-24

Planning and Development Acts 2000 to 2022

Planning Authority: Galway County Council

Planning Register Reference Number: 24/60733

Appeal by Marshall Yards Development Company Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 8th day of August, 2024 by Galway County Council to refuse permission for the proposed development.

Proposed Development: Permission for the following large-scale residential development (LRD) comprising the demolition of the existing shed and associated structures on site and the construction of 171 number residential units, one number creche and all associated development works including the provision of pedestrian/cyclist facilities along the R338 public road connecting to Oranmore Rail Station, one number ESB substation, one number pumping station, the undergrounding of the existing ESB lines traversing the site, footpaths, lighting, parking, drainage, bicycle and bin stores and landscaping/amenity areas. Access will be via a new entrance on the L-71051 to the east. all at Cartron and Garraun South (townlands), 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

In coming to its decision, consistent with the Climate Action Plan 2024, the Board had regard to the following:

- (i) the provisions and policies of the Galway County Development Plan 2022 - 2028,
- (ii) the zoning objective R – 'Residential Phase 1' with an objective 'To protect, provide and improve residential areas within the lifetime of this plan' of the development plan,
- (iii) the Galway County Development Plan 2022-2028, Garraun Urban Framework Plan,
- (iv) Housing for all issued by the Department of Housing, Local Government and Heritage, 2021, and Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (v) the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage, January 2024,
- (vi) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing and Planning and Local Government, December 2023,
- (vii) the National Biodiversity Action Plan 2023,
- (viii) the pattern of existing and permitted development in the area,
- (ix) submissions and observations received, and
- (x) the Inspectors Report.

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the policies and objectives of the Galway County Development Plan 2022-2028, in particular the Garraun Urban Framework Plan (UFP), the Core Strategy and zoning objective. The proposed development would not materially contravene the current development plan for the area, would not constitute a traffic hazard by reason of significant additional traffic or traffic movements, would be in accordance with the Urban design principles of placemaking set out in the Urban Framework Plan and 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 considered the totality of the file. The Board agreed with the Inspectors conclusion that the environmental information submitted at appeal stage addressed the deficiencies in the Natura Impact Statement submitted to the planning authority and reason 1 of the planning authority's refusal. Therefore the Board were able to conclude an Appropriate Assessment stage 2.

The Board noted that the lands are zoned phase 1 residential in the Galway County Development Plan 2022-2028 and that Garraun is identified as a growth area, a Metropolitan Area Settlement in the Core Strategy. The development plan includes an Urban Framework Plan for the settlement of Garraun, this sets out the vision and form for the growth of the metropolitan area settlement.

The Board noted that this is an area in transition from green field to a new settlement with a clear plan for the area's development as set out in the UFP. The core of the area adjoins the railway station and the site the subject of this application is at the edge of the Plan area. It is subject to medium density growth, with pedestrian and cycle linkages to the railway station, future schools, the commercial core and lands to the north of the railway being via the Coast Road the R388 and the L7105.

The Urban Framework Plan, Section 6.3 and 6.4, Public Transport and Movement and Access set out how the nature of the Coast Road is to change to accommodate future growth, providing for a local bus connection, and attractive routes for pedestrian and cyclists with a traffic management zone to assist in achieving this change in the role and function of the regional road. The plan states "The Coast Road will serve the existing and new residential areas south of the railway, as well as the station carpark. As Garraun is developed, through traffic between Galway and Oranmore will be diverted via the N67/R446, making the Coast Road an attractive and safe coastal amenity and connection for pedestrians and cyclists." (Section 6.4 Garrun Urban Framework Plan). The Urban Framework Plan provides a phasing for the zoned land but does not link that phasing to the delivery of infrastructure.

The Board did not consider the scheme as proposed contravened Policy ILUPT 1 of the Development Plan. The proposed development includes works to the public road, the works proposed include improved cycle and pedestrian access on the Coast Road improving access for sustainable modes to lands zoned for community uses and commercial core as well as the existing train station, and the application is accompanied by a letter of consent from Galway County Council to include the public road within the red line.

