

An
Bord
Pleanála

Board Direction
BD-017422-24
ABP-319657-24

The submissions on this file and the Inspector's report were further considered at a Board meeting held on 05/09/2024. That further consideration included the submission from the applicant received by the Board on the 19th day of August 2024 and the submission from the planning authority received on the 14th day of August 2024.

The Board decided to make a SPLIT decision, generally in accordance with the Inspector's recommendation, whereby permission is refused for the proposed 329 residential units and associated development, and permission is granted for the remainder of the development comprising the Town Park and extension of the Blessington Inner Relief Road and associated works, as indicated hereunder.

Decision

GRANT permission for the remainder of the development comprising the 10.65 ha Town Park and the extension of the Blessington Inner Relief Road and associated works, in accordance with the said plans and particulars, based on the reasons and considerations marked (1) under, and

REFUSE permission for the proposed 329 residential units and all associated car and bicycle parking, open spaces, vehicular access, infrastructure works and site services, and the temporary marketing signs and suite, for the reasons and considerations marked (2) under, and subject to the conditions set out below.

Reasons and Considerations (1)

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

- (a) the nature, scale and design of the proposed Inner Relief Road extension, which is supported by Objective CPO 12.44 of the Wicklow County Development Plan 2022-2028;
- (b) the nature, scale and design of the proposed Town Park, which would provide improved facilities and amenities to meet the needs of existing and future residents in accordance with Objective CPO 7.5 of the Wicklow County Development Plan 2022-2028;
- (c) the pattern of existing and permitted development in the area;
- (d) the provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- (e) the Climate Action Plan 2024 prepared by the Government of Ireland;
- (f) the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009;
- (g) the submissions and observations received;
- (h) the reports from the Planning Authority; and
- (i) the report of the Planning Inspector.

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 adjoining the serviced urban area, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, the Appropriate Assessment documentation submitted with the application, the incorporation within the proposal of best-practice standard measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site, the submissions and observations on file, the reports of the planning

authority, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the Conservation Objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (a) the nature, scale, location, and extent of the proposed development;
- (b) the Environmental Impact Assessment Report and associated documentation submitted with the application and the appeal response;
- (c) the content of the appeals, the reports of the planning authority, and the submissions received from third parties and prescribed bodies; and
- (d) the report of the Planning Inspector.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the Environmental Impact Assessment Report complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board agreed with the summary and examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the planning application. The Board is satisfied that the Inspector's report sets out how these were addressed in the assessment and recommendation, including environmental conditions, and these are incorporated into the Board's decision.

Reasoned Conclusions on the Significant Effects

The Board considered and agreed with the Inspector's reasoned conclusions, that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- **Population and Human Health:** Construction related disturbance including noise, dust, dirt, and traffic, which would be mitigated by construction management measures including the agreement of a Construction Environmental Management Plan, a Construction Traffic Management Plan, and a Resource and Waste Management Plan.
- **Population and Human Health:** Positive socioeconomic effects through the availability of improved transport facilities and public open space when the development is completed.
- **Biodiversity:** Disruption to birds and bats due to the construction works, lighting, dust, and the loss of vegetation. This will be mitigated by the employment of good practice construction measures to reduce disruption, including pre-construction surveys and monitoring by the project ecologist, and by the design of the proposed scheme (including lighting and landscaping) which will retain and protect important habitats, and features.
- **Biodiversity:** Impacts on water quality and the aquatic environment as a result of silt laden and contaminated runoff, which will be mitigated by standard good practice construction stage measures and the operational surface water drainage system.
- **Land, Soil and Geology:** The loss of land and soil of high importance due to the potential for granular aggregates, which would be mitigated by the delivery of improved facilities and amenities in accordance with the proper planning and sustainable development of the area.
- **Water:** Construction stage impacts on groundwater and surface water quality, including associated downstream impacts on drinking water and biodiversity, which will be mitigated by standard good practice construction stage measures including a Construction Environmental Management Plan.
- **Water:** Operational stage surface water discharges to groundwater and the adjoining Deerpark Stream, including associated downstream impacts on drinking

water and biodiversity, which will be mitigated by the implementation of suitably designed Sustainable Urban Drainage System (SuDS) measures.

- Landscape: Changes to the localised landscape character associated with the development of this greenfield site, which will be mitigated by the design and layout of the proposed development, including the retention of existing vegetation and the provision of additional landscaping and open spaces.
- Cultural Heritage: Disturbance of recorded and unrecorded archaeological features as a result of construction stage excavation and groundworks, which will be mitigated by a range of measures including the retention/protection of important features, further archaeological testing and monitoring, and the recording of archaeological remains.
- Cultural Heritage: Positive impacts associated with the development of a Town Park which protects, enhances, and promotes the cultural heritage value of the historic landscape, including the Downshire House site and its associated features.

