



An
Bord
Pleanála

Board Direction

BD-006319-20

ABP-307230-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/08/2020.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

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

Having regard to the following:

- a. The site's location on lands with a zoning objective for residential development;
- b. The policies and objectives in the Ashford Town Plan, 2016-2022 and the Wicklow County Development Plan 2016-2022;
- c. The density, nature, scale and design of the proposed development;
- d. The pattern of existing and permitted development in the area;
- e. The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- f. The National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018;

- g. The Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 – 2031;
- h. The Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- i. 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;
- j. The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2018;
- k. The Urban Development and Building Heights Guidelines for Planning Authorities 2019;
- l. The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’) 2009;
- m. The Architectural Heritage Protection Guidelines, 2011;
- n. Submissions and observations received;
- o. Chief Executives Report; and
- p. The Inspectors Report.

Appropriate Assessment

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 zoned and adequately serviced urban site, the information for the Screening Report for Appropriate Assessment and the Ecological Impact Statement 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.

Environmental Impact Assessment

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies, and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for residential uses under the provisions of the Ashford Town Plan 2016 – 2022 and the results of the strategic environmental assessment of the Wicklow County Development Plan 2016 – 2022 undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the town boundary of Ashford, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109(4)(a) of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),
- the Schedule 7A of the Planning and Development Regulations 2001 (as amended) information submitted with the application.

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development

The Board considered that the proposed development is, apart from the parameters of density and units numbers, and Objective SLO2 of the Ashford Town Plan 2016-2022 and Objective HD15 of the Wicklow County Development Plan 2016-2022 broadly compliant with the provisions of both the Ashford Town Plan 2016-2022 and the Wicklow County Development Plan 2016-2022 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the Ashford Town Plan 2016-2022 and the Wicklow County Development Plan 2016-2022 as outlined below: -

Ashford Town Plan 2016-2022

- The density and unit numbers as set out in the Ashford Town Plan; and
- Objective SLO2 of the Ashford Town Plan which states that no more than 50% of the residential lands may be developed in advance of the community lands being developed or devoted to a community and / or educational user.

Wicklow County Development Plan 2016-2022

- Housing Objective HD 15 of the Wicklow County Development Plan which requires that within medium to large scale housing developments, a range of unit types / sizes shall be provided, including bungalows

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Ashford Town Plan 2016-2022 and the Wicklow County

Development Plan 2016-2022 would be justified for the following reasons and considerations:

- The proposed development falls within the definition of strategic housing set out in Planning and Development (Housing) and Residential Tenancies Act 2016.
- Government's policy to provide more housing set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Ashford Town Plan 2016-2022 would be justified for the following reasons and considerations:

Density and Unit Numbers

- Objectives 4, 33 and 35 of the National Planning Framework;
- Section 4.7 of the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031; and
- SPPR1 and SPPR4 of the 2018 Urban Development and Building Heights Guidelines, 2018.

Objective SLO2

- Objectives 4, 13, 33 and 35 of the National Planning Framework;
- Section 4.7 of the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019-2031; and
- SPPR1 and SPPR4 of the 2018 Urban Development and Building Heights Guidelines, 2018.

The Board considers that, having regard to the provisions of section 37(2)(b)(iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Objective HD15 of the Wicklow County Development Plan 2016-2022 would be justified for the following reasons and considerations:

- Objective 13 of the National Planning Framework; and

- SPPR4 of the Urban Development and Building Height Guidelines, 2018

In accordance with section 9(6) of the 2016 Act, the Board considered that the criteria in section 37(2)(b)(i) and (iii) of the 2000 Act were satisfied for the reasons and considerations set out in the decision.

Furthermore, the Board considered that, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development 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 on the 26th day of May, 2020 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity

3. The residential units shall not be made available for occupation before completion of the childcare facility is operational within the Ballinahinch Woods

residential scheme, unless the developer can demonstrate to the written satisfaction of the planning authority that a childcare facility is not needed at this time.

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

4. All rear garden walls shall be 1.8 metres in height above ground level and shall be concrete block or concrete post and panel, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority details of the play facilities to be provided in the areas of open space.

Reason: In the interest of residential amenity

6. 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 -
 - (a) 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) 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.

7. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles

8. The site shall be landscaped, and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity

9. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps,

storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

(c) No trench, embankment or pipe run shall be located within three metres of any trees, shrubs or hedging which are to be retained on the site.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

10. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity

11. The proposed new public footpath, including 2 no. pedestrian crossing points, shall comply with the detailed standards of the planning authority for such road works, and shall comply, in all respects, with the standards set out in the Design Manual for Urban Roads and Streets (DMURS). The residential units shall not be made available for occupation before the footpath has been completed to the written satisfaction of the planning authority.

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

12. The internal road network serving the proposed development, including the turning area, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works, and shall comply, in all respects, with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

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

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

14. Standard Naming.

Reason: In the interest of urban legibility

15. Drainage arrangements, including the disposal and attenuation 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 to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management

16. The developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

17. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

18. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety

19. 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.

20. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

21. A management and maintenance scheme providing adequate measures for the future maintenance of any open spaces, roads and communal areas not to be taken in charge By the planning authority shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. The management and maintenance of these areas following its completion shall be the responsibility of a legally constituted management company, details of which shall be submitted to, and agreed in writing with the planning authority.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

22. 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 section 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 of the area.

23. 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

24. 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.

25. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of community infrastructure / community building to be provided within Ashford. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Board Member

Date: 25/08/2020

Terry Prendergast