These works on the public road, while not integrated into the county cycle network that is yet to be finalised, do provide local access to lands zoned for services and facilities and to the train station. These works may be seen as interim works to improve the current situation until the longer-term strategic cycle network plan, that has been the subject of public consultation, is advanced. There is no evidence on file that the works proposed by the applicant to the public road would prejudice any future plans. The development as proposed therefore aligns with policy ILUPT 1 and GBW1 both promoting and facilitating walking and cycling.

On the matter of DM 28 and DM 33, the applicant has responded comprehensively to these in the appeal submission. Chapter 6 WC 3 relates to cycle parking in the public realm of towns and villages, this is addressed in the application with cycle parking being provided for the creche, regarding WC1 the applicant has detailed how the proposed development accords with DMURS.

The applicant has demonstrated that the proposed access is not a traffic hazard. The vehicular access to the site is positioned to align with the requirements of the Urban Framework Plan. This access point was always going to require traffic to turn off the Coast Road into the local road, the matter of delivering the traffic management zone on the coast road as indicated on the urban framework plan and the strategic cycle network is a matter for the local authority to deliver. The site is identified as a phase 1 residential site, to refuse permission on the basis that the wider infrastructure is not in situ, particularly where the developer is proposing to provide improved connectivity, would undermine the core strategy of the development plan. Therefore, the Board did not concur with reason 2 and 3 recommended by the Inspector or reason 2 and 3 of the planning authorities' reason for refusal. The Scheme as proposed does not contravene the policies in the development plan as referenced in the reasons for refusal and addressed above. The Board considered that the infrastructure proposed on the public road should be delivered with the first phase of the development and prior to any house being occupied; this could be dealt with by condition.

Addressing the Inspectors first recommended reason for refusal; the Board considers having regard to the details submitted both with the application and the appeal, the design and layout does not materially contravene the Garraun Urban Framework Plan, the applicant has provided an east west route albeit staggered for reasons to do with traffic calming. The broken line of trees that are identified as a green spine in the Urban Framework Plan (Section 7), the arborist drawings accompanying the application show that the trees have a limited life and no evidence to the contrary has been provided, the applicant has designed the scheme to retain the trees that merit retention. The landscape plan clearly shows the significant level

of new planting proposed, this accords with the Urban Framework Plan. The Board noted the Inspectors concerns regarding internal pedestrian routes, the Board considered that on balance the applicants rationale set out in the architectural design statements and the connectivity provided through the open space areas create internal connections, in addition to the footpaths on the streets, and therefore the scheme was acceptable.

The Board considered the revisions at appeal to the house types was welcome. The Board did have concerns regarding the manner in which it is proposed to differentiate between the three-character areas, specifically the uniformity of the finishes proposed, notwithstanding the limited change in colours and materials. This requires further consideration and should be a matter for agreement with the planning authority by way of a compliance condition.

The Board noted the planning authorities' reasons for refusal included non-compliance with PM1, PM5, PM6, PM8, PM 13, UL 2 and GUFP 10. These policies relate to place making, sustainable travel, health and wellbeing, character and identity, public realm opportunities, layout and design and compliance with the Urban Framework Plan. The matters relating to sustainable travel have been addressed above, and so far as this relates to health and wellbeing so has this. On the wider matter of urban design, placemaking, public realm, layout and design, and compliance with the parameters of the Urban Framework Plan for this site the Board considered that the design and layout align with the key features of the UFP, drawing contained in Section 7, except for the green spine with the reason for not retaining the totality of the green spine, the condition of the trees, being acceptable. The Board, therefore, did not concur with the planning authority.

The Board noted that both the Inspector and the planning authority considered the density proposed 39uph to accord with the site's designation for medium density development, and both accepted that the creche is appropriate in size to serve the future residents. The area of open space required is not prescriptive in the development plan, noting the landscape rationale submitted and the wider Urban Framework Plan context where significant public open space and areas for

community facilities have been identified, the Board considered the spaces proposed are well integrated into the layout of the scheme. The housing mix is acceptable and the frontage to the coast road aligns with the schematic layout shown in Section 7 of the Urban Framework Plan.

Appropriate Assessment (AA) – 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 within an established town centre location and adequately serviced urban site, the Appropriate Assessment Screening Report submitted with the application, the Inspector's Report, and submissions on file.

