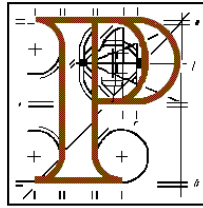


An Bord Pleanála



Inspector's Report

PL 61 245292

DEVELOPMENT:

Permission for a residential development with on site carparking, communal and private open space hard and soft landscaping services connections and internal road layouts with a new vehicular access from Clybaun Road, new paths and boundary walls, 102 car shared surface carpark spaces, realignment and widening of Clybaun Road over part of the length of the proposed development frontage and a new public footpath along Clybaun and Ragoon roads and associated site development works.

at

Mincloon, Clybaun Road and Ragoon Road, Mincloon Cross Galway City.

PLANNING APPLICATION

Planning Authority: Galway City Council.
P. A. Reg. Ref: 14/248.
Applicant: Kenny Developments Ltd.
Decision: Refuse Permission.

APPEAL:

Third Party Appellant: Kenny Developments Ltd.

Observers: Jacinta and Joseph Greaney
Sean and Ann Codyre,
Colleran and Murray families.

Inspector: Jane Dennehy.

Date of Inspection: 5th October, 2015.

1.0 INTRODUCTION

- 1.1 This file contains a first party appeal against the decision of the planning authority to refuse permission for a residential development on lands at Mincloon Cross, Clybaun and Ragoon Roads, Galway and three observer party submissions.

2.0 SITE LOCATION AND DESCRIPTION

- 2.1 The appeal site has a stated area of 2,456 hectares and is located at Mincloon Cross on the south side of Ragoon Road and east side of Clybaun Road to the west of the city of Galway. An access and three dwellings, (occupied by observer parties) are located to the east side of the site. The ground which very uneven and undulating but rises slightly overall in a southerly direction is in rough pasture and indigenous intermittent hedgerow. There is field gate access on both Clybaun Road to the west and Ragoon Road to the north. Boundaries comprise a mix of dry stone wall, hedgerow and fencing.
- 2.2 Ragoon and Clybaun Roads are local distributor roads in the western perimeter of the city but are typically rural roads within an area that is characterised by residential road frontage development, and to the south The Western Distributor Road leading to the developed and developing areas of the western suburbs of the city and the city centre further east. The Emerging Preferred Route Corridor (EPRC) overlaps the perimeter of the boundary at Clybaun and Ragoon Road. A regular local bus service, (routes 33 and 34) is available in the area.

3. PLANNING HISTORY:

- 3.1 **PL 61 232439/P. A. Reg. Ref. 07/538:** The planning authority decision to grant Outline Permission for a mixed residential development of houses and apartments with a childcare facility along with two new vehicular entrances was confirmed following third party appeal.
- 3.2 **PL 61 204041/P. A. Reg. Ref. 03/488:** The planning authority decision to refuse Permission for a residential development of 166 houses and apartments a crèche, two entrances and carparking, services and site development works was upheld following appeal.

4.0 DEVELOPMENT PLAN.

- 4.1 The operative development plan is the Galway City Development Plan, 2011-2017 according to which the site location is within an area subject to the zoning objective: *“To provide for residential development and for associated support development which will ensure the protection of*

existing residential amenity and contribute to sustainable residential neighbourhoods.” A mix of housing types and sizes within residential development is encouraged. The maximum plot ratio for residential development is 0.46:1

Carparking standards are set out in section 11.3.1 (g)

- 4.2 **Urban Framework Plan, Ballyburke, Mincloon and Keeraun.** The framework plan which prepared in 2007 promotes the neighbourhood concept for new sustainable residential communities in the Outer Suburbs with guidance and recommendations on density, urban design, movement, dwelling mix and services, facilities and amenities. The Framework Plan includes an indicative internal road layout with access points to the two public roads for the appeal site.

