



An
Bord
Pleanála

Board Direction
BD-015828-24
ABP-314394-22

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/03/2024.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the provisions of the Clare County Development Plan 2023-2029, the location of the site and the pattern of development in the area including the scale and volume of development existing on the site, the existing use and the scale and nature of the proposed development, 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 of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board did not share the Inspector's view that the proposed development, by reason of its scale, bulk and massing, would constitute over development of the site having regard to the existing volume and scale of development on the site. The Board considered that the development would not cause a diminution in the residential amenities currently enjoyed by adjoining property by reason of overshadowing and loss of daylight/sunlight having regard to the location and height of the existing structure. Furthermore, it was considered by the Board that a condition requiring the

setting back of part of the rear area of the second floor of the proposed structure by 8 metres from the proposed eastern elevation for a distance of 8 metres from the southeast corner would create a suitable buffer between the proposed structure and the existing private amenity spaces for the adjoining apartments to the east. The Board further considered that condition 13 of the planning authority notification which had been appealed by the first party, in respect of the building line, was unwarranted having regard to the marginal differences in the proposed and existing building line.

In relation to the second reason for refusal recommended by the Inspector, which related to the proposed uses on the site and what was considered to be a lack of information submitted regarding same, the Board did not share the view of the Inspector that it had not been demonstrated that the car parking provision for the proposed development would be adequate to cater for the parking demand generated by the proposed development. The Board considered that the parking provision outlined would be appropriate for the scale of development proposed and that sufficient justification had been provided by the applicant. In respect of details as to the use of the development, the applicant had sought permission for a mixed use development comprising a light industrial/shop use and offices which the Board considered was sufficient information to determine the likely effects on the local environment. Any future user would have to comply with the terms of the permission granted which provides for the uses outlined.

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 20th day of June 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. Prior to the commencement of development revised plans and elevations shall be submitted for the written agreement of the planning authority which sets back the area of the second floor of the structure by 8 metres from the eastern elevation for a distance of 8 metres from the southeast corner of the structure.

Reason: In the interest of residential amenity of adjoining properties.

3. Details, including samples, 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 interests of visual amenity and streetscape.

4. The developer shall enter into water and waste water connection agreement(s) with Uisce Eireann, prior to commencement of development.

Reason: In the interest of public health.

5. Water supply and drainage arrangements, including the disposal of surface water from the site, shall be in accordance with the detailed requirements of the planning authority.

Reason: In the interest of public health.

6. The developer shall control odour emissions from the premises in accordance with measures including extract duct details, which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of public health and to protect the amenities of the area.

7. A minimum of 10% of all 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 development.

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

8. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0800 and 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 amenities of property in the vicinity.

9. The construction of 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. The plan shall provide a demolition management plan, together with details of

intended construction practice for the development, including a detailed traffic management plan and noise management measures.

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

10. 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 public safety and residential amenity.

11. 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 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: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

12. 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



Una Crosse

Date: 13/03/2024