

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Meath County

Planning Register Reference Number: RA 150205

An Bord Pleanála Reference Number: PL 17.246141

APPEAL by Pádraig McEvoy care of C. S. Pringle of Monaghan Road, Castleblayney, County Monaghan against the decision made on the 14th day of January, 2016 by Meath County Council to grant subject to conditions a permission to McGarrell Reilly Homes care of Declan Brassil and Company Limited, Lincoln House, Phoenix Street, Smithfield, Dublin in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: A 10-year planning permission for the development of 152 number new residential dwellings, comprising 12 two-bedroom, 92 three-bedroom, 38 four-bedroom and 10 five-bedroom dwellings together with ancillary public open space provision, including a riverside linear park along the Rye Water River and childcare facility (337 square metres gross floor area). The proposed development provides for a total of 304 number ancillary residential car parking spaces and a further 18 number ancillary car parking spaces in connection with the crèche. The proposed development is facilitated by and integrates with permitted infrastructure development and works within the administrative area of Meath County Council permitted by An Bord Pleanála under appeal reference number PL 17.238370 (planning register reference number DA/100614) and appeal reference number PL 17.239375 (planning register reference number DA/100697), and within the administrative area of Kildare County Council under appeal reference number PL 09.238818 (planning register reference number 10/571), which development and works are substantially outside the boundaries of this application, all at site in the townland of Newtownmoyaghy, Kilcock, County Meath. The proposed development was revised by further public notice received by the planning authority on the 13th day of November, 2015.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

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

- (a) the provisions of the Meath County Development Plan 2013–2019, as varied, including the Core Strategy, and the housing allocation for Kilcock as set out in that Strategy, and the policies and objectives of the Kilcock Environs Written Statement as set out in Volume 5 of the Development Plan,
- (b) the existing pattern of development in Kilcock, whereby much of the development of the town in recent years has concentrated to the south of the Royal Canal, with dereliction and decline having been experienced in the historic town centre to the north of the canal,
- (c) the A2 “new residential” zoning objective for the site and neighbouring lands, which offers the opportunity to rebalance the development of the town towards the north,
- (d) the planning history of the site and of adjoining lands, including previous refusals of permission by An Bord Pleanála, and the manner in which the concerns identified were comprehensively responded to in subsequent grants of permission for development that provided for a coordinated approach to the provision of infrastructure to serve the lands, including flood protection and flood storage provisions, as well as roads infrastructure, which approach was developed under a steering group comprising the relevant local authorities and the Office of Public Works,

- (e) the draft flood maps of the Eastern Catchment Flood Risk Assessment and Management study,
- (f) the nature, scale, location and design of the proposed development,
- (g) the documentation on file, including the Natura Impact Statement and the Environmental Impact Statement, and
- (h) the submissions made in connection with the planning application and the appeal, and the report of the Inspector, including the evaluation and analysis undertaken of Appropriate Assessment and Environmental Impact Assessment.

The Board was satisfied that there was sufficient information available on file to enable it to undertake an Appropriate Assessment and an Environmental Impact Assessment.

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, the substantial distances to European Sites, the documentation on file including the Appropriate Assessment Screening Report, the submissions made, and the Inspector's report. In completing the screening exercise, the Board concurred with the Inspector's view that the proposed development had no potential for connectivity with such Sites, with the exception of the Rye Water Valley/Carton Special Area of Conservation (Site Code 001398). The Board 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 other European Site in view of its conservation objectives, and that a Stage 2 Appropriate Assessment was required only in relation to the Rye Water Valley/Carton Special Area of Conservation. Having formed its conclusion, the Board adopted the report of the Inspector in respect of screening for appropriate assessment.

Appropriate Assessment

In undertaking an Appropriate Assessment of the effects of the proposed development on European Sites, the Board had regard to the nature, scale and location of the proposed development, the documentation submitted in support of the application, including the Natura Impact Statement submitted with the further information, the planning history of the site, the submissions on file and the report of the Inspector. The Board undertook an Appropriate Assessment in relation to the effects of the proposed development on the Rye Water Valley/Cartron Special Area of Conservation. The Board adopted the report of the Inspector in this respect. It was concluded that, subject to the implementation of the mitigation measures, the proposed development, by itself, or in combination with other plans or projects, would not be likely to adversely affect the integrity of this European Site in the light of its conservation objective.

