



An
Bord
Pleanála

Board Direction
BD-016354-24
ABP-319009-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 20/05/2024.

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

In coming to its decision, the Board had regard to the following:

- a) the policies and objectives of the Limerick Development Plan 2022-2028
- b) Housing for All, A New Housing Plan for Ireland, 2021
- c) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- d) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2018)
- e) the Urban Development and Building Heights, Guidelines for Planning Authorities (2018)
- f) the Design Manual for Urban Roads and Streets (DMURS) (2019)
- g) the Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- h) the nature, scale and design of the proposed development,
- i) the availability in the area of a wide range of social, community, transport and water services infrastructure,
- j) the pattern of existing and permitted development in the area,

- k) the location of the site within the established suburban area of Limerick City,
- l) the submissions and observations received
- m) the Inspectors report

Appropriate Assessment Screening

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that European Sites Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077) were the only European Sites in respect of which the proposed development has the potential to have significant effects.

Appropriate Assessment

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment.

The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Lower River Shannon SAC (002165) and River Shannon and River Fergus Estuaries SPA (004077), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the sites' conservation objectives.

Environmental Impact Assessment (EIA):

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- The location of the site on lands governed by "New Residential" zoning under the Limerick Development Plan 2022-2028 and the results of the strategic environmental assessment of the Limerick Development Plan 2022-2028 undertaken in accordance with the SEA Directive (2001/42/EC),
- The existing use on the site and pattern of development in surrounding area,
- The planning history relating to wider area of the site,
- The availability of mains water and wastewater services to serve the proposed development,
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Management Plan.

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development, in this accessible '*City Suburban / Urban Extension*' location, would constitute an acceptable density of development in this urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety and public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

1.1. Conditions

1.	<p>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 the 17th day of November 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The following revisions shall be made to the development:</p> <p>(a) Apartment Block C (units 55-62) shall be omitted and the area shall be incorporated into the public open space for the proposed development.</p> <p>(b) Unit 95 shall be omitted and a buffer of 5metres from the OPW channel shall be provided.</p> <p>(c) this permission provides for a total of 113 new units.</p>

	<p>Revised Plans shall be submitted for the written agreement of the planning authority prior to the commencement of development</p> <p>Reason: In the interest of proper planning and sustainable development.</p>
3.	<p>Prior to commencement of development, revised plans shall be submitted to, and agreed in writing with, the planning authority in respect of the following:</p> <ul style="list-style-type: none"> a) Unit Nos. 35 and 92 to provide an active front (side box window) fronting the adjacent open space. b) Details of boundary treatments for patios serving ground floor apartments. a) Details including drawings of bicycle stores to facilitate Apartment Block Types A, B & B1 and the proposed creche. <p>Reason: In the interest of visual and residential amenity and orderly development.</p>
4.	<p>A 5-metre-wide maintenance strip shall be provided and maintained adjacent to the OPW channel along the eastern boundary. Full details of the treatment of this buffer area during the construction and operational phases shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.</p> <p>Reason: In the interest of orderly development.</p>
5.	<p>No walls, fences or other boundary treatment including hedges/trees shall be constructed or created around the front gardens of the proposed dwellings. The front gardens of the estate shall be kept as Open Plan. Class 5 of Schedule 2, Part 1 of the Planning & Development Regulations 2001 (as amended) and any statutory provision replacing or amending them shall not apply.</p> <p>Reason - To ensure that the proposed scheme remains open plan in nature/appearance, in the interest of urban design and visual amenity.</p>
6.	<p>Prior to the commencement of development, the Developer shall submit a revised phasing plan to be agreed in writing with the Planning Authority:</p>

	<p>a) Phase 3 as indicted on drawing number 2206-03-04 shall be reassigned as Phase 2 and Phase as indicated on drawing number 2206-03-04 shall be reassigned as Phase 3,</p> <p>b) The crèche facility shall be constructed prior to the occupation of any residential unit on site.</p> <p>Reason: To ensure orderly development and a proper standard of construction.</p>
7.	<p>(a) Details of the materials, colours, and textures of all the external finishes to the proposed buildings shall be as submitted with the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development.</p> <p>(b) The apartment blocks shall not be finished in render and an alternative finish shall be agreed in writing with the Planning Authority</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>a) Tree protection shall be carried out in accordance with the requirements of BS 5837 (2012) – Trees in Relation to Design, Demolition and Construction.</p> <p>b) The approved landscaping scheme shall be undertaken in the first planting season following the occupation or substantial completion of the development or each phase of the development as agreed, whichever is the sooner. The planting shall thereafter be maintained and any plants that die, become diseased or are removed within 3 years shall be replaced within the following planting season by plants of a similar size and species, unless the Planning Authority gives its written consent to any variation.</p> <p>c) The designated public open space areas, when developed in accordance with the agreed details, shall be made available for continuous use and enjoyment of the public.</p> <p>Reason: To ensure the provision of amenity afforded by appropriate landscaping design, and site treatment, and to ensure the sustainability of</p>