5. THE PLANNING APPLICATION.

- 5.1 The original application indicated proposals for a development of fifty eight houses (6 three bed, 50 four bed and two five bed houses two and two and a half storey) each with individual off street parking and additional shared surface car parking comprising 112 car spaces in total.
- 5.2 The application is also accompanied by a design statement, Engineering report on services provision, a traffic and transportation report. (TTA) and a Stage 1 Road Safety Audit. (RSA) The increase in RFCs predicted for 2017 and 2027 is marginal and it is deemed that the impact of the development on the road network is an acceptable level.
- 5.3 The Engineering report which is based on a fifty eight unit development as indicated in the original application. Water supply is to be from the 250 mm diam supply pipe in the Clybaun Road and layout drawings are provided. Foul water is to be discharged to the public sewers in Ragoon Road and in Clybaun Road by gravity and Storm drainage is to be discharged to the Raheen Road and to Clybaun Road with attenuation incorporated in the design proposal. Simulation for drainage arrangements was undertaken using a micro-drainage package.
- 5.4 Further to an additional information request arising from concerns about density and dwelling mix from the planning authority the number of units was increased to seventy three and dwelling mix was changed to provide for twenty six apartments in a three storey block at the southern end of the site and forty seven houses with a total stated floor area of 7,660 square metres resulting in density of thirty units per hectare and plot ratio of 0.31:1.

- 5.5 The proposed development, according to the application and further information submissions does not require a crèche the threshold being seventy five units.
- 5.6 Two vehicular entrances, one onto the Ragoon and the other onto, Clybaun Road in the approximate position of the existing field entrances along with five pedestrian entrances are indicated.
- 5.7 On site car parking is provided for the houses and shared surface car parking is provided for the remainder of the development and visitor parking. The total provision is 120 spaces. Breakdowns are indicated in the TTA report.
- 5.8 The public open space provision is shown towards the centre of the site between the apartment block at the southern end (phase 5) and the houses. Playground facilities are included.
- 5.9 Site boundary walls are to be clad in stone and internally within the site plastered, capped walls with stone cladding on the piers is indicated. The existing field boundary wall on the east boundary is to be retained.
- 5.10 Realignment works and footpath provision is proposed as part of the development for both the Ragoon Road and Clybaun Road adjacent to the site boundaries.
- 5.11 A public lighting scheme is to be provided, details of which are not included in the application.
- 5.12 A phasing plan indicating six stages for the implantation of the development. Use of 2.4 m high plywood for hoarding along the phasing lines is proposed.
- 5.13 The original application includes an 'in lane' bus stop on the eastern side of Clybaun Road near the vehicular entrance.
- 5.14 The initial report of the **National Roads Authority**, (NRA) dated 5th November, 2014 contains a statement that the proposed development is premature pending the finalisation of transport solutions and route options for the Galway City Transport Project. It is therefore submitted that the proposed development is at variance with the provisions of the DoECLG Spatial Planning and Nationals Roads Guidelines.
- 5.15 The supplementary report of **National Roads Authority**, (NRA) 22nd June, 2015 contains confirmation of the views indicated in the original report of 5th November, 2014.
- 5.16 A report had been made directly to the **NRA National Roads Office**, Ballybrit Galway Arup, by Arup, Consultants for the N6 Galway City Transportation Project of 15th July 2015. It is available on file and contains a recommendation that Permission for development within the

Emerging Preferred Route Corridor (EPRC) should not be granted in order to allow for flexibility in the design detail at the Clybaun Road and Ragoon Road junction which is not finalised. It is acknowledged that the majority of the site lies outside the EPRC. The design detail in the final design of the Galway City transport study is not complete. The small area that is should be excluded from any grant of permission.

- 5.17 The report of the internal **Transportation Department** indicates no objection and a recommendation for several conditions to be attached relating to road realignment, footpath construction, construction management, traffic calming and various technical requirements.
- 5.18 The report of the **Recreation and Amenity Department** dated 30th October, 2014 indicates some reservations about the quality of the amenity potential and landscaping design. It is recommended that Management be by a management company and that the scheme not be taken in charge.
- 5.19 The supplementary report of the **Recreation and Amenity Department** dated 29th June, 2015 indicates recommendations for revisions to the landscape plan, (by a competent person) to provide drainage details, detail for safety fencing at the entrances, play and kick about areas, seating communal gardens outdoor exercise and a timescale, levels and various outdoor amenities and facilities for use for passive and active recreational use kick out areas and seating landscape architect.
- 5.20 The report of the **Drainage Section** indicates recommendations for conditions of a general nature to be attached should permission be granted relating to management of surface water drainage.
- 5.21 **Third Party Objections** were received from residents and the main issues relate to impact on residential amenity, visual amenity and established rural character of the area, traffic safety and capacity of the Ragoon Road/Clybaun Road junction, the Galway N6 Galway Transportation Project and boundary treatment.

