



Planning and Development Acts 2000 to 2019

Planning Authority: Waterford City and County Council

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 13th day of May 2019 by Jackie Green Construction Limited care of Fewer Harrington & Partners of Studio 14, The Atrium, Maritana