



An
Bord
Pleanála

Board Direction
BD-002112-19
ABP-301261-18

The submissions on this file and the Inspector's report were considered at a Board meeting held on 14/01/2019.

The Board decided to make a split decision, to

- (1) grant permission, for 271 dwellings, the first phase of the new Rathnew inner Relief Road, crèche and passive open / active space, as set out in Reasons and Considerations (1) and conditions,

and

- (2) refuse permission for 84 dwellings on lands zoned for Active Open Space, generally in accordance with the Inspector's recommendation, for the following Reasons and Considerations (2).

Reasons and Conditions (1)

Having regard to

- (i) the site's location on lands with a zoning objective for residential development and policy provisions in the Clermont – Tinakilly Action Area Plan as set out in the Wicklow Rathnew Development Plan 2013-2019,
- (ii) the nature, scale and design of the proposed development which is consistent with the provisions of the County Development Plan and appendices contained therein,
- (iii) to the Rebuilding Ireland Action Plan for Housing and Homelessness,

- (iv) to the provisions of the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- (v) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Housing and Planning and Local Government, March 2018,
- (vi) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013,
- (vii) the availability in the area of a wide range of social infrastructure,
- (viii) to the pattern of existing and permitted development in the area, and
- (ix) to the submissions and observations received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objectives for the area, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing architectural heritage and character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening:

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 and 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 sites' conservation objectives, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

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

- the nature, scale, extent and location of the proposed development;
- the Environmental Impact Statement submitted with the application, and the addendum report provided;
- the documents on file including the submissions from the planning authority and from the parties and observers lodged in the course of the application and appeal; and
- the Inspector's report.

The Board considered that the Environmental Impact Assessment and the addendum to the Environmental Impact Assessment report identify and describe adequately the direct cumulative and indirect effects of the proposed development on the environment. The Board completed an Environmental Impact Assessment in relation to the subject development, by itself and in combination with other development in the vicinity, and agreed with the Inspector's assessment of the likely significant effects of the development, and agreed with the conclusions on the acceptability of the mitigation measures proposed. The Board concluded that, subject to the implementation of the mitigation measures proposed, and subject to the following conditions, the effects of the proposed development on the environment would be acceptable. In doing so, the Board adopted the report of the Inspector.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 2nd March 2017, as amended by the further plans and particulars submitted on the 15th December 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be

agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. Prior to the commencement of development, final design details for the proposed section of the Rathnew Inner Relief Road (from and including the proposed junction with the Regional Road (R750) to the point where it terminates within the site), together with all associated junctions, shall be submitted to and for the written agreement of the Planning Authority. All proposed works shall be designed to the requirements and specifications of the Road Authority.

Reason: In the interests of traffic safety and proper planning and development.

3. Prior to commencement of work on site the applicant shall submit for the written agreement of the Planning Authority a detailed phasing plan for the development of all lands within the application site. This phasing plan shall accord with the conditions set out in this grant of permission and shall, unless otherwise agreed in writing with the Planning Authority, comply with the following:

- a) **Residential** - The development of these lands shall be carried out in three phases with the delivery of the Residential units phased in accordance with the following:

- Phase 1 – 80no units (c30%)
- Phase 2 – 80no units (c30%)
- Phase 3 – 111no units (remaining c40%)

- b) **Open space** - No development shall commence on the residential units until detailed proposals for the design, layout and delivery of the public open space (Passive and Active) within the application site have been submitted to an agreed in writing with the Planning Authority. Public open space (both Passive and Active) shall be

delivered in tandem with the residential development, as follows:

- Phase 1 – 30% (c4.5ha)
- Phase 2 – 30% (c4.5ha)
- Phase 3 – 40% (c6ha)
- No occupation of the final 55 no units (c20% of the residential development) shall occur until the public open space is completed

- c) **Road Infrastructure** - The proposed section of the Rathnew Inner Relief Road and its intersection with the R750 Regional Road (Merrymeeting Interchange) shall be constructed to the written satisfaction of the Road Authority within Phase 1.

