



Planning and Development Acts 2000 to 2018

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 17/1020

Appeal by Westfield Park Residents Association care of Christine Crowley of 29 Westfield Park, North Circular Road, Limerick and by others against the decision made on the 18th day of December, 2017 by Limerick City and County Council to grant subject to conditions a permission to The Estate of Nancy O'Brien care of Jim Dundon and Associates of 44 Old Windmill Court, Lower Gerald Griffin Street, Limerick in accordance with plans and particulars lodged with the said Council.

Proposed Development: Four number houses (two blocks semi-detached) with new entrance at Westfields, connection to public sewer and all ancillary site works. A Natura Impact Statement has been prepared in respect of this planning application, all at Westfield House, North Circular Road, Limerick.

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

Having regard to the zoning objectives for the site, the pattern of development in the area, the scale, design and density of development proposed, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Special Protection Area (Site Code: 004077) are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura impact statement and associated documentation submitted with the appeal, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Special Protection Area (Site Code: 004077), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed road development both individually or in combination with other plans or projects,
- (ii) the mitigation measures included as part of the current proposal, and
- (iii) the conservation objectives for the European Site.

In completing the appropriate assessment, the Board accepted and adopted the screening and 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 sites' 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 the European Sites, in view of the sites' conservation objectives.

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. The mitigation measures identified in the following documents submitted to the planning authority with the application shall be implemented in full by the development.
 - (i) Natura Impact Statement
 - (ii) Bat Survey Report
 - (iii) Japanese Knotweed Infestation at Westfield House
 - (iv) Flood Report

Prior to commencement of development, the developer shall submit a schedule of mitigation measures identified in the said documents to the planning authority for written agreement.

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

3. 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

4. Water supply and drainage arrangements, including the 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.

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

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

6. The internal road network serving the proposed development including turning bay, parking area, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

7. 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.

8. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

9.
 - (a) All rear gardens shall be bounded by block walls, two metres in height, capped and rendered, on both sides, to the written satisfaction of the planning authority.
 - (b) Screen walls abutting open space or estate roads shall be two metres in height constructed in concrete block and shall be capped and rendered on both sides in a finish that matches the external finish of the dwellings.

Reason: In the interests of residential and visual amenity.

10. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include the following:
- (i) Existing trees, hedgerows and stone walls specifying which are proposed for retention as features of the site landscaping.
 - (ii) The measures to be put in place for the protection of these landscape features during the construction phase.
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs.
 - (iv) Specifications for mounding, levelling, cultivation and other operations associated with plans and grass establishment.
 - (v) A timescale for implementation.

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.

Reason: In the interests of residential and visual amenity.

11. Construction works shall be carried out only between the hours of 0800 and 1800 Mondays to Fridays inclusive and between 0800 and 1300 on Saturdays. No construction work shall take place on Sundays or public holidays.

Reason: To protect the amenities of adjacent properties and in the interest of orderly development.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

13. 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.

14. 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.

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

Dated this day of 2018.