

**An
Bord
Pleanála**

**Board Direction
BD-009660-21
ABP-311199-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/12/2021.

The Board decided to make a split decision, to

- (1) refuse permission for that part of the proposed development on the portion of the site located on lands which are the subject to land use zoning objective 'A2 Phasing– Residential Land not available for development until post 2027' indicated on map 28(A) Navan Land Use Zoning Map of the Meath County Development Plan 2021-2027 for the reasons and considerations marked (1) below

and

- (2) grant permission, the remainder of the development, as proposed, in accordance with the said plans and particulars based on the reasons and considerations marked (2) and subject to the conditions set out below

generally, in accordance with the Inspector's recommendation.

Reasons and Considerations (1)

The apartment block (apartments no. 1 to 36), houses no.37, 39, 40, 41, 42, 43 and duplex No. 38 as per Site layout (drawing no.1832-OMP-SP-DR-A-1010) are located on lands which are the subject to land use zoning objective 'A2 Phasing– Residential Land not available for Development until post 2027' indicated on map 28(A) Navan

Land Use Zoning Map of the Meath County Development Plan 2021-2027. Having regard to s.9(6)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 the Board is precluded from granting permission for the development and therefore permission is refused.

Reasons and Considerations (2)

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

- a) the location of the site contiguous to the established urban settlement area of Navan an area zoned for residential under zoning A2 New Residential and C1 Mixed Use where residential development is permitted in principle under the Meath County Development Plan 2021-2027.
- b) the policies and objectives of the Meath County Development Plan 2021-2027
- c) the nature, scale and design of the proposed development and the availability in the area of infrastructure;
- d) the pattern of existing and permitted development in the area;
- e) the planning history of the site and the zoning of adjacent lands;
- f) The Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- g) The provision of Housing for All, A New Housing Plan for Ireland 2021;
- 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) Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- j) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government 2020;

- k) 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;
- l) 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices') 2009; a
- m) the Natura Impact Statement submitted with the application;
- n) the submissions and observations received;
- o) the Chief Executive Report from the Planning Authority and,
- p) the report of the Inspector.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, 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 of the area.

Appropriate Assessment: Stage 1

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 in a serviced urban area, the Natura Impact Statement Report and other documentation 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 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 River Boyne and River Blackwater SAC (Site Code 002299) and River Boyne and River Blackwater SPA (Site Code 04232) which are European sites for which there is a likelihood of significant effects.

Appropriate Assessment: Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions on the file and carried out an Appropriate Assessment of the implications of the proposed development on River Boyne and River Blackwater SAC (Site Code 002299) and River Boyne and River Blackwater SPA (Site Code 004232), in view of the sites' 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 site-specific conservation objectives for the European sites,
- b) the likely direct and indirect impacts arising from the proposed both individually or in combination with other plans or projects, and in particular the risk of impacts on surface water quality,
- c) the mitigation measures which are included as part of the current proposal.

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 the European site in view of the site's 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 Environment 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:

- a) the nature and scale of the proposed , which is below the threshold in respect of Class 10(i) and (iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, A2 New Residential. With an

objective 'To provide for new residential communities with ancillary community facilities, neighbourhood facilities as considered appropriate'. and C1 Mixed Use with an objective 'To provide for and facilitate mixed residential

- b) the location of the site on lands zoned *and employment generating uses*' where residential development is permitted in principle under the Meath County Development Plan 2021-2027 and the results of the Strategic Environmental Assessment of the Plan;
- c) The existing use on the site and pattern of development in surrounding area;
- d) The planning history relating to the site
- e) The availability of mains water and wastewater services to serve the proposed development,
- f) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Regulations 2001 (as amended)
- g) 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),
- h) The criteria set out in Schedule 7 of the Planning and Regulations 2001 (as amended), and
- i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the NIS, Ecological Impact Assessment, the Bird, Bat, Badger and Otter Assessment of lands proposed for development, the Extended Phase 1 Habitat Report, The Environmental Report and the Environmental Report and Environmental Impact Assessment – Screening Report.

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

Having regard to the zoning objective for the site as set out in the Meath County Development Plan 2021-2027, the pattern of existing development in the immediate vicinity of the site, the NIS submitted with the application and subsequent Appropriate Assessment in the Inspectors Report, the location on edge of the existing settlement area and a reasonable walking distance to the centre of Navan it is considered that the proposed development would not seriously injure the residential or visual amenities of the area or of property/land in the vicinity, would be consistent with national and local planning policy and would be acceptable in terms of design, scale, height, mix and quantum of development, and in terms of pedestrian and traffic safety. It was also concluded that the development would not subject future occupiers to flood risk or increase the risk of flood elsewhere. 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 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. In default of agreement, such issues may be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement, Ecological Impact Assessment, Bird, Bat, Badger and Otter Assessment of lands proposed for development and an Extended Phase 1 Habitat Report and a Construction Environmental

Management Plan with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of avoiding adverse impacts on the Natura 2000 sites, protecting the environment and in the interest of public health

3. 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.