6.0 **DECISION OF THE PLANNING AUTHORITY.**

- 6.1 By Order dated, 16th July, 2015 the planning authority decided to refuse permission for the proposed development on the basis of the two reasons reproduced below:

“A portion of the proposed development site is located within the current EMERGING Preferred Route Corridor of the N6 Galway City Transport Solution. The proposed development is therefore premature pending the detailed design of the Emerging preferred Route.”

“The proposed development is premature pending the determination by Galway City Council and Galway County Council in conjunction with the National Roads Authority of a strategic road layout for the area.”

7. THE APPEAL.

- 7.1 An appeal was received from O’Neill O’Malley on behalf of the applicant on 10th August, 2015. An outline of the contents follows:
- 7.2 The proximity of the site to the Emerging Preferred Route Corridor (EPRC) is sole reason for refusal. It is only the 150 metre wide route corridor that overlaps the site. The maximum width of the overlap is twenty four metre and only 0.1 hectares of land in the site is affected. It overlaps one detached house and the corner of a pair of semi-detached units (Nos. 29, 30 and 31). These units are located in the final (sixth) phase of the development. There is no objection to a condition being attached with restriction on the development to three units until such time as the N6 project is complete.
- 7.3 The decision to refuse permission is unjustified and excessive. It is a blank acceptance of the NRA assertion as to premature of development. It shows lack of courage to deliver a fair planning decision.
- 7.4 ARUP, consultants for the NRA concluded that the majority of the application is outside the EPRC and that a small portion of the site should be excluded from the grant of permission. This is a reasonable approach. The NRA submission does not included detail of the issues arising – the NRA reaction is a knee jerk reaction to the overlap of the site and the EPRC. Given the history and potential for further delay of national road project it is unreasonable to defer the development of the majority of the site especially given the housing shortage and the lands are zoned lands.

8. OBSERVER SUBMISSIONS.

- 8.1 There are three observer party submissions on file which are from residents at neighbouring properties as indicated below.
- 8.2 **Sean and Ann Colyer,**
The objection is on grounds that:
- the proposed development is inappropriate in height and in density and it will affect agricultural livelihood in the area and that
 - Numerous accidents have occurred at the junction.

8.3 **Colleran and Murray Families.**

The concerns indicated in the submission can be outlined as follows:

- A new boundary wall is required to ensure protection of safety and privacy. The existing boundary wall is in bad condition and rock breaking will cause the wall to collapse. The drop to the outer side of the site is two metres.
- The apartment block will be at the rear of the Colleran dwelling and it is too high and will have a negative impact. The block is out of character with the surrounding houses and two and two and a half storey houses would be more suitable for the location.

8.4 Included at the end of the submission is a note in which it is stated that the zoning of the appeal site and the Collerans' lands are the same and that therefore the Collerans can infer eligibility but this claim is not clear.

8.5 **Jacinta and Joseph Greaney.**

The concerns indicated in the submission can be outlined as follows:

- The application should have been withdrawn as it was received after six months.
- The apartment block is too high and affects the rural area skyline and it will overlook adjoining properties.
- The existing road network cannot cater for existing traffic and the cross roads is particularly dangerous, there having been numerous accidents there. Permission has been refused to the Salthill GAA on traffic related grounds.
- The apartment development will result in all views being lost.

9. **RESPONSE TO THE APPEAL BY THE PLANNING AUTHORITY.**

9.1 There is no submission from the planning authority on file.

10 **EVALUATION**

10.1 The issue central to determination of a decision is as to whether the proposed development in entirety is premature pending the finalisation of the Emerging Preferred Route Corridor (EPRC) for the N6 Galway City Outer Bypass. This is first considered followed by the other issues which include those raised in the observer submissions of the occupants of properties in the immediate vicinity of the appeal site.

These additional issues are:

- Design and layout;
- Compatibility with surrounding development;
- Intensity of Development;
- Scale, Massing and Height and,
- Traffic safety and capacity of the local road network.

