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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Louth County Council**

**Planning Register Reference Number: 18943**

**Appeal** by Kathleen McCaughey and James Clarke of Benvista, Mount Avenue, Dundalk, County Louth against the decision made on the 18<sup>th</sup> day of January, 2019 by Louth County Council to grant subject to conditions a permission to Urban Life Developments Limited care of Stephen Ward Town Planning and Development Consultants Limited of Jocelyn House, Jocelyn Street, Dundalk, County Louth in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** The proposed development will consist of a residential development comprising a mix of houses and apartments. A total of 80 number dwellings are proposed comprising 50 number houses in detached, semi-detached and terraced format and ranging in height from one to two storeys and 30 number apartments accommodated in two linked three storey number apartment buildings. All dwellings and apartment buildings have the option for Photovoltaic panels on roof slopes. Vehicular access to the proposed development will be provided via a new access from 'Headford' Estate Road. The proposed development will also consist of improvement works to the existing junction between the 'Headford' Estate Road and Mount Avenue, either side of the entrance and also provides for upgrade and

improvement works to Mount Avenue for a distance of circa 550 metres towards the Castleblaney Road (R934). These improvement works include road widening and the provision of footpaths and public lighting. The proposed development will also provide for all site development works including alterations to ground levels; the construction of retaining walls; the rerouting and undergrounding of overhead cables; internal access roads; car parking; footpaths; cycle paths; public lighting; landscaping; services; boundary treatments and an ESB sub-station at a site located at Farrandreg, Mount Avenue and Headford, Dundalk, County Louth. The proposed vehicular access is off Mount Avenue and then off the 'Headford' development estate road.

## **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 scale and nature of the proposed development, which includes the substantial upgrading of Mount Avenue in the vicinity of the site, and the LIHAF funding secured for the Mount Avenue Road Upgrade project and to the zoning objective for the site in the Dundalk and Environs Development Plan 2009-2015 (as extended), it is considered that, subject to compliance with the conditions set out below, the proposed development would not give rise to traffic hazard, would provide for an appropriate level of residential density in accordance with National Policy, and would not seriously injure the residential amenities of properties in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and 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. No work shall commence on site until the visibility splays at the proposed access junction have been provided to the written satisfaction of the planning authority (drawing number P205 - Proposed Access Junction Layout Details and Entrance Sightlines Plan), and no dwelling shall be made available by the developer for occupation until the improvement works to Mount Avenue as shown on the submitted documents, have been completed and the developer shall be notified of this in writing by the planning authority.

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

3. Prior to the commencement of development, details shall be submitted to, and agreed in writing with, the planning authority in respect of:
  - (i) replacement flat top ramps on either side of the access road to the development within the Headford housing development, and
  - (ii) means to protect trees to be retained on site during construction, as set out in the Tree Survey and Arboricultural Impact Assessment.

**Reason:** In the interest of residential and visual amenity.

4. (a) The development, including all roads, footpaths, verges, public lighting, open spaces, surface water drains and attenuation provisions, and all other services, as permitted under this Order, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.

- (b) The areas of open space, as shown on the submitted drawings, 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. The open space areas shall be laid out and landscaped prior to the making available by the developer for occupation of any of the houses in the development.
- (c) All of the areas of public open space, as shown on the submitted drawings, shall be maintained by the developer until such time as the development is taken in charge by the local authority. When the estate is taken in charge, the open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

**Reason:** In the interest of proper development, the timely provision of open spaces and in order to comply with national policy in relation to the maintenance and management of residential estates.

- 5. A comprehensive landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following: -
  - (a) details of all Green Areas which shall provide for active and passive recreation and provision of children's play equipment in the pocket park,
  - (b) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development,

- (c) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings,
- (d) details of proposed street furniture, including bollards, lighting fixtures and seating, and
- (e) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes and means to integrate.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

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 and residential amenity and biodiversity.

6. All rear gardens of houses shall be bounded with brick or concrete block walls, which shall be a minimum of 1.8 metres high, except where bounding public open spaces or roads, when the walls shall be 2 metres in height, or by concrete post and concrete panel fences, 1.8 metres high. The proposed boundary treatment, using concrete post and timber panel fences, or any other form of timber fencing, shall not be used for any rear garden boundaries.

**Reason:** To ensure the provision of durable boundary treatment in the interest of the residential amenity of future occupiers of the development.

7. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of houses numbers 48 and 49 without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings, and to allow the planning authority to assess the implications of any such development on residential amenity through the statutory planning process.

8. 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. Roof colours shall be blue black or slate grey, including ridge tiles.

**Reason:** In the interest of visual amenity.

9. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of all visitor spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of sustainable transportation.

10. Site development and building works shall be carried out only between 0800 to 1800 hours Mondays to Fridays 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:** To safeguard the amenities of property in the vicinity.

11. 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 safety.



12. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, kerbs and means to manage speeds within the development, shall comply with the detailed standards of the planning authority for such road works and shall comply in all respects to Design Manual for Urban Roads and Streets.

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

13. Design and construction of the proposed retaining walls shall be supervised and certified by a competent independent Structural Engineer.

**Reason:** In the interest of public health.

14. 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 by the developer for occupation of any house and apartment.

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

15. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development. All existing overhead cables crossing the site shall be relocated off the site or undergrounded, at the developer's expense and to the requirements of the relevant utility companies.

**Reason:** In the interest of orderly development and the visual amenities of the area.

16. Proposals for a building name, unit numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all building and street signs, and unit 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.

17. Prior to the commencement of development, the developer shall submit a Construction and Demolition Waste Management Plan to the planning authority for written agreement 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. This 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.

**Reason:** In the interest of orderly development and sustainable waste management.

18. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, a plan for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and for the ongoing operation of these facilities.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

19. The construction of the proposed 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 and dust management measures, means to minimise debris on the public road and off-site disposal of construction/demolition waste.

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

20. A detailed Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery, and the location for storage of deliveries to the site.

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

21. In accordance with the provisions of Section 14 of the National Monuments Act 1930 (as amended), the developer is required to apply for Ministerial Consent for works at or near Castletown Motte, which is a National Monument NM388.

Subject to a grant of Ministerial Consent, the developer shall facilitate the archaeological appraisal of the northern part of the site in the vicinity of National Monument NM388, and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within this area. 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. Prior to the commencement of the development, a conservation plan for the site of the souterrain (RMP number LH007-034) which shall be preserved in-situ, shall be submitted to, and agreed in writing, with the planning authority.

**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.

23. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist in proximity to the souterrain (RMP number LH007-034). 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 within 40 metres of the designated souterrain, 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.

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the reinstatement of public roads which may be damaged by the transport of materials to the site, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory reinstatement of the public road. 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:** In the interest of traffic safety and the proper planning and sustainable development of the area.

25. 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.

26. 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.

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**Maria FitzGerald**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2019.**