

An
Bord
Pleanála

Board Direction
BD-012792-23
ABP-313099-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/07/2023.

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 of the Westmeath County Development Plan 2021-2027 and of the Mullingar Local Area Plan 2014-2020 (as extended);
- (b) Housing for All - a New Housing Plan for Ireland 2021;
- (c) the National Planning Framework which identifies the importance of compact growth;
- (d) 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;
- (e) The Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December 2022;
- (f) Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities – May 2021
- (g) 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 2019;

- (h) The Planning System and Flood Risk Management (including the associated Technical Appendices), 2009;
- (i) the location of the site in an established urban area, with the site zoned for residential;
- (j) The nature, scale and design of the proposed development and the existing availability in the area of a wide range of social, transport and water services infrastructure, as well as the proposed delivery of improved transport infrastructure including the provision of a new footpath on the Ballinderry Road;
- (k) The pattern of existing and permitted development in the area;
- (l) The submissions and observations received;
- (m) The Chief Executive Report from the Planning Authority; and
- (n) The report and recommendation of the inspector including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have effects 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 the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), 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, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,

(b) The existing use on the site and pattern of development in surrounding area;

(c) The availability of mains water and wastewater services to serve the proposed development,

(d) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)

(e) 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),

(f) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

(g) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Assessment and Appropriate Assessment Screening, the Services Design Report and Flood Risk Assessment, the Preliminary Construction Environmental Management Plan (CEMP), the Arboricultural Report, the Archaeological Impact Assessment and the Traffic and Transport Assessment, the Board did not consider that the proposed development would be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would be acceptable in terms of pedestrian safety and would provide an acceptable form of residential amenity for future occupants. 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. The period during which the development hereby permitted may be carried out shall be five years from the date of this Order.

Reason: In the interests of proper planning and sustainable development.

3. No elements of this permission shall be constructed independently, except under an agreed phasing plan which shall be submitted for the written agreement of the planning authority. All infrastructural works required shall be detailed within a revised phasing plan and the delivery of required open space area(s) on foot of each phase

shall be completed before works on the subsequent phase commences, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of clarity, orderly development and the proper planning and sustainable development of the area.

4. Prior to the commencement of any house or duplex unit in 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 house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex 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 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.

5. All mitigation and monitoring measures outlined in the plans and particulars, including the Preliminary Construction Environmental Management Plan (CEMP), the Arboricultural Report, the Services Design Report & Flood Risk Assessment and subsequent reports submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

6. The following requirements in terms of traffic, transportation and mobility, and as relates to DMURS shall be incorporated, and where required revised drawings/reports showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

- (a) Details of revised traffic calming measures, including appropriate horizontal and/or vertical deflections, on the central avenue/link road. The proposed cycle track shall be fully segregated from the central avenue/link road.
- (b) The internal cycle track shall provide a direct connection with cycle/footpath infrastructure to be carried out along the Ballinderry Road.
- (c) A revised Stage 1 / Stage 2 Road Safety Audit in accordance with the provisions of TII document GE-STY-01024 Road Safety Audit (December 2017 Revision) on the final design for the proposed road layout for the development.
- (d) A Stage 3 Road Safety Audit post construction on the completed road layout in accordance with the provisions of TII document 'GE-STY-01024 Road Safety Audit'.
- (e) Full annotated design drawings for all proposed traffic calming.
- (f) A Public Lighting design that accords to the provisions of the Midland Counties Public Lighting Specification.
- (g) All Traffic Signs shall comply with Traffic Signs Manual published by the Department of Transport, Tourism & Sport, August 2019.
- (h) Detailed design and the delivery of required infrastructural works along the Ballinderry Road shall be agreed in writing with the District Engineer and carried out by the applicant prior to first occupation of the development. The development thereafter shall be carried out strictly in accordance with the agreed details.
- (i) Prior to commencement of development, the developer shall provide a revised site layout map and accompanying particulars which clearly delineates the design, layout and material finishes of all pedestrian/cycle connectivity links proposed for the written agreement of the Planning Authority.
- (j) Details of a proposed 'speed monitoring sign' at an appropriate location along the Ballinderry Road, as recommended in the applicant's Traffic and Transport Assessment.

In default of agreement, the matter(s) in dispute shall be referred to An Board Pleanála for determination.

Reason: In the interests of traffic, cyclist and pedestrian safety.

7. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission. Car parking spaces shall not be sold, rented or otherwise sub-let or leased to other parties. Car parking serving the entire development site shall be managed based on a detailed car parking management plan. Prior to the commencement of development, such a detailed car parking management plan shall be submitted for agreement in writing with the Planning Authority.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units.

8. A minimum of 10% of all communal car parking spaces shall 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 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.

9. Proposals for the development name and dwelling 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 dwelling 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.

10. Details of the materials, colours and textures of all the external finishes to the proposed 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.

11. The areas of public open space and communal open spaces, as shown on the lodged plans 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 development, and any trees or shrubs which die or are removed within 3 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.

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

12. Full details of all boundary treatment (both internally and along the outer perimeter of this site) shall be submitted for the written approval of the Planning Authority.

Reason: In the interest of biodiversity, the protection of residential and visual amenity and the proper planning and sustainable development of the area.

13. 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.

14. 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. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

15. Water supply and the arrangements for the disposal of foul water, shall comply with the requirements of the Uisce Éireann and the Planning Authority for such works and services.

Reason: In the interest of public health and to ensure a satisfactory standard of development.

16. The developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

17. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

18. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the 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. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

19. All items and areas for taking in charge shall be undertaken to a taking in charge standard. Prior to development the applicant shall submit construction details of all items to be taken in charge. No development shall take place until these items have been agreed.

Reason: To comply with the Councils taking in charge standards.

20. The management and maintenance of those areas not taken in charge shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of these areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

21. The construction of the development shall be managed in accordance with a Final 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 inter alia: details of proposals as relates to soil importation and exportation to and from the site; details and location of proposed construction compounds, details of intended construction practice for the development, including noise management measures, details of arrangements for routes for construction traffic, parking during the construction phase, and off-site disposal of construction/demolition waste and/or by-products.

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

22. The site development and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material, and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

23. 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.

24. 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.

25. The 38KV powerlines which traverse this site shall be relocated underground prior to the occupancy of any unit within this residential scheme.

Reason: In the interest of clarity, protection of residential amenities and the proper planning and sustainable development of the area.

26. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Any relocation of utility infrastructure shall be agreed with the relevant utility provider. 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. 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.

28. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, to secure the provision and satisfactory completion of roads,

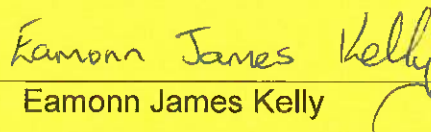
footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security 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 of the development.

29. 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.

Board Member


Eamonn James Kelly

Date: 06/07/2023

