



Planning and Development Acts 2000 to 2018

Planning Authority: Westmeath County Council

Planning Register Reference Number: 18/6250

Appeal by Shane Kelly of 30 The Hawthorns, Kinnegad, County Westmeath against the decision made on the 12th day of December, 2018 by Westmeath County Council to grant subject to conditions a permission to Sean O'Hagan care of Shay Duff and Associates of Clan Dubh, Lobinstown, Navan, County Meath in accordance with plans and particulars lodged with the said Council:

Proposed Development: 12 number two-bedroom apartments and 12 number three-bedroom duplex apartments, a new vehicular and pedestrian entrance on the north-west boundary from the Mullingar Road, connection to existing services, car parking, bin storage, bicycle storage, boundary treatment and all ancillary site works, all at Mullingar Road, Kinnegad, County Westmeath.

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 objective for the site, as set out in the Westmeath County Development Plan 2014 – 2020, the National Planning Framework, 2018 – 2040, the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages)” issued by the Department of the Environment, Heritage and Local Government in May 2009, the “Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities” issued by the Department of Housing, Planning and Local Government in March 2018, and the overall scale, design and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or the amenities of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. 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 on the 15th day of November 2018 and by the further particulars received by An Bord Pleanála on the 13th day of February, 2019, 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 proposed development shall be amended as follows: -
 - (a) The privacy screens proposed to the balconies at the northern and southern end of the blocks shall be permanently fitted with obscure glazing prior to the first occupation of the units and, thereafter, shall be maintained.
 - (b) The pedestrian entrance to the site from the road to the east as shown on the Site Layout Plan originally submitted with the application on the 17th day of August 2018, shall be included in the scheme.

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

Reason: In the interests of residential amenity and permeability.

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

Reason: In the interest of visual amenity.

4. The areas of public and communal open space shown on the lodged plans shall be reserved for such use and shall be levelled, 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 and communal open space by the developer until taken in charge by the local authority.

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

5. 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. This scheme shall include the following:
 - (a) A plan to scale of not less than 1:200 showing –
 - (i) Existing trees and hedgerows, 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, including the trees along the eastern boundary, during the construction period.
 - (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.
 - (iv) Details of screen planting including to the northern boundary which shall not include cupressocyparis x leylandii.
 - (v) Details of roadside/street planting which shall not include prunus species.
 - (vi) Hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.
-
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
 - (c) A timescale for implementation.
 - (d) Details of all proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

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.

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.

Reason: In the interest of public health.

7. The internal road 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 interests of amenity and of traffic and pedestrian safety.

8. Detailed proposals for the numbering and naming of the development scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signage, and duplex/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

9. (a) 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.
- (b) Prior to commencement of development the developer shall submit a layout drawing showing the proposed route of the existing ESB overhead line.

Reason: In the interests of visual and residential amenity.

10. 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, construction traffic management and off-site disposal of construction/demolition waste.

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

11. Prior to the commencement of development, full details of the proposed public lighting scheme, including the lighting levels within open areas of the development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. Site development and building works shall be carried out only between 0800 and 1900 hours from Mondays to Fridays inclusive, between 0800 and 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.

13. 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 current Development Plan for the area.

14. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

15. 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 watermains, drains 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.

16. 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.

Paul Hyde

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

Dated this day of 2019.