



An
Bord
Pleanála

Board Direction
BD-005118-20
ABP-305770-19

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/02/2020.

The Board decided to make a split decision, to

- (1) grant permission for the proposed development within Plot A.1 (the construction of 36 no. step down/assisted living units) and Plot A.2 (the construction 35 no. 2-storey dwellings) for the following reasons set out at Reasons and Considerations (1) and subject to the attached conditions set out at Conditions (1) below,

and

- (2) refuse permission for the proposed development within Plot B (the construction of 146 no. dwellings) for the following reasons set out at Reasons and Considerations (2).

Reasons and Considerations (1)

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

- a) the site's location within a serviceable site and established area close to the services and facilities of Clonmel town centre, on lands with residential zoning objectives under the Clonmel and Environs Development Plan 2013;

- b) the policies and objectives in the South Tipperary County Development Plan 2009-2015, as extended;
- c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- d) 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;
- e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments;
- f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual;
- g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018;
- h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- i) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018;
- j) the DoECLG Spatial Planning and National Roads Guidelines;
- k) the nature, scale and design of the proposed development;
- l) the pattern of existing and permitted development in the area, and
- m) the submissions and observations received, and
- n) the report of the Inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this suburban location, would be acceptable in terms of urban design, height and quantum of development, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would not give rise to flooding in the area, and would be acceptable in terms of pedestrian and traffic safety and convenience. 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 the entire development proposal (Plots A.1, A.2 and B) the Board shared the Inspector's concerns in respect to Plot B as outlined below in 'Reasons and Considerations (2)', but decided that Plots A.1 and A.2 did not warrant a refusal given the positive assessment by the Inspector of these two plots.

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 within a zoned and serviced urban area, 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, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 commencement of any works on site, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:

(i) Revised design to address the poorly configured Public Open Space 2, for the provision of adequate passive surveillance.

Reason: In the interests of proper planning and sustainable development and to safeguard the public safety of the area.

3. 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 and to ensure a satisfactory standard of development.

4. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

5. Prior to development commencing on the site a full survey of the private foul sewer serving the private houses to the north of Crann Ard shall be undertaken by the developer. The survey together with a designed solution to address the existing issues associated with the surcharging of the waste water pumping station shall be submitted to, and agreed in writing with, the Planning Authority.

Reason: In the interests of public health and for the well-being of the occupant(s) of the development.

6. The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:

(a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the Planning Authority for such works and shall be carried out at the developer's expense.

- (b) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths and corner radii.
- (c) Pedestrian crossing facilities shall be provided at all junctions.
- (d) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works.
- (e) A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of traffic, cyclist and pedestrian safety and to protect residential amenity.

7. Standard Public Lighting condition.

8. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

9. The site shall be landscaped in accordance with the submitted scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following completion of the development or each phase of the development and any plant materials that die or are removed within 3 years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

10. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of visual amenity.

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

Reason: To protect the residential amenity of property in the vicinity and the visual amenity of the area.

12. Site development and building works shall be carried only out between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenities of property in the vicinity.

13. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

14. Standard EV condition.

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 social and affordable housing in accordance with the requirements of section 96 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 (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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 of the area.

16. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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.

17. 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 the Board for determination.

Reason: To ensure the satisfactory completion of the development.

18. 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.

Reasons and Considerations (2)

The Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, includes key criteria such as Context, Distinctiveness, Layout, Public Realm and Privacy/amenity. Plot B of the proposed development, by reason of its form and layout and in particular the inappropriate design responses to changes in level, would be contrary to the section 28 Ministerial Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual.

It is considered that plot B of the development as proposed results in a poor design concept, lacks variety and distinctiveness, fails to establish a sense of place, and includes a poor quality of architectural and landscape design that fails to respond appropriately to the topography of the site. Furthermore, Plot B of the development does not provide high quality and usable open spaces, fails to facilitate adequate and appropriate passive surveillance of all green spaces and provides poorly configured private amenity spaces in many cases, all of which would lead to conditions injurious to the residential amenities of future occupants.

The proposed development would, therefore, be contrary to these Ministerial Guidelines which promote innovative and qualitative design solutions, would seriously injure the residential amenities of future occupants and would be contrary to the proper planning and sustainable development of the area.

Board Member:

Date: 11/02/2020

Stephen Bohan