

An
Bord
Pleanála

Board Direction
BD-016767-24
ABP-318679-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/06/2024.

The Board decided to partially grant and partially refuse i.e. a split decision, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Reasons and Considerations for refusal of outdoor dining area and 3 no. dining pods:

Having regard to the nature of use of the temporary covered outdoor dining area and temporary dining pods, the location and the overall design of the development, and its proximity to residential properties, together with the intensity of use that is involved and the late opening hours, it is considered that this element of the development would seriously injure the residential amenities of property in the vicinity by reason of noise and general disturbance. The items for which retention is sought would therefore, be contrary to the proper planning and sustainable development of the area.

This element is therefore refused.

Reasons and Considerations for grant of permission for the remainder of development for which retention permission and permission was sought

Having regard to the provisions of the Tipperary County Development Plan 2022-2028, it is considered that the proposed development would, subject to compliance with the conditions set out below, not seriously injure the visual or residential amenity

of the area or have an adverse impact on the receiving environment. The development would, therefore, be in accordance with the proper planning and sustainable development of the area subject to conditions below.

This element is therefore granted.

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 submitted on the 19th day of October 2023, 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. Permission for the retention of the outdoor dining area and 3 no. outdoor dining pods and their use for the purpose of dining is hereby refused and these structures shall be deconstructed and removed from the site within 8 weeks of the date of issue of the Board's Order.

Reason: In the interest of clarity.

3. 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.

4. 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 intended construction practice for the development, including noise, dust and vibration management measures, rock breaking/excavation methodologies and off-site disposal of construction/demolition waste.

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

5. The noise level shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive locations as per the Noise Assessment Report submitted with the planning application, between 0800 and 2000 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

6. 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.

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

Reason: In the interest of visual amenity.

8. Water supply and 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.

9. Prior to commencement of development, the developer shall enter into a water and sewage connection agreement with Irish Water.

Reason: In the interest of public health

10. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
- (b) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established
- (c) A timescale for implementation, including details of phasing, which shall provide for the planting to be completed before the dwelling is first made available for occupation.


Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

11. 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

Date: 20/06/2024


Liam Bergin