Environmental Impact Assessment

The Board undertook an Environmental Impact Assessment of the proposed development, taking the following into consideration:

- (i) the nature, scale and location of the proposed development,
- (ii) the documentation submitted with the application and further information, including the Environmental Impact Statement,
- (iii) the submissions made on file in relation to the application and the appeal, including the submission made to the planning authority by the Office of Public Works on the 18th day of June 2015, and the detailed assessment of environmental impacts undertaken by the planning authority, and
- (iv) the report of the Inspector.

It is considered that the Environmental Impact Statement, supported by the documentation on file including the further information, identifies and describes adequately the direct and indirect effects of the proposed development on the environment. The Board completed an environmental impact assessment in relation to the proposed development and concluded that, by itself and cumulatively with other development in the vicinity, and subject to the implementation of the mitigation measures proposed and to compliance with the conditions set out below, the effects on the environment of the proposed development would be acceptable. In doing so, the Board adopted the report of the Inspector, with the exception of the analysis undertaken in relation to flooding, which is addressed below.

Proper Planning and Sustainable Development

It is considered that, subject to compliance with the conditions set out below, the proposed development:

- would support the objectives of the Kilcock Environs Written Statement in rebalancing development to the north of the town, and would contribute to the revitalising of the historic town centre,
- would be in accordance with the residential zoning objective for this area, and with the provisions of Kilcock Environs Written Statement in respect of residential development,
- would be consistent with the approach to flood management already approved under grants of permission for infrastructure to serve the proposed development, and with the environmental impact assessments and Appropriate Assessments completed when those permissions were granted,
- would provide a satisfactory housing mix, and would be acceptable in terms of the housing layout, and
- would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience.

In deciding not to accept the recommendation of the Inspector to refuse permission or to seek further information or technical advice in relation to flood risk, the Board was satisfied that the strategy for the site in relation to flooding had been clearly established under An Bord Pleanála appeal reference numbers PL 09.238818, PL 17.238370, PL 17.239211, PL 17.239375, PL 17.239523, PL 17.239772 and PL 17.240405, which permitted infrastructure to support residential development in this area, including this site. This incorporated a detailed flood protection scheme, which was developed under a steering group comprising the relevant local authorities and the Office of Public Works, and was further refined over the course of the planning process. The permissions required a comprehensive approach to be followed in relation to flood protection, including appropriate compliance conditions. The Board is satisfied that the new information in relation to the draft Eastern CFRAM Study is not so fundamental as to require a material change in the flood management strategy. The Board accepted the position of the applicant's consultants (who had also prepared the draft Eastern CFRAM Study) that the draft CFRAM mapping does not change previous conclusions in relation to the appropriateness of the overall flood management approach. Finally, the Board had regard to the submission made by the Office of Public Works to the planning authority on the 18th day of June 2015, which raised no objection to the proposed development, subject to the entirety of the flood protection works being completed as one project and not on a phased basis. In conclusion, the Board concurred with the view of the planning authority on this matter, and was satisfied that the previously approved flood management measures remain an acceptable approach to flood protection.

REASONS AND CONSIDERATIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 2nd day of October 2015, 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 grant of permission shall expire on the 3rd day of January, 2023.

Reason: In the interest of clarity and to ensure consistency with permitted site development works on which this development is dependent.

3. The proposed development shall not be occupied until:

- (a) the entire flood protection measures set out in appeal reference numbers PL 09.238818, PL 17.238370, PL 17.239211, PL 17.239375, PL 17.239523, PL 17.239772 and PL 17.240405 have been completed to the written satisfaction of the planning authorities, and
- (b) a detailed programme for the implementation of the entire distributor road and all piped services (including surface water and foul sewers and water mains) has been submitted to and agreed in writing with the planning authority.

Reason: To facilitate the orderly development of the Kilcock Environs area, to ensure that the flood management measures are completed in their entirety in a timely manner, and to ensure that the lands are properly serviced in the interest of public health.