No occupation of the residential units shall occur until the proposed section of the Rathnew Inner Relief Road is completed to the written satisfaction of the Road Authority and is open to traffic.

- d) **Crèche Facility** - The crèche facility shall be delivered within phase 1 of the development.

- e) **Services** - No development shall commence on foot of this grant of planning permission until the construction of the necessary up-grade works to the wastewater network between Rathnew and Wicklow have commenced and no occupation of the residential units shall occur until the works have been completed.

Reason: In the interests of orderly development, traffic safety, public health and the proper planning & sustainable development.

4. A suitably qualified ecologist shall be appointed by the developer to oversee the site set-up and construction of the proposed development and the ecologist shall be present on site during construction works. The ecologist shall ensure the implementation of all proposals contained in the Schedule of Ecological proposals. Prior to commencement of development, the name and contact details of said person shall be submitted to the planning authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed ecologist and

submitted to the County Council to be kept on record.

Reason: In the interest of nature conservation.

5. The materials, colours and finishes of the authorised buildings, the treatment of surfaces and boundaries within the development shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. The internal road network, public footpaths within and outside the proposed development site, including car parking provision to service the proposed development, shall comply with the requirements of the planning authority for such works.

Reason: To ensure a satisfactory standard of development.

8. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

9. All service cables associated with the proposed development (such as electrical, telecommunications and television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

10. 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 and 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.

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 within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the 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. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

13. The site and construction works required to implement the development

shall only be carried out between 0800 hours and 1800 hours, Monday to Friday and between 0900 hours and 1400 hours on Saturday and not at all on Sundays, Bank Holidays or Public Holidays.

Reason: To safeguard the amenities of adjoining residential properties.

14. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Planning Authority's Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: In the interest of the amenities of the occupants of the proposed housing.

15. Prior to commencement of work on site the developer shall agree in writing full details of a legally incorporated management company which shall be responsible for the future maintenance and upkeep of all services associated with the apartment blocks of this development including drains, sewers, watermains, public lighting, paths, open spaces and refuse storage areas.

Reason: To ensure the satisfactory maintenance of the site in the interest of visual and residential amenity.

16. 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 -

- (i) 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,
- (ii) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (iii) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be

referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

17. 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 in accordance with the requirements of section 94(4) and 96(2) and 3 (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

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 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 determined by An Bord Pleanála.

Reason: To ensure the satisfactory completion of the development.

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 the 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.

20. The developer shall pay to the planning authority a financial contribution in respect of Wicklow Port Access and Town Relief Road in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission

Reasons and Conditions (2)

Having regard to:

- (i) The location of the 84 no residential units and associated infrastructure on lands zoned for Active Open Space
- (ii) The lack of an agreed Action Area Plan for these lands (AAP1(b) The Clermont – Tinakilly Action Area Plan)

It is considered that the development of these 84 no units and associated infrastructure namely:

- House type Ha – Units 27, 34, 35, 40, 41 and 46 (6 no units)
- House Type H – Units 24–26 inclusive, 36-39 inclusive, 42-45 inclusive (17 no units)
- House Type J – Units 41-52 inclusive, Unit 69, Units 72-76 inclusive (18 no units)
- House Type Ja – Units 70 and 71 (2 no units)
- House Type F – Units 15-22 inclusive (8 no units)
- House Type B – Units 1-32 inclusive (32 no units)
- House Type K – Unit 04 (1 no unit)
- All site works associated with and ancillary to those 84 no units and services inducing estate roads, footpaths parking facilities and open space,

would be premature pending the preparation of an open space strategy for Rathnew and would be contrary to the zoning objectives for this area as set out in the Wicklow Rathnew Development Plan 2016 – 2019, and would therefore be contrary to the proper planning and sustainable development of the area.

Board Member:

Date: 14/01/2019

Michelle Fagan