

An
Bord
Pleanála

Board Direction
BD-017265-24
ABP-319721-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/08/2024.

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:

- (i) the policies and objectives of the Limerick Development Plan 2022 - 2028,
- (ii) The zoning objective 'New Residential' as set out in the Limerick Development Plan 2022 - 2028 and which seeks 'To provide for new residential development in tandem with the provision of social and physical infrastructure.'
- (iii) Housing for All: A new Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage, 2021, and Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (iv) the 'Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities', issued by the Department of Housing, Local Government and Heritage, January 2024,
- (v) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing and Planning and Local Government, December 2023,

- (vi) 'Architectural Heritage Protection Guidelines for Planning Authorities' issued by the Department of Arts, Heritage and the Gaeltacht in 2011,
- (vii) the 'Childcare Facilities Guidelines for Planning Authorities' issued by the Department of the Environment and Local Government in 2001,
- (viii) the availability in the area of a wide range of social and both existing and planned transport infrastructure,
- (ix) to the pattern of existing and permitted development in the area, and
- (x) Submissions received, and
- (xi) the Inspectors Report.

Appropriate Assessment (AA) – Stage 1:

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within an established town centre location and adequately serviced urban site, the Appropriate Assessment Screening Report submitted with the application, 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 would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, other than the Lower Shannon Special Area of Conservation and the River Shannon and River Fergus Estuaries Special Protection Area.

Appropriate Assessment - Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions including expert submissions received and carried out an appropriate assessment of the implications of the proposed development on the Lower Shannon Special Area of Conservation (site code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (site code: 004077) in view of these sites' Conservation

Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

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

In completing the Appropriate Assessment, the Board accepted and adopted 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 site's 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 Lower Shannon Special Area of Conservation (site code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (site code: 004077) in view of the conservation objectives of the sites. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

Environmental Impact Assessment:

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, along with the screening

determination by the Inspector at section 10 of his report and the screening determination of the planning authority.

Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(i) and(iv) of Part 2 of Schedule 5 to the Planning and Development Regulations 2001, as amended,
- the location of the site on lands on appropriately zoned lands as set out in the Limerick County Development Plan 2022 - 2028,
- the existing use on the site and pattern of development in surrounding area,
- the planning history relating to the site,
- the availability of mains water and wastewater services to serve the proposed development, and
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended,

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 would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height, and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

The Board considered that the proposed development is, compliant with the Limerick City and County Development Plan 2022 - 2028, and the proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

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 to the planning authority on the 29th February 2024, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

The outdoor amenity spaces relating to apartments JJ and KK at third floor level in Block 4, shall incorporate a barrier which delineates between the outdoor space and the separate green roof area beyond. Access to the green roof area shall be for emergency or maintenance purposes only.

Revised Plans shall be submitted to and agreed in writing with, the planning authority prior to the commencement of development

Reason: In the interest of residential amenity.

3. 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.

Reason: In the interest of visual amenity.

4. 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 and surface water management .

5. The developer shall enter into water and wastewater connection agreement(s) with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

6. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected on the public house unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

7. The trading hours of the public house shall be submitted to and agreed in writing with the Planning Authority, prior to the making available for occupation of the public house by the developer. No amplified music shall be accommodated externally. The outdoor seating area associated with the public house shall be used for the seating of customers only.

Reason: In the interest of clarity and residential amenity.

8. The Mitigation and monitoring measures outlined in the Natura Impact Statement submitted with this application shall be implemented.

Reason: In the interest of protecting the environment.

9. 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 apartment unit and demonstrate that it is bat friendly.

Reason: In the interests of amenity and public safety, and to ensure the protection of bats.

10. The developer shall comply with the following requirements in relation to the alterations and restoration of the protected structure, Ardhu House, which shall be carried out in accordance with the document: "Architectural Heritage Protection – Guidelines for Planning Authorities" issued by the Department of Arts, Heritage and the Gaeltacht in 2011:

- (a) Details of the appointment of a Grade 1 accredited conservation architect, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.
- (b) A schedule of all materials to be used in the treatment of the development including rainwater goods; masonry and renders and external and internal joinery shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (c) Upon completion of the works, the conservation expert shall certify to the Planning Authority, that the specified works have been carried out in accordance with best conservation practice.

Reason: In order to ensure an appropriate standard of restoration works for this protected structure.

11. 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.

12. 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.

13. The road network serving the proposed development, including turning bays, junction with the public road, footpaths and kerbs, shall be in accordance with the detailed construction standards of the Planning Authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

14. Prior to the commencement of development, the developer shall submit proposals for the written agreement of the Planning Authority for the proposals for the provision of a car share/ club scheme to serve this development. A minimum of three car parking spaces shall be allocated to this and the management of which may be by a third-party operator.

Reason: To reduce the need for car parking and to make efficient use of available parking.

15. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. The use of the residential spaces for any other purpose, including use in association with any other uses of the development hereby permitted, shall be the subject of a separate grant of planning permission.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

16. A minimum of 10% of all car parking spaces serving the apartments shall 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.

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

17. The site shall be landscaped, and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

18. The proposed development shall include for the installation of Swift Bricks and Bat Boxes at appropriate locations to be agreed with and approved by the Planning Authority prior to commencement of development.

Reason: to enhance the ecological value of the development.

19. The communal resident facilities shall be occupied as part of the development and shall not be occupied as separate, commercial facilities. Details of the management and operation of same shall be submitted to and agreed with writing with the planning authority prior to the operation of the facilities.

Reason: In the interest of residential amenity.

20. (a) 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 facilities for each apartment unit shall be submitted to, and agreed in writing with, the Planning Authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

21. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

22. 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:

- 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;
- 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.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the Planning Authority.

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

23. 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).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

24. 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.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

25. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0800 to 1400 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.

26. 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.

27. 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, as relevant, 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.

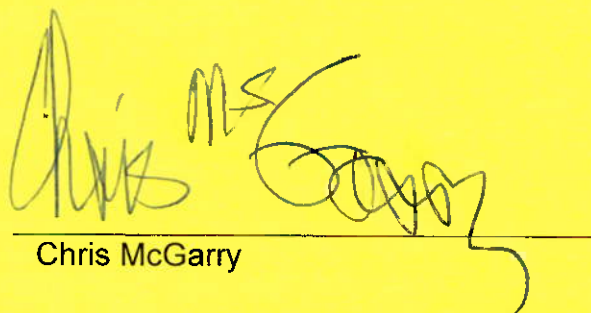
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

28. 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



Chris McGarry

Date: 19/08/2024