4. The proposed development shall be amended as follows:

- (a) the units on the following sites shall be omitted and replaced by House type N: 2-48, 2-49, 2-64, 2-65, 2-75, 2-80, 2-88, 2-91, 2-100, 2-104, 2-109 and 2-149,
- (b) unit numbers 2-120 and 2-121 shall be constructed as part of Phase 2 of the proposed development as set out in the phasing details submitted to the planning authority on the 2nd day of October, 2015,
- (c) unit numbers 2-95 and 2-96 shall be omitted and replaced with public open space, and
- (d) unit numbers 2-85 and 2-94 shall be re-designed to provide dual frontage onto the public open space previously occupied by unit numbers 2-95 and 2-96 and road number 5.

Revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: To provide an appropriate housing mix, in the interest of long-term sustainability, and to improve open space in the interest of residential amenity.

5. (a) All mitigation measures set out in the Environmental Impact Statement, Natura Impact Statement and associated documentation shall be implemented in full, except as may otherwise be required in order to comply with the conditions set out in this order.
- (b) Mitigation measures shall be supervised by a suitably qualified and experienced environmental professional to the written satisfaction of the planning authority, in accordance with details, including a reporting schedule, to be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of the protection of the environment.

6. (1) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.
- (2) No unit shall be occupied in Phase 3 as illustrated in the proposed phasing submitted on the 2nd day of October, 2015 until such time as the crèche has been constructed and details regarding the timeframe for the operation of the facility have been submitted to and 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.

7. Details of the materials, colours and textures of all the external finishes to the proposed development, including the crèche and bin stores, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The roof colour shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the adjoining residential area.

Reason: In the interest of visual amenity.

8. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services, and shall include the following:

- (1) compliance with the terms and conditions of An Bord Pleanála appeal reference numbers PL 17.239375 (planning register reference number DA/100697) and PL 17.238370 (planning register reference number DA/100614) in respect of water and waste water services,
- (2) details and specifications of the proposed water distribution and waste water collection networks,
- (3) details and specifications of water detention basins,
- (4) a non-return valve to be fitted to the surface water outlet on the southern side of the development,
- (5) provision for the protection of the existing waste water sewer from inundation by flood waters from the Ryewater River and from overflow of the proposed surface water attenuation system,
- (6) no development, exempted or otherwise, to be erected over the public sewer.

Detailed drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure adequate servicing of the development, to prevent pollution, and in the interest of public health.

9. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Planning Authority's Taking in Charge Policy. Prior to commencement of development, the developer shall agree with the authority, in writing the procedures for inspection and monitoring of the development by the authority to ensure compliance with these standards, and shall thereafter comply with the agreed procedures during the construction of the overall development. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable construction standard.

10. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works.

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

11. Prior to the making available for occupation of any house, the internal road network within the overall development shall be constructed to at least base wearing course.

Reason: To ensure timely and satisfactory provision of such site development works

12. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of pedestrian safety.

13. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television cables) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

15. Proposals for estate/street names, house 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 house numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

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

16. Boundary treatment and landscaping of the site shall be in accordance with the landscaping plans submitted to the planning authority on the 4th day of March, 2015 and the 2nd day of October, 2015 save for the boundary treatment, including landscaping, to the front of dwellings, details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Planting shall take place in the first planting season following the making available for dwellings for occupation.

Reason: In the interest of visual and residential amenity.

17. The site shall be landscaped in accordance with details submitted to the planning authority on the 4th day of March, 2015 and the 2nd day of October, 2015.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

18. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority. The delivery of the riverside open space shall be completed in Phase 1 of the proposed development.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

19. Screened bin stores shall accommodate not less than three standard-sized wheeled bins within the curtilage of each mid-terrace house plot.

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

20. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

21. 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.

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,
- (m) site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 to 1300 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,
- (n) no washing out of concrete trucks shall take place in the vicinity of or adjacent to any stream, ditch or river,
- (o) details of construction stage water quality testing and reporting arrangements.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept on site for inspection by the planning authority.

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

23. 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.

24. 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.

25. 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.