



An
Bord
Pleanála

Board Direction
BD-006794-20
ABP-307631-20

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/10/2020.

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.

Reasons and Considerations

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

- (a) the policies and objectives set out in the Castletroy Local Area Plan 2019-2025 and the Limerick County Development Plan 2010-2016 (as extended)
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (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 2013, as amended, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (e) the Guidelines for Sustainable Residential Development 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,

- (f) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018,
- (g) the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (h) the nature, scale and design of the proposed development,
- (i) the availability in the area of a range of social, community and transport infrastructure,
- (j) the pattern of existing and permitted development in the area,
- (k) the planning history of the site and within the area,
- (l) the submissions and observations received,
- (m) the report of the Chief Executive of Limerick City and County Council, and
- (n) the report of the Inspector.

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 site, the Screening for Appropriate Assessment 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 Lower River Shannon Special Area of Conservation (site code 002165) which is a European site for which there is a likelihood of significant effects.

Appropriate Assessment

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the nearby Lower River Shannon Special Area of Conservation (site code 002165), in view of the site's conservation objectives. The

Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the appropriate 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 site, having regard to the site's 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 European sites in view of the sites' conservation objectives. 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 Screening

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

Having regard to:

- a) the nature and scale of the proposed development on an urban site served by public infrastructure,

- b) the absence of any significant environmental sensitivities in the area,
- c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

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, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density, 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.	<p>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 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.</p> <p>Reason: In the interest of clarity.</p>
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2.	<p>Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p>Reason: In the interest of protecting the environment and in the interest of public health.</p>
3.	<p>The proposed development shall be amended as follows:</p> <p>(a) Units 115, 116, 117 and 118 to the southwest shall be omitted and replaced with units no greater than two storey in height with no balconies on the rear elevation.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of residential amenity.</p>
4.	<p>The development shall be completed in accordance with the submitted phasing plan.</p> <p>Reason: In the interest of orderly development.</p>
5.	<p>All recommended measures outlined in the Tree Survey and Landscape Plan shall be implemented in full.</p> <p>Reason: In the interests of biodiversity and protection of trees.</p>
6.	<p>An updated management plan for the control of alien invasive plant species including a monitoring programme, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity and to prevent the spread of alien plant species.</p>
7.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts</p>

	<p>or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.</p> <p>Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.</p>
9.	<p>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).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
10.	<p>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/installation of lighting.</p> <p>Reason: In the interests of amenity and public safety.</p>
11.	<p>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.</p> <p>Reason: In the interests of visual and residential amenity.</p>
12.	<p>The number of bicycle parking spaces within the site, shall be agreed in writing with the planning authority. Details of the layout, storage arrangement, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.</p>

	<p>Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.</p>
13.	<p>(a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>(b) The findings of the Stage 1 Road Safety Audit and the undertaking of a Stage 2/3 Road Safety Audit and its findings, shall be closed out, signed off and incorporated into the development at the developer's expense. Exact details of any improvement measures shall be submitted to the planning authority for written agreement prior to the commencement of development.</p> <p>(c) Final alignment details and finishes and materials in relation to that section of the Castletroy Urban Greenway located within the site shall be agreed in writing with the planning authority.</p> <p>Reason: In the interest of sustainable transportation.</p>
14.	<p>Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents / occupants / staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.</p> <p>Reason: In the interest of encouraging the use of sustainable modes of transport.</p>
15.	<p>A minimum of 10% of all car parking spaces should be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance</p>

	<p>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.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
16.	<p>Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>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.</p> <p>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.</p> <p>Reason: In the interest of public health and surface water management.</p>
17.	<p>The developer shall enter into water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
18.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing 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.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
19.	<p>a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed</p>

	<p>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.</p> <p>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 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.</p> <p>c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) to be retained, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.</p> <p>(d) No trench, embankment or pipe run shall be located within three metres of any trees/hedging which are to be retained on the site.</p> <p>Reason: To protect trees and planting during the construction period in the interest of visual amenity.</p>
20.	<p>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.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.</p>
21.	<p>a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the</p>

	<p>provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the development.</p> <p>Thereafter, the waste shall be managed in accordance with the agreed plan.</p> <p>b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.</p> <p>Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.</p>
22.	<p>a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.</p> <p>b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
23.	<p>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</p>

	<p>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.</p> <p>Reason: In the interest of sustainable waste management.</p>
24.	<p>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:</p> <ul style="list-style-type: none"> a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; b) Location of areas for construction site offices and staff facilities; c) Details of site security fencing and hoardings; d) Details of tree protection measures; e) Details of on-site car parking facilities for site workers during the course of construction; f) Details of the timing and routing of construction traffic to and from the construction site, and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; g) Measures to obviate queuing of construction traffic on the adjoining road network; h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels; j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

	<p>m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
25.	<p>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 –</p> <ul style="list-style-type: none"> 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 carry out site testing and monitor all site investigations and other excavation works, including all removal of topsoil associated with this development, including the construction of the heritage trail, all necessary licences or consents under the National Monuments Acts 1930 to 2014 having been obtained. c) should archaeological material be found during the course of archaeological monitoring, all work which might affect that material will cease pending agreement with the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht to how it is to be dealt with. d) all archaeological deposits/features, within the area where groundworks will occur, which were recorded during test excavation at the site in December 2005, shall be fully archaeologically planned, photographed and excavated by a suitably qualified archaeologist, all necessary licences or consents under the National Monuments Acts 1930 to 2014 having been obtained. e) all costs of archaeological work necessitated by, or arising from, the development shall be borne by the developer. <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p>

	Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection (in situ or by record) of any remains that may exist within the site.
26.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
27.	<p>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.</p> <p>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.</p>
28.	<p>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</p>

	<p>and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
29.	<p>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.</p> <p>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.</p>

Board Member

Date: 28/10/2020

Stephen Bohan