



An  
Bord  
Pleanála

**Board Direction**  
**BD-018216-24**  
**ABP-312822-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on the 24/09/2024 and 14/11/2024. The Board considered the totality of the file including the response received to the Section 137 request.

The Board decided by a majority of 2:1 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**

Having regard to the location of the site, to the design & layout of the proposed development and the information captured in the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities and the Waterford City and County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below the proposed development would be in accordance with the zoning objective and would not have a significant impact on residential amenity or character of the area or negatively impact the proposed upgrades along the Old Hospital Road.

The Board considered the responses to the Section 137 request. The applicant's response outlined that the guidelines provide for the context to be taken into consideration when assessing density and that in this instance it is appropriate for this part of the overall holding to be designed at a lower density as it is consistent

with the character of the immediately surrounding area, this is similar to the Inspectors assessment of the application.

The applicant also advised that it is their intent to submit a planning application to develop the second and third tranches of the holding for a higher density residential development, achieving an overall average density of 35 units to the hectare.

Having regard to; the size of the overall holding, the character of the area, the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities, and the Waterford City and County Development Plan the Board considered this to be a reasonable design approach.

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, as amended by the further plans and particulars received by the planning authority on the 14<sup>th</sup> day of December 2021, 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. (a) Prior to the commencement of development on site the developer shall submit a revised site layout plan relocating Screen Wall A along the northern boundary of the site, Screen Wall A shall be constructed on the northern boundary of the site with the adjoining existing dwelling with no gap between

the two sites, details shall be submitted prior to the commencement of development for the written agreement of the Planning Authority. This wall shall be plastered on both sides.

(b) The inter-site boundaries forward of the front building line between Plot 2 and 3, Plot 3 & 4, Plot 5 & 6, Plot 6 & 7 shall be reduced to a maximum height of 1.2metres.

(c) The boundaries of Plot number 4 and 5 forward of the front building line adjoining the area labelled future access road shall be a maximum of 1.2 metres in height.

**Reason: In the interests of residential amenity and the proper planning and sustainable development of the area.**

3. (a) Prior to the commencement of development, the developer shall submit for written agreement of the Planning Authority a revised site layout plan providing an 11m setback minimum from the opposite side of the road at the development entrance (6.0m road & 3.0m cycleway/footpath & 2.0m widened footpath on opposite side of the road).

(b) Prior to the commencement of any development on site the developer shall submit for agreement in writing details and specifications for the prioritization of pedestrian/cyclists at the entrance to the Estate.

(c) Prior to the commencement of development, the developer shall submit for written agreement from the Planning Authority a revised site layout plan indicating public lighting installed along the footpath bounding the public road.

**Reason: In the interest of vehicular & pedestrian safety, providing for sustainable modes of transport and the proper planning and sustainable development of the area.**

4. A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping,

emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason: In the interest of residential amenities, public health and safety and environmental protection.**

5. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

**Reason: To safeguard the amenity of property in the vicinity.**

6. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

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

7. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.**



8. (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 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.

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

9. All site development works, with the exception of the laying of the final dressing to the road surface, shall be completed prior to the commencement of construction of any of the dwelling units.

**Reason: To ensure the timely provision of infrastructural works for the development.**

10. (a) 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.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been

possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason: To restrict new housing development 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.**

11. 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 requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.

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

12. 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.**

13. The landscaping scheme shown on drawing number PL03, as submitted to the planning authority on the 15<sup>th</sup> day of July 2021 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of [five] years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason: In the interest of residential and visual amenity.**

14. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

**Reason: In the interest of public health.**

15. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.



**Reason: In the interest of public health and to ensure adequate water/wastewater facilities.**

16. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the drawing. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

17. 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.

**Reason: In the interests of visual and [residential] amenity.**

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.**

19. 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.**

**Board Member**

  
Mary Henchy

**Date:** 15/11/2024