Reason: In the interest of visual amenity.

4. The proposed development shall be carried out on a phased basis, in accordance with a phasing scheme submitted with the planning application, (unless otherwise agreed in writing with the planning authority/An Bord Pleanála prior to commencement of any development.)

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. The proposed development shall be amended as follows:

- a) Final details of all boundary treatments of the site (including a boundary along the southern boundary with the 'A2 Phasing– Residential Land not available for Development until post 2027' indicated on map 28(A) Navan Land Use Zoning Map of the Meath County Development Plan 2021-2027) to be provided and agreed with the Planning Authority.
- b) planting areas in the home zones shall be built out to assist traffic calming.
- c) parallel parking bay located along the main access road at the entrance off the Trim Road shall be removed and alternative arrangement provided.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority/An Bord Pleanála prior to commencement of any development.

Reason: In the interests of proper and sustainable planning.

6. (a) Prior to commencement of development final details of the proposed new pedestrian and cycle connection along the Trim Road, bus stops and all required site works shall be submitted to and agreed in writing with the planning authority.

(b) All links/connections to adjoining lands (within and outside the applicants control) shall be provided up to the site boundary to facilitate future connections subject to the appropriate consents.

Reason: In the interest of permeability and safety.

7. (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 proposed 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) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of retained trees 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.

(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.

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

8. 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.

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

9. Comprehensive details of the proposed public lighting system to serve the proposed development shall be submitted to and agreed in writing with the planning authority, prior to commencement of /installation of the lighting. The agreed lighting system shall be fully implemented and operational, before the proposed development is made available for occupation.

Reason: In the interest of public safety and visual amenity.

10. The construction of the proposed development shall be managed in accordance with a Construction and Environmental 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 proposed development , including:

- a) A Pre-Construction Invasive Species Management Plan and an Invasive Species Management Plan if required;
- b) Provision for mitigation measures described in the approved NIS;
- c) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- d) Location of areas for construction site offices and staff facilities; e) Details of site security fencing and hoardings;

- 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) Details of lighting during construction works;
- i) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- j) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site works;
- k) Provision of parking for existing properties at during the construction period;
- l) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- m) 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;
- n) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- o) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

11. Site and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and between 0800 and 1400 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.

12. Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Irish Water.

Reason: In the interest of public health.

13. Drainage arrangements including the attenuation and disposal 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. Measures for the ongoing regular inspection and maintenance of SUDs infrastructure should also be agreed with the Planning Authority prior to the occupation of the proposed development .

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

14. The temporary pumping station shall be completed in accordance with 'Code of Practice for Wastewater Infrastructure' published by Irish Water.

Reason: In the interest of public health.

15. 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 proposed development .

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

16. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be 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.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

17. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the 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.

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

19. The boundary planting and public open spaces shall be landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the proposed development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in

the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation. Access to green roof areas shall be strictly prohibited unless for maintenance purposes.

Reason: In order to ensure the satisfactory of the public open space areas, and their continued use for this purpose.

20. (a) All trees shall be inspected by a suitable qualified expert for bats prior to felling. In the event a roost is found the developer shall require a derogation license from the National Parks and Wildlife Service.

(b) Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the residential units. The number, type and location of the boxes shall be submitted to and agreed in writing with the planning authority.

(c) Any clearance of vegetation from the site should only be carried out in the period between the 1st of September and the end of February i.e. outside the main bird breeding season.

Reason: To avoid the destruction of the nests, nestlings and eggs of breeding birds and to avoid the proposed development causing detrimental effects on flora, fauna and natural habitats.

21. Prior to the occupation of the residential units, 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. The mobility strategy shall be prepared and implemented by the management company for all units within the development .

Reason: In the interest of encouraging the use of sustainable modes of transport.

22. Details of signage relating to the creche unit shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

23. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

24. 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 ,
- 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.

25. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names 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 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 and to ensure the use of locally appropriate place names for new residential areas.

26. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

27. 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.

28. Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority, such agreement must specify the number and location of each housing unit, pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

29. Prior to commencement of development, the developer 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 plan of the area.

30. 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.

31. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting 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 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 Contribution Scheme made under section 48 of the Act be applied to the permission.

Board Member:


Michelle Fagan

Date: 13/12/2021