The Board is, therefore, satisfied that this element of the proposed development would not have any unacceptable direct, indirect, or cumulative effects on the environment.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Wicklow County Development Plan 2022-2028, would provide significant improvements to the transport and open space infrastructure in Blessington, would not seriously injure the visual amenities of the area or the amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not be at risk of flooding or increasing the risk of flooding to other lands and would not adversely impact on the local water regime or water quality, and would not seriously detract from the ecological or archaeological value of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. This element of 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 December 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. This permission relates to the construction of the Town Park and the extension to the Inner Relief Road elements only. Details of the full extent of these and any ancillary siteworks and services shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity.

3. The mitigation and monitoring measures relevant to the permitted development (that is the Town Park and Inner Relief Road extension), as outlined in the Environmental Impact Assessment Report, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of clarity and the protection of the environment during the construction and operational phases of the development.

4. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to

commencement of development/installation of lighting. The lighting scheme shall incorporate the requirements of the ecological mitigation measures contained within the Environmental Impact Assessment Report.

Reason: In the interests of amenity, public safety, and nature conservation.

5. (a) Drainage arrangements including the management, treatment, and disposal of surface water, shall comply with the Environmental Impact Assessment Report mitigation and monitoring measures, as well as the requirements of the planning authority for such works and services.

(b) Full details of surface water drainage proposals, including a management and maintenance plan, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and surface water management.

6. 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 site offices at all times.

Reason: In the interest of sustainable waste management

7. The construction of the development shall be managed in accordance with a

Construction 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 with measures to reflect mitigation described in the Environmental Impact Assessment Report, in addition to the following:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of access points to the site for any construction related activity;
- c) Location of areas for construction site offices and staff facilities;
- d) Details of site security fencing and hoardings;
- e) Details of on-site car parking facilities for site workers during the course of construction;
- f) 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;
- g) Measures to obviate queuing of construction traffic on the adjoining road network;
- h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- i) 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;
- j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- k) 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;
- l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- n) A record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for

inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

8. 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 amenities of property in the vicinity.

9. Details of all areas not intended to be taken in charge by the local authority and proposals for the management and maintenance of same, including the Town Park, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development.

10. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site in accordance with the Environmental Impact Assessment mitigation measures. 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 who shall monitor all site investigations and other excavation works, and
 - c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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.

11. (a) The proposed Inner Relief Road extension shall be in accordance with the detailed construction standards of the relevant planning authority for such works and the design standards outlined in the Design Manual for Urban Roads and Streets (2019).

(b) Precise details of the proposed road design, including tie-in details with the existing road network, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of traffic safety, sustainable transport, and orderly development.

12. 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.

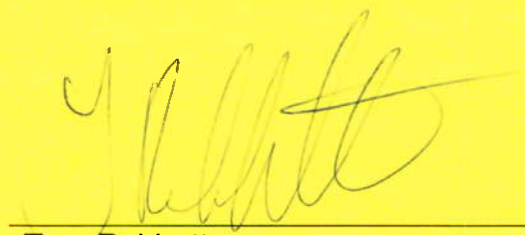
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge

Reasons and Considerations (2)

1. Having regard to the specific legislative preconditions which apply to Large Scale Residential Development (LRD) as set out in Section 32A(1) and (2)(b)(ii) of the Planning and Development Act 2000, as amended, to the nature of the appeal, which is an LRD appeal against a decision of the planning authority that relates to an application for permission to which section 32A(1) and 2(b)(ii) applies, (Section 2 of the 2000 Act refers), and also having regard to the Blessington Local Area Plan 2013-2019 (LAP) wherein it states that *'In accordance with the Act, a LAP shall have a duration of 6 years, unless after 5 years it is determined that the existing LAP is still consistent with the objectives and core strategy of the County Development Plan and the objectives of the plan have not been substantially secured. In such circumstances, the duration of the plan may be extended for an additional 5 years (i.e. giving the plan a total duration of 10 years) subject to adherence to the procedures set out in Section 19 (1) of the Act'* and further states *'...while it is intended initially that this plan shall have a duration of 6 years, in accordance with Section 19 of the Act, this plan could be extended to a 10 year duration if it is deemed that it remains a robust planning framework for this additional time period and the objectives of the plan have not been substantially secured'*, it is considered, that no statutory zoning currently applies to the subject site. In this context, the proposed development is not consistent with the legislative preconditions for an LRD application, insofar as it is not on land the zoning of which facilitates its use for the purposes proposed in the application. In this context, the Board is precluded from granting permission for this element of the proposed development.
2. Having regard to the relevant provisions of the Wicklow County Development Plan 2022-2028, which notes that a new Local Area Plan (LAP) will be made for Blessington (with this future LAP listed as third in the order of priority of plans to be made – Section 3.5 of the County Development Plan refers) and to the associated Core Strategy Table A: LAP Towns, which refers to a surplus of previously zoned land in this settlement and notes that, *'Surplus will*

be addressed in next LAP', it is considered that the proposed development would be premature, pending the making of a statutory local area plan for this overall settlement and which will confirm the final appropriate quantum and location of residential zoned land. This element of the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Board Member



Tom Rabbette

Date: 06/09/2024