

An
Bord
Pleanála

Board Direction
BD-014221-23
ABP-313334-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 17/10/2023.

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

Having regard to the provisions of the Waterford City and County Development Plan 2022-2028, to the residential land use zoning of the site, to the nature of the proposed development and to the pattern of development in the surrounds, it is 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 the amenities of property in the vicinity and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted the Inspector's recommended conditions and considered an additional condition was warranted in relation to a revised car parking layout to improve the quantity and quality of space to the north and north east of the public open space.

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 information submitted to the planning authority on the 24th day of February, 2022, 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 revised site layout plan shall be submitted for the written agreement of the Planning Authority which omits the 8 parking spaces to the north and north east of the public open space and replaces same with 6 car parking spaces which are configured parallel to the boundary of the open space and internal road.

Reason: In the interest of orderly development and to maximize the area available for public open space.

3. Prior to the commencement of any house 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), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses 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.

4. A full architectural survey and record of Rathfadden Lodge shall be carried out and shall be submitted to the planning authority prior to the commencement of development with the record to comply with the standards for "Recording as a condition of permission" as set out in Sections 6.7.3 – 6.7.5 of the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The record shall include a full set of measured elevations and plans and a high quality digital photographic survey annotated and cross-referenced with the drawings.

Reason: In order to facilitate the conservation, preservation and recording of the architectural heritage of the site.

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

Reason: In the interest of visual amenity.

6. Final details of all proposed site boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual and residential amenities.

7. The boundary planting and areas of communal open space shown on the lodged plans shall be landscaped in accordance with a landscape scheme which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development, 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 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.

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

8. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a comprehensive Invasive Species Management Plan, and dispose of any contaminated material by either its destruction or burial in sealed cells on site, or its removal off site under licence from the National Parks and Wildlife Service of the Department of Housing, Local Government and Heritage for its disposal or destruction in an approved facility.

Reason: To ensure the eradication from the development site of invasive plant species and to protect biodiversity.

9. 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.

10. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann. A Confirmation of Feasibility for connection to the Uisce Éireann network shall be submitted to the planning authority prior to the commencement of development.

Reason: In the interest of public health.

11. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

12. 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 unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of 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.

13. The internal road and vehicular circulation network serving the proposed development, including turning bay, parking area, 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.

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

14. 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 interest of visual and residential amenity.

15. 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.

16. Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority, drawings showing all development works to be taken in charge designed to meet the standards of the planning authority.

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

17. 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 all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.

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

18. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and

monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

19. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

20. 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 development plan of the area.

21. 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.

22. 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.

Note:

The Board considered that the proposal to configure the three blocks of car parking spaces within the public open space would limit the area and usability of the space and in this regard considered that revising the layout such that the two blocks of parking to the north and north east of the public open space are omitted would

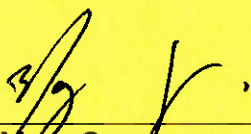
improve the quantity and quality of the space and that an appropriate level of visitor car parking by way of 6 spaces configured parallel to the space and the road would be a more appropriate response to the layout. The Board considered that the 4 spaces to the south of the space which serve units 1-4 could remain as proposed having regard to the proximity of same to the site entrance.

The Board noted section 5.5.1 (EIA screening) of the Inspector’s report refers to the proposed development being “five no. residential units on an infill site that has already been subject to development”. Notwithstanding this typographical error in the report, the Board considered with respect to the current proposal which involves construction of a new housing development comprising of 17 dwellings that the requirement for submission of an EIAR and carrying out of an EIA may be excluded at a preliminary stage.

The Waterford County Development Plan 2022-2028 was the applicable statutory plan in place at the date of the Board’s decision. In this regard, the Board considered in full all relevant provisions of the statutory plan. In doing so, the Board recognised that at the time of the decision of the planning authority, the Waterford County Development Plan 2013-2019 (as extended) was in place. The Board noted that the relevant provisions of the current statutory plan as they would relate to the proposed development are comparable and no material issue arises therefrom.

Furthermore, it was noted that the decision of the planning authority was largely confined to specific areas of concern regarding the potential impact of Block B on the residential amenity of the adjoining properties to the east. In overview therefore, the Board determined that the grounds of appeal and the material considerations arising therefrom, are not affected by or material to the relevant provisions of the current plan in any manner which of themselves are not materially different to the previous plan and which did not form part of the basis of the decision of the Board.

Board Member



Mary Cregg

Date: 01/11/2023