	the approved landscape design through its successful establishment and long-term maintenance.
9.	<p>a) Any required hedgerow, tree, or scrub removal or cutting to facilitate the proposed development shall not take place during the bird breeding season which is between 1st of March and 31st of August.</p> <p>b) All environmental, construction and ecological mitigation measures identified in the submitted Natura Impact Statement, Ecological Impact Assessment, Landscape Design Statement and CEMP, shall be implemented in full by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.</p> <p>c) The developer shall retain the services of a recognised and suitably qualified ecologist to oversee the construction of the subject development and advice on the specified measures as set out in the application. The developer shall confirm the name of the ecologist prior to commencement of subject development for the written agreement of the Planning Authority.</p> <p>d) The developer shall provide bat boxes as required ensuring that bat roosting nests are provided along tree lines around the subject site so as to prevent loss or reduction of existing habitats for commuting bats.</p> <p>Reason: In the interests of clarity and nature conservation and to avoid any potential harmful effects to the Natura Network and to ensure environmental sustainability of the subject site</p>
10.	<p>The developer shall comply with all requirements of the planning authority in relation to roads, access, lighting and parking arrangements. In particular:</p> <p>a) The developer shall agree, the detailed measures required for left turning movements from the southern access point which (i) facilitate left turning pedestrian and cyclist access and (ii) which prevent left turns for vehicles with such measures to be agreed in writing with the Planning Authority prior to the commencement of development.</p>

	<p>b) The roads and traffic arrangements serving the site (including sightlines, footpath connections and signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.</p> <p>(i) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths, corner radii and pedestrian crossings.</p> <p>(ii) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the Planning Authority for such road works</p> <p>(iii) A Mobility Management Plan shall be prepared and submitted to the planning authority for approval prior to the commencement of development.</p> <p>(iv) The developer shall carry out a Stage 2 Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit), which shall be submitted to the planning authority for its written agreement. The developer shall carry out all agreed recommendations contained in the audits, at the developer's expense.</p> <p>c) Within six months of substantial completion of the development a Stage 3 Quality Audit (including Road Safety Audit, Access Audit, Cycle Audit and Walking Audit), of the constructed development shall be submitted to the planning authority for approval.</p> <p>d) A detailed Construction Traffic Management plan shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p>Reason: In the interests of pedestrian, cyclist, and traffic safety.</p>
11.	<p>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.</p> <p>Reason: In the interests of visual and residential amenity.</p>

12.	<p>Proposals for a development name and 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 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).</p> <p>Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas</p>
13.	<p>The developer shall enter into water and waste water connection agreements with Usice Eireann, prior to commencement of development.</p> <p>Reason: In the interest of public health</p>
14.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.</p> <p>Reason: In the interests of public health and surface water management</p>
15.	<p>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.</p>

	<p>Reason: In order to safeguard the residential amenity of property in the vicinity.</p>
16.	<p>Prior to commencement of development the developer shall submit and obtain the written agreement of the planning authority, a plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and for the ongoing operation of these facilities.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
17.	<p>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.</p> <p>Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended</p>
18.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, 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 residential unit.</p> <p>Reason: In the interests of amenity and public safety.</p>

19.	<p>(a) A parking plan detailing the allocation of car spaces across the development shall be submitted for the written agreement of the planning Authority prior to the occupation of the development.</p> <p>(b) A minimum of 10% of all car parking spaces serving the apartments 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.</p> <p>Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.</p>
20.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.</p> <p>Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.</p>
21.	<p>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</p>

	<p>and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of sustainable waste management.</p>
22.	<p>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 prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; b) Location of areas for construction site offices and staff facilities; c) Details of site security fencing and hoardings; d) Details of on-site car parking facilities for site workers during the course of construction; e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; f) Measures to obviate queuing of construction traffic on the adjoining road network; g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network; h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works; i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels; j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater; k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

	<p>l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the Planning Authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
23.	<p>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:</p> <p>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</p> <p>b) employ a suitably qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>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.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>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.</p>
24.	<p>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</p>

	<p>the planning authority, such agreement must specify the number and location of each housing unit, pursuant to Section 47 of the Planning and Development Act 2000, that restricts all housing 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.</p> <p>Reason: To restrict new housing 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.</p>
25.	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
26.	<p>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</p>

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 while the quantitative provision of public open space was appropriate, the qualitative provision was considered to be sub optimal with a number of spaces included as public open space comprising incidental areas. In this regard, considered that the removal of Block C from the layout would facilitate a more amenable central open space with greater connection to the linear public space which is proposed to adjoin the channel along the eastern boundary.

The Board also noted and agreed with the condition requiring a 5m buffer from the OPW channel. In this regard the Board considered that the layout along the southern boundary and in particular the proximity of Unit 95 would not provide the buffer necessary and considered that Unit 95 as proposed should be omitted from the layout as proposed. It was considered that rather than condition the unit move 5 metres to the west of the channel, a revised reconfiguration of the layout along the southern boundary could be considered by the developer in the context of a new application.

Board Direction to issue with Order.

Board Member

Una Crosse

Date: 20/05/2024