

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Louth County

Planning Register Reference Number:16/803

An Bord Pleanála Reference Number: PL 15.247927

APPEAL by Niall Carroll of 1 Ascal Setanta, The Ferns, Blackrock, County Louth and by others against the decision made on the 10th day of January, 2017 by Louth County Council to grant subject to conditions permission to Jan C. Van Dijk care of Van Dijk Architects of Mill House, Mill Street, Dundalk, County Louth for development comprising mixed-use development consisting of one number building for office use (identified as Block A), two number buildings for office/research and development/science and technology use (identified as Block B and C), five number buildings for research and development/science and technology type uses (identified as Block D, E, F, G and H), and three number student accommodation buildings (Block J, K and L), all with supporting ancillary services and associated car parking and bicycle parking provision. The proposed student accommodation will consist of 88 number units containing between one and five bedrooms totalling 300 number bedrooms. Student accommodation Block J incorporates an ancillary student office and laundrette at ground floor level. Block K incorporates a café/delicatessen at ground floor level. Buildings will range in height from two to four storeys with additional roof top plant. Block A incorporates a roof garden. All buildings have the option for roof top mounted photovoltaic/solar panels. Vehicular access to the proposed development will be provided via a new entrance off the Inner Relief Road (R215). The entrance will be constructed in the same position as an entrance permitted under An Bord Pleanála reference number PL 55.237838, planning register reference number 10/09 the appropriate period of which was extended under planning register reference number 15/344. The development provides for the construction of a section of a north-south access road through the lands as provided for in the Finnabair South Character Area of the Mullagharlin Framework Plan. The proposed development also provides for all site

development works including adjustment to site levels, internal access roads, cycle parking, covered cycle parking, covered bin stores, cycle paths, footpaths, open space, public lighting, signage zones on buildings, podium signage, landscaping, three number electricity sub-stations, services, boundary treatments, undergrounding of overhead cables, and all associated site works, all at site at Inner Relief Road (IRR) (R215), Dundalk, County Louth. The application site is bounded to the north by the IRR, to the east and south by lands in agricultural use and to the west by the rear gardens of houses that front the Dublin Road (R132). There is an ESB sub-station beyond the north-eastern boundary of the site. The application is for planning permission for a period of 10 years in accordance with the plans and particulars lodged with the said Council.

DECISION

GRANT permission for one number building for office use (identified as Block A), two number buildings for office/research and development/science and technology use (identified as Block B and C), five number buildings for research and development/science and technology type uses (identified as Block D, E, F, G and H). Buildings will range in height from two to four storeys with additional roof top plant. Block A incorporates a roof garden. All buildings have the option for roof top mounted photovoltaic/solar panels. Vehicular access to the proposed development will be provided via a new entrance off the Inner Relief Road (R215). The entrance will be constructed in the same position as an entrance permitted under An Bord Pleanála reference number PL 55.237838, planning register reference number 10/09 the appropriate period of which was extended under planning register reference number 15/344. The development provides for the construction of a section of a north-south access road through the lands as provided for in the Finnabair South Character Area of the Mullagharlin Framework Plan. The proposed development also provides for all site development works including adjustment to site levels, internal access roads, cycle parking, covered cycle parking, covered bin stores, cycle paths, footpaths, open space, public lighting, signage zones on buildings, podium signage, landscaping, three number electricity sub-stations, services, boundary treatments, undergrounding of overhead cables, and all associated site works in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for three number student accommodation buildings (Block J, K and L), with supporting ancillary services and associated car parking and bicycle parking provision, and consisting of 88 number units containing between one and five bedrooms totalling 300 number bedrooms with student accommodation Block J incorporating an ancillary student office and laundrette at ground floor level and Block K incorporating a café/delicatessen at ground floor level based on the reasons and considerations marked (2) under.

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 (1)

Having regard to the provisions of the current Dundalk and Environs Development Plan, wherein the site is zoned EB (Employment and Business), and policy EC4 of this Plan, which seeks to implement the objectives and policies contained in the Mullagharlin Framework Plan 2008, and having regard to the nature, extent and design of the proposed development, and to the existing pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development, as modified by the omission of the proposed student accommodation blocks, generally accords with the policy requirements and zoning provisions of the Development Plan, would not seriously injure the residential amenities of property in the vicinity, and would not give rise to a traffic hazard or obstruction of road users. 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. None of the proposed blocks shall be made available for occupation until the road works to the Inner Relief Road (R215), as indicated on submitted plans and particulars, including the re-sequencing of the lights at the nearby junction (as referred to in the submitted Transport Impact Assessment report) have been carried out to the written satisfaction of the planning authority. Any associated costs shall be at the expense of the developer.

