



Planning and Development Acts 2000 to 2019

Planning Authority: Wexford County Council

Planning Register Reference Number: 20190209

Appeal by Martha Cashman and Reiltin Muprhy of 18 Parnell Street, Wexford against the decision made on the 5th day of April, 2019 by Wexford County Council to grant subject to conditions a permission to HPC Sales Limited care of PCOT Architecture of 106B Pembroke Road, Ballsbridge, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of the existing building and construction of a part four-storey, part five-storey and part six-storey block with 45 number apartments, consisting of 22 number two bed, 11 number one bed and 12 number three bed with balconies, terraces and roof gardens, two number retail units, a basement with 30 number car park spaces, 41 number surface car park spaces with landscaped areas, bin store and ancillary site works all on the former C & D Home and Hardware Store, Trinity Street, Wexford.

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.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development, the Appropriate Assessment Screening Report and Natura impact statement submitted with the application, and the Inspector's report and submissions on file. The Board accepted and adopted the screening assessment carried out by the Inspector and the conclusion in the Inspector's report in respect of the identification of European Sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European Sites in view of the sites' conservation objectives. The Board was satisfied that, apart from the Slaney River Special Area of Conservation (Site Code: 00781) and the Wexford Harbour and Slob Protection Area (Site Code: 004076), the proposed development would not be likely to have a significant effect on any other European Sites, in view of their conservation objectives.

Appropriate Assessment

The Board was satisfied that the information before it was adequate to undertake an Appropriate Assessment in respect of the subject development, in relation to the remaining European Site identified by the Inspector, that is, the Slaney Special Area of Conservation (Site Code: 000781) and the Wexford Harbour and Slob Protection Area (Site Code: 004076). Having regard to the nature and scale of the development, the documentation including submissions on file, the Natura impact statement submitted by the applicant (including the mitigation measures set out in this Statement), and the Inspector's report, the Board undertook an Appropriate Assessment in relation to the effects of the development on these European Sites in view of its conservation objectives. The Board concurred with the analysis and conclusions of the Inspector and adopted his report. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, and having regard to the mitigation measures outlined by the applicant, would not adversely affect the integrity of these European Sites, in view of the sites' conservation objectives.

Reasons and Considerations

Having regard to:

- (a) the town centre location of the site within an established built-up area on lands with the zoning objective 'Town Centre', which seeks to 'to protect and enhance the special physical and social character of the existing Town Centre and to provide for new and improved Town Centre facilities and uses', in the Wexford Town and Environs Development Plan 2009 - 2015;

- (b) the policies set out in the Wexford County Development Plan, 2013 - 2019 and the Wexford Town and Environs Development Plan 2009 - 2015;
- (c) the Rebuilding Ireland 'Action Plan for Housing and Homelessness', 2016;
- (d) the 'Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas' and the accompanying 'Urban Design Manual – a best practice guide', issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (e) the 'Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities' issued by the Department of the Housing, Planning and Local Government in March 2018;
- (f) 'The Planning System and Flood Risk Management Guidelines for Planning Authorities' (including the associated Technical Appendices), issued by the Department of the Environment, Housing and Local Government in November 2009;
- (g) the 'Urban Development and Building Heights - Guidelines for Planning Authorities', issued by the Department of the Housing, Planning and Local Government in December 2018;
- (h) the 'Architectural Heritage Protection - Guidelines for Planning Authorities', issued by the Department of Arts, Heritage and the Gaeltacht in 2004;
- (i) the nature, scale and design of the proposed development;
- (j) the availability in the area of a wide range of social, community and transport infrastructure;
- (k) the pattern of existing and permitted development in the area;
- (l) the planning history within the area;

- (m) the 'Natura impact statement' submitted with the planning application;
and
- (n) the submissions and observations on file;

the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of the residential amenity of future occupants, would be acceptable in terms of urban design, scale and form of development, would be acceptable in terms of pedestrian and traffic safety, would not be prejudicial to public health, and would not lead to a risk of flooding. 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. Prior to commencement of any works on site, the proposed development shall be amended as follows:
- (a) the provision of 1.8 metres high obscure screening along the south-eastern end of those balconies serving apartment unit numbers 11, 22, 33 and 42.
 - (b) the provision of 1.8 metres high obscure screening, on all sides of the two communal roof gardens.
 - (c) The omission of car parking spaces, 11 to 23 and 40 to 41, as shown on Drawing number PL-02 (Rev B) 'Site Plan'. The area entailing spaces 11-23 shall be grassed and planted as open space; the area entailing spaces 40-41 shall be subsumed into the adjoining paved area.

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

Reason: In order to protect the amenities of nearby residential properties, and to provide for an improved open space and pavement area within the proposed development.

3. All of the mitigation measures set out in the Environmental Assessment, the Environmental Management Plan, the Natura Impact Statement, and other particulars submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this Order.

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

4. 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. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health.

5. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

6. 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.

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

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

8.
 - (a) At least one car parking space shall be permanently assigned to each residential unit and shall be solely reserved for this purpose.
 - (b) All basement car parking spaces and communal car parking spaces at ground floor level, shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

9. 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 by the developer for occupation of any apartment.

Reason: In the interests of amenity and public safety.

10. All service cables associated with the proposed development (such as electrical, communal television, telecommunications and public lighting cables) shall be run underground within the site. Ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

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

11. Proposals for a development name, apartment/commercial 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 signs, and apartment/commercial unit numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

12. 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 proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;

- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating.

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

Reason: In the interest of visual amenity.

13. The existing stone wall on all boundaries (north, west and south) shall be retained and restored where necessary. Any restoration shall be carried out in accordance with best conservation practice. Prior to commencement of development, details of these boundary works, including how the walls are to be protected during construction of the proposed development, shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of the built heritage of the area and the protection of amenity for adjoining properties.

14. 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.

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

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

16. Site development and building works shall be carried only out between the hours of 0800 to 1800 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: In order to safeguard the amenities of property in the vicinity.

17. 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.

18. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities, for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

19. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

20. Security roller shutters, if installed, shall be recessed behind the perimeter glazing and shall be factory finished in a single colour to match the colour scheme of the building. Such shutters shall be of the 'open lattice' type and shall not be used for any form of advertising, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

21. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

22. No awnings, canopies or additional external lighting shall be erected or displayed on the premises or within the curtilage of the site without a prior grant of planning permission.

Reason: In the interest of visual amenity.

23. Details of all mechanical ventilation, extraction, heating or cooling systems shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the amenity of the area.

24. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

25. 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.

26. 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.

27. 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.

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

Dated this day of 2020