In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, other than the Inner Galway Bay Special Protection Area (Site Code: 004031) and Galway Bay Complex Special Area of Conservation (Site Code: 000268) for which Appropriate Assessment is, therefore, required.

Appropriate Assessment - Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an appropriate assessment of the implications of the proposed development on Inner Galway Bay Special Protection Area (Site Code: 004031) and Galway Bay Complex Special Area of Conservation (Site Code: 000268) in view of the conservation objectives of these sites. 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

site's conservation objectives using the best available scientific knowledge in the field.

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

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) 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 conservation objectives of these sites. 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 screening of the proposed development and considered that the Environment Impact Assessment Screening Report submitted by the applicant, which contains information set out in Schedule 7A to the Planning and Development Regulations, 2001, as amended, identifies and describes adequately the effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development, which is substantially below the thresholds in respect of Paragraphs 10 (b) (i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations, 2001 as amended,
- (b) the existing use of the site and the pattern of development in the vicinity,
- (c) the availability of public water and foul services to serve the proposed development,
- (d) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001, as amended, and the content of the applicant's Environmental Impact Assessment Screening Report, and
- (e) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Outline Construction Environmental Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and the submission of an Environmental Impact Assessment Report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the policies and objectives of the Galway County Development Plan 2022-2028, in particular the Garraun Urban Framework Plan, the Core Strategy and zoning objective for this site, and that the proposed development would not constitute a traffic hazard by reason of significant additional traffic or traffic movements, would accord with the Urban design principles of placemaking and 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 received by An Bord Pleanála on the 4th day of September 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of European Sites.

3. Design details of all works on the R338 the Coast Road and L71051, including the shared pedestrian route as shown on landscape drawings, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. All work shall be carried out at the developer's expense.

The agreed works shall be carried out as part of phase 1 of the development, and no house shall be occupied until the works have been completed to the written satisfaction of the planning authority.

Reason: In the interest of sustainable development.

4. Prior to commencement of development, the following shall be submitted for the written agreement of the planning authority:
- (a) Details of the materials, colours and textures of all the external finishes, the proposed finishes submitted to the Board on appeal shall be revised so that the three-character areas proposed are distinctly different in finish to reinforce the character areas. The proposed finishes shall also be appropriate to their wider setting.
 - (b) Area to be taken in charge by the planning authority.
 - (c) The provision of EV charging points.

Reason: In the interest of visual amenity and to provide certainty.

5. 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 (other than the works in condition number 3).

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

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 interests of sustainable drainage.

7. Prior to the commencement of development, the developer shall enter into a connection agreement (s) with Uisce Éireann (Irish Water) 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.

8. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

9. 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 the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the drawing landscape plan. 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.

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. 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.

12. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
 - (i) Existing trees, hedgerows, stone walls, specifying which are proposed for retention as features of the site landscaping.
 - (ii) The measures to be put in place for the protection of these landscape features during the construction period.
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.
 - (iv) Details of screen planting.

- (v) Details of roadside/street planting.
 - (vi) Hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.
 - (vii) Details of all boundary treatments.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation including details of phasing.

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 or until the development is taken in charge by the local authority, whichever is the sooner, 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.

13. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme agreed with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

14. Proposals for an estate/street name, house 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, street signs, and house 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 placenames for new residential areas.

15. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the 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, surface waters, 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.

16. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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.

17. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

18. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. 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.

19. 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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or 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.

20. (a) Prior to the 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 house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, 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 housing 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 housing 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 housing unit.

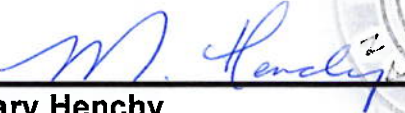
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

21. 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.

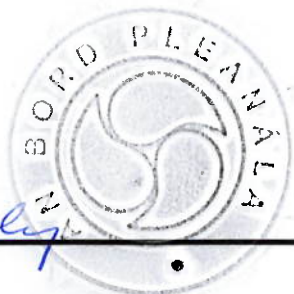
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

22. 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.



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



Dated this *30th* day of *January* 2025