Reason: In the interest of traffic and pedestrian safety.

3. The period during which the development hereby permitted may be carried out shall be five years from the date of this order.

Reason: Having regard to the nature and extent of the proposed development, the Board considered it appropriate to specify a period of validity of this permission of five years.

4. The entrance herein permitted shall be strictly for the use of the development as permitted by this order. Any further subsequent development or change of use of permitted development shall be subject of a separate grant of permission and a new traffic assessment.

Reason: In the interest of pedestrian and traffic safety and to comply with the zoning provisions of the current development plan for the area.

5.
 - (a) The internal road layout and network serving the proposed development including turning bays, junctions, parking area, footpaths and kerbs and access road to the service area shall be in accordance with the detailed standards of the planning authority for such works.
 - (b) A revised road layout delineating the extension of the internal roads and footpath layout up to the site boundaries, in order to provide appropriate linkages into the adjoining lands to the east of the subject site, in the areas shown as Car Park B and Car Park E, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed works shall be carried out and completed before the adjoining Blocks are made available for occupation.

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

6. 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. Revised plans delineating the revised proposals for disposal of surface water and infrastructure provision up to the site boundaries shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health.

7. Details of the following shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:-
 - I. Programme of measures to address the issues raised in the Road Safety Audit submitted with the application.
 - II. Detailed design of public lighting associated with the proposed junction to be undertaken by a specialist public lighting consultant.
 - III. Pedestrian crossings, road markings and signage
 - IV. Traffic signal settings
 - V. Works programme

Reason: In the interest of pedestrian and traffic safety.

8. All service cables associated with the proposed development such as electrical, telecommunications and street lighting 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 bounding or crossing the site, shall be relocated underground as part of the site development works, at the developer's expense.

Reason: In the interest of visual amenity

9. Details of the materials, colour and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

10. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This scheme shall include the following:-
- I. details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
 - II. proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
 - III. details of proposed street furniture, including bollards, lighting fixtures and seating;
 - IV. details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.
 - V. The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

11. Proposals for a street name/unit name for each of the proposed buildings shall be submitted to, and agreed with, the planning authority prior to the commencement of development. Thereafter all estate and street signs shall be provided in accordance with the agreed scheme. No advertisement/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement for the proposed names.

Reason: In the interest of urban legibility.

12. 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 buildings/within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity

13. Car parking and cycling spaces shall be provided within the site in accordance with the requirements of the planning authority. The locations and layout of these spaces and how they are assigned to the buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure adequate car parking provision is available to serve the development.

14. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (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 site and to secure the preservation and protection of any remains that may exist within the site.

15. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development; including the external fabric of the buildings, landscaping, roads, paths, parking areas, lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority before any of the units are made available for occupation.

Reason: To provide for the future maintenance of this private development in the interest of visual amenity.

16. 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) 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 kept for inspection by the planning authority.

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

17. 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 of roads, footpaths, watermains, drains, 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 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 of the development

18. 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.

REASONS AND CONSIDERATIONS (2)

It is considered that the proposed development of student accommodation, which is not ancillary to the primary employment land use objective for the subject lands, and which would represent 55% of the proposed floor space within the subject development, would be in conflict with the provisions of the Dundalk and Environs Development Plan 2009 - 2015, including the EB (Employment and Business) zoning of the site. Furthermore, it is considered that the development of student accommodation at this location would conflict with the Core Strategy, as set out in the current Development Plan, wherein the subject site is not included in the demarcated phasing of residential development for the town and environs, and that any development of student accommodation, or other forms of residential development on the subject lands, would be premature pending a review of the Dundalk and Environs Development Plan 2009 - 2015 and of the Mullagharlin Framework Plan 2008, in the light of the adoption of the Core Strategy in 2011. The proposed development of student accommodation would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Dated this day of 2017.