

An
Bord
Pleanála

Board Direction
BD-016018-24
ABP-315792-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/04/2024.

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 zoning objective of the subject site, the relevant provisions of the Wicklow County Development Plan 2022-2028, the site's planning history and to the site location within an existing urban area, to the existing pattern of development in the area and to the nature and scale of the proposed development it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable 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.

Appropriate Assessment Screening:

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, scale and location of the proposed development, the Appropriate Assessment Screening Report submitted with the application and the Inspector's report and submissions on file. In completing the screening exercise, the Board

adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development could have a significant effect on the Poulaphouca Reservoir Special Protection Area (site code: 004063) in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment

The Board completed an Appropriate Assessment in relation to the effects of the proposed development on the Poulaphouca Reservoir Special Protection Area (site code: 004063), taking into account the nature, scale and location of the proposed development, the submitted Natura impact statement, including the mitigation measures proposed, and the Inspector's report and submissions on file.

Following the Appropriate Assessment, the Board adopted the conclusions of the Inspector and determined that the proposed development, individually or in combination with other plans or projects, would not adversely affect the integrity of Poulaphouca Reservoir Special Protection Area (site code: 004063), or any other European site, in view of the site's conservation objectives.

This conclusion is based on:-

- (a) a full and detailed assessment of all aspects of the proposed project including mitigation measures in relation to the conservation objectives of the Poulaphouca Reservoir Special Protection Area (site code: 004063),
- (b) detailed assessment of in combination effects with other plans and projects, and
- (c) no reasonable scientific doubt as to the absence of adverse effects on the integrity of the said European site.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 27th day of May 2022, as amended by further plans and particulars lodged with the planning authority on the 13th day of December 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. Mitigation measures outlined in the plans and particulars, including the Natura Impact Statement and the Ecological Impact Assessment, 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.

3. The proposed development shall be amended as follows:

- a) Windows on the side elevation of the duplex block overlooking the public open space shall be as shown on cross-section 6-6 on drawing D-127-PL-SS-201 submitted to the planning authority as further information on 13th day of December 2022. This omits a window from the ground floor apartment.
- b) The private amenity space for the ground floor 2-bedroom duplex units shall be increased to a minimum of 15sqm each.

The revised plans and particulars, including floor plans, showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity and of residential amenity.

4. The render finish on the upper (first and second) floor levels of the gable (side) elevations of the duplex units shall be replaced with a brick / cladding finish. Prior to commencement of development, a schedule of all materials to be used in the external treatment of the residential units shall be submitted to and agreed in writing with, the planning authority.

Reason: In the interest of visual amenity and to ensure a proper standard of development.

5. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority final details of the design and layout of the areas of public open space, including any play spaces or seating areas to be provided.

Reason: In the interest of residential amenity and to ensure a proper standard of development.

6. Prior to commencement of development a comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority. 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 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.

7. 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.

8. Proposals for a naming / 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 unit numbers, shall be provided in accordance with the agreed scheme. The proposed names 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 place names for new residential areas.

9. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

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

10. 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.

11. 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.

12. 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

13. 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.

14.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 or duplex 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

15. 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.

16. 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

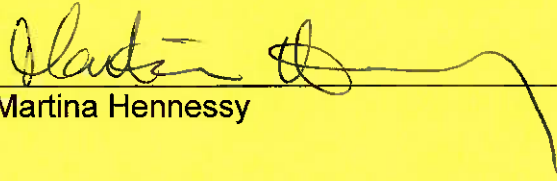
17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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 noted the view of the planning Inspector that House 13 should be redesigned to provide frontage onto Burgage Manor. The Board, having regard to the modest length of the boundary wall and the configuration of private open space which wraps around this dwelling, considered this is not warranted in this particular instance. The Board was also satisfied that the first-floor windows on the side elevations of the duplex units would not negatively impact residential amenity, given the separation distances to neighbouring dwellings and so did not agree with the Inspector that these windows should be high-level only. In the interest of clarity, the Board included a condition that the side elevation of the duplex block overlooking the public open space should be as shown on cross-section 6-6 on drawing D-127-PL-SS-201 submitted to the planning authority as further information on 13th day of December 2022, which involves the omission of a window from the ground floor apartment which would have been immediately adjacent to the public open space.

Board Member


Martina Hennessy

Date: 09/04/2024