

An
Bord
Pleanála

Board Direction
BD-018463-24
ABP-320728-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/12/2024.

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 following:

- a) the location of the site in the established urban area of Waterford City in an area zoned for residential (under *RE – Provide for enterprise and /or residential led regeneration*) and where the site is identified as one of a small number of "Opportunity Sites" (*OPS22 Waterford Crystal Sports Complex, Cork Road (9.88 ha)*) where the site *has potential to accommodate taller building(s)*.
- b) the policies and objectives of the Waterford City and County Development 2022 - 2028
- c) Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- d) Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2018)
- e) Urban Development and Building Heights, Guidelines for Planning Authorities (2020)
- f) Design Manual for Urban Roads and Streets (DMURS) (2013)

- g) Architectural Heritage Protection- Guidelines for Planning Authorities 2011;
- h) Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- i) consistency with the Climate Action Plan 2024
- j) The objectives and targets of the National Biodiversity Action Plan (NBPA) 2023-2030
- k) the nature, scale and design of the proposed development and the availability in the area of public transport and water services infrastructure;
- l) the availability in the area of a wide range of social, community, transport and water services infrastructure,
- m) the pattern of existing and permitted development in the area,
- o) the submissions and observations received
- p) the report of the inspector

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development at this 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment (AA):

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives.

The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on European Site Lower River Suir SAC (Site Code 002137), or any other European site, in view of the site's Conservation Objectives.

This screening determination is based on the following

- (i) the conservation objectives for the European Sites.
- (ii) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (iii) the distance from the proposed works

Environmental Impact Assessment (EIA):

The Board completed an environmental impact assessment screening of the proposed development. 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 *RE – Provide for enterprise and /or residential led regeneration* zoning and designation as an "Opportunity Sites" under *OPS22 Waterford Crystal Sports Complex, Cork Road (9.88 ha)* of the Waterford City and County Development 2022 – 2028 and the results of the Strategic Environmental Assessment of the Waterford City and County Development 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 would constitute an acceptable density and height of development in this serviced urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design and would be acceptable in terms of pedestrian and traffic safety. The Board was satisfied that an approval for the proposed development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2024. Furthermore, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Act 2021. 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, 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) Prior to the commencement of development the following revised plans shall be submitted to, and agreed in writing with, the Planning Authority:
 - a) House Type A2(h) at the location of Site No.31 shall be revised to provide an angled popout style window, or similar, to the first-floor window to the side elevation (west) serving first floor bedroom to impede direct line of sight to the area immediately to the rear of the residential dwelling to the west, 'The Cottage', Cork Road, Waterford.
 - b) All proposed bathroom windows shall be glazed in obscure glass.

Reason: In the interests of residential amenity of an adjoining property and the proper planning and sustainable development of the area.

- 3) The 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 details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

- 4) Prior to the commencement of development the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

- 5) Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of the agreed landscaping plan. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

- 6) 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.

- 7) The proposed development shall be carried out on a phased basis in accordance with the submitted phasing scheme and taking in charge drawing (LRD3_104), unless otherwise agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

- 8) A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection [residential amenities, public health and safety and environmental protection]

- 9) Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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.

- 10) 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 for each apartment unit shall be submitted to, and agreed in writing with,

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

16)(a) The landscaping scheme as submitted to the planning authority shall be carried out within the first planting season following substantial completion of external construction works. 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 or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

(b) A suitably qualified Arboricultural Consultant shall be appointed and shall be responsible for tree protection during the course of construction works and to advise the Site Manager. Prior to works commencing the Arborist shall liaise with the Planning Authority to arrange a site visit to inspect tree protection measures and at key project stages thereafter.

(c) Play spaces shall be installed and open for use prior to the occupation of the adjoining apartment block under construction.

Reason: In the interest of residential and visual amenity.

17)The developer shall engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record [archaeological excavation] and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.

No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.

18) The management and maintenance of the identified elements of the proposed development not proposed to be taken in charge, as per the detail submitted with the application, 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 commencement of development.

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

19) Proposals for an estate/street name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and apartment 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 placenames for new residential areas.

20)ADD IN CONDITION 2 (a) of the PLANNING AUTHORITY.

Reason: In the interest of clarity.

21)(a) Prior to 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 house or duplex unit) pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all relevant 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 specified residential 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 applicant 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 residential 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.

22) 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 on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.

23) 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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.

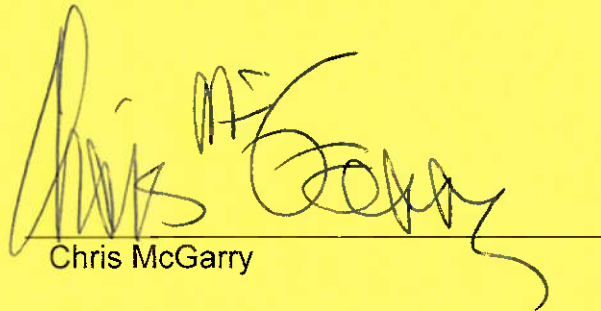
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

24) 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: 13/12/2024