10.2 **Premature development pending the finalisation of the EPRC:**

Of six route options for the N6 Galway City Transportation Project which provides for the N6 Galway City Outer Bypass confirmation of the EPRC was announced in May, 2015. The EPRC, (which is one hundred and fifty metres in width) overlaps the north western corner of the appeal site close to the existing Ragoon Road/Clybaun Road junction. The planning authority decided to refuse permission on grounds of premature development pending the detailed design of the EPRC and determination of a strategic roads layout for the area by the local authorities. It is the applicant's case that outright refusal in entirety for the proposed development is unwarranted and excessive. It is submitted that permission could be granted subject to three units at the north western end of the site being excluded, by condition pending the completion of the N6 project.

10.3 There are differences in the recommendations of Transportation Infrastructure Ireland (TII) (formerly NRA) and Arup which is consultant (to TII) for Phase 1-4 of the project N6 Galway City Transportation Project. In documentation prepared by Arup it is indicated that there is no objection subject to omission of the small area in the north western corner subject to omission of a small area overlapping the EPRC.

10.4 On the other hand, in both the original report and the supplementary report of the NRA/TII, it is stated that the proposed development is premature pending the finalisation of the transport and route options for the Galway City Transportation Project. It is added that the proposed development would be at variance with the recommendations in "*Spatial Planning and National Roads Guidance*". (DOECLG, 2012) (The internal Transportation and Traffic Department at Galway County Council has confined its comments and recommendations to details about on realignment and other measures relating the local road network adjacent to the site.)

10.5 Having reviewed the EPRC on the plans available, construction of the proposed development, exclusive of the Phase 6 at the north western end of the site which partially overlaps with the edge of the EPRC does appear to be feasible. In this regard while the EPRC is the 150 metre wide reservation area it appears that carriageways would not come within the overlap area.

- 10.5 It is noted that foul drainage and storm water drainage for Phase 2 and part of Phase 3 is to be directed to the Ragoon Road whereas for the remainder of the development is directed to the Clybaun Road along with watermain connection is to Clybaun Road. Vehicular access can be confined to the proposed access from Clybaun Road and some minor adjustments could be made to the drainage arrangements should there be concern as to access and services connections to the Ragoon Road pending completion of the N6 project. These matters along with arrangements fencing off of the Phase 6 area to be excluded could be addressed by condition.
- 10.6 Furthermore it is not fully clear that the proposed development would be at variance with the recommendations in, *Spatial Planning and National Roads: Guidelines for Planning Authorities* (DOECLG 2012) or that any issues cannot be overcome. In this regard it is noted that application submission included a TIA and Road Safety Audit.
- 10.7 Refusal of permission in entirety appears excessive but the position taken by the planning authority further to discussions with NRA officials, according to the planning officer's report of 15th July, 2015 should be taken into consideration. According to the planning officer's report the final detailed definition of the route corridor will be determined early in 2016, which is a short timeframe.
- 10.8 Should it be considered that proposed development could be permitted, (with the omission of Phase 6) it may be advisable to defer the decision and to provide the TII with a further opportunity to submit observations on the finalisation of the EPRC and roads layout in consultation with the local authority. An opportunity would be therefore be open to clarify the objections on grounds of prematurity prior to determination of the decision. Progress in the determination of the final definition of the route corridor by the TII may be more advanced at this time than it was at the time of the determination of the decision of the planning authority.
- 10.9 **Design and Layout.**
Overall, it is considered that the design and layout of the revised scheme submitted with the further information is at a high standard which has been achieved for a site in which there are constraints in configuration, topography and ground conditions. The proposed site layout is consistent with the indicative layout for the site in the Framework Plan and satisfies recommended standards in statutory "*Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities*". (DOEHLG, 2009) and the accompanying Urban Design Manual and with the "*Design Manual for Urban Roads and Streets*" issued in 2013 by DOECLG and DTTS. Some further comments follow.
- 10.10 The planning issues considered central to the observer parties' objections which relate to impact on visual amenities and character of the area, on residential amenities and safety on the road network.

10.11 Compatibility with surrounding established development.

At present the site and immediate environs are semi-rural in character although the appeal site and surrounding lands are zoned for development and a framework plan was issued several years ago. The established character would be altered by the proposed development but a planning framework is in place to provide development of an urban nature and character. It is within this constraint that a planning assessment from the perspective of the interests of proper planning sustainable development entailing the impact on surrounding development is required.

10.12 Intensity of Development.

As the appeal site lands are designated for development providing for new urban communities a corresponding appropriate intensity of development which is consistent with sustainable development interests and compatibility with surrounding development is required. It is of note that in the further information request the planning authority requested the applicant to increase the range of dwelling types and sizes and correspondingly the number of units. The revised proposal which included an apartment block in substitution for some houses accorded with the requirements of the request and provided for an increase in plot ratio to 0.31:1. The revised proposal is considered to be consistent with the recommended standards for new urban housing development in, *Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities*. (DOEHLG, 2009)

10.13 Scale, massing and height

As indicated above, by reason of the designation of the appeal site lands as lands zoned for new residential development, the character of the lands in the immediate environs of the observer party properties would be transformed from rural area suburban character. There is a requirement for compatibility transition between existing land uses and proposed land-uses.

10.14 The footprint, form and height of the proposed apartment block while higher and sizeable relative to houses typical to a residential development is considered acceptable, having regard to minimum standards set out in the Galway City Development Plan 21011-2017 and in *Sustainable Residential Development in Urban Areas: Guidelines for Planning Authorities*. (DOEHLG, 2009). Separation distances and boundary treatment are such that satisfactory standards are achieved in terms of protection of privacy, residential amenity at existing adjoining properties.

10.15 The concerns about the condition of the existing walling and as to repair and possible replacement on eastern boundary of the site which is adjacent to the observer party properties and the access lane from Ragoon Road could be addressed by compliance with a condition.

10.16 **Traffic Safety and Capacity of the Local Road Network.**

It is submitted that traffic generation attributable to the proposed development would exacerbate existing hazard at the junction and surrounding road network. It is indicative traffic impact study and road safety audit submitted with the application that any potential impact would be limited. Furthermore, the application includes provision for upgrading and improvement works and the entrance arrangements and internal road layout have satisfactory standards. It is considered that proposed development would be satisfactory in this regard.

10.17 **Appropriate Assessment.**

The application site is within two kilometres of the Salthill coastline and the Galway Bay Complex SAC (Side code 000268) and within fifteen kilometres of the Lough Corrib SAC and SPA (Site Codes 000297 and 004041) and the Connemara Bog SAC and SPA (Site Codes 002034 and 004181) The conservation objectives for Galway Bay Complex provide for the maintenance and / or restoration of several habitats and species including mammal and ornithological species which are listed as being evident in the bay area. Foul drainage from the development is by gravity and when operational will be to Galway's public main drainage system for treatment prior to disposal and would involve a marginal increase in demand on services, the site at present being a greenfield site. Stormwater drainage involves a micro drainage system and an attenuation system consistent with SUDS standards and includes petrol interception measures. The application is not accompanied by an appropriate assessment screening report.

10.18 Having regarded to the nature, scale and location of the proposed development it is considered that the proposed development would not be likely to have significant effect, individually or in combination with other plans and projects on the above named European sites. A stage 2 Appropriate Assessment is not considered necessary.

11. **CONCLUSION AND RECOMMENDATION.**

11.1 Overall it is considered that the proposed development is considered and acceptable and that a high standard of layout with good permeability and dwelling mix has been achieved for a site with constraints in configuration. It appears that that the development may not be in conflict with the EPCR which as indicated at present, has slight overlap at the north western edge of the appeal site. On this basis the development could be permitted with the exclusion of Phase 6 shown on the Phasing Plan.

11.2 However, careful consideration should be given to verbal advice in July, 2015 to the planning officer by officials of the National Roads Authority, (now replaced by the Transportation Infrastructure Ireland) of objection

on grounds of prematurity pending finalisation of determination of the final definition of the route corridor for the N6 Galway Transportation Project, in early 2016.

11.3 A draft order for a refusal of permission, upholding the planning authority decision is attached. However, owing to the advanced stage of the final determination of the route corridor it is recommended that notification be issued to the TII inviting further comments prior to the determination of the decision on the appeal.

11.4 A draft order is set out overleaf.

DECISION

**Refuse Permission on the Basis of the Reasons and Considerations
Below:**

REASONS AND CONSIDERATIONS.

Having regard to the overlap of an area with the north west corner of the site with the Emerging Preferred Route Corridor for the N6 Galway Transportation Project it is considered that the proposed development is premature pending the finalisation of the definition of the corridor and detailed roads layout for the area.

**Jane Dennehy,
Senior Planning Inspector.
29th October, 2015.**