



An
Bord
Pleanála

Board Direction
BD-013895-23
ABP-314009-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/09/2023.

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 nature, scale and design of the development which it is proposed to retain and complete, specifically the alignment of the subject road which will improve the safety of vehicular movements to existing premises and lands in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable proposal at this location, would not seriously injure the residential or visual amenity of the area and would be acceptable in terms of design and layout and in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 4th day of May, 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. The following requirements of the planning authority shall be carried out in full:
 - (a) within three months of the grant of this Order, a construction and operational traffic management plan shall be submitted to the planning authority for written agreement,
 - (b) all sections of roads, junctions and finishes shall comply with the requirements of the planning authority,
 - (c) no objects, structures or landscaping shall be placed or installed within the visibility triangle which would interfere or obstruct (or could obstruct over time) the required visibility envelopes at junctions, and
 - (d) all works shall be carried out at the developer's expense according to specifications and conditions of the planning authority.

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

3. The construction of the 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 within three months of the

grant of this Order. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

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

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

Reason: To ensure adequate servicing of the development and to prevent pollution.

5. All services and cables in the road shall be located underground.

Reason: In the interests of visual and residential amenity.

6. The landscaping scheme, as submitted to the planning authority on the 4th day of May 2022, 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 two years from the completion of the development, 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 interests of residential and visual amenity.

7. Site development and building works shall be carried out only between the hours of 0800 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.

8. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and

- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to

secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

9. 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 the 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 1

The Clare County Development Plan 2023-2029 was the applicable statutory plan in place at the date of the Boards 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 Clare County Development Plan 2017-2023 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. 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.

Note 2

Having regard to the proximity of the subject development to the proximate Ringfort-Rath CL 041-093 and notwithstanding that the proposal comprises part retention of the subject road, the Board decided to include a condition requiring archaeological monitoring.

Board Direction to issue with Order.

Board Member


Una Crosse

Date: 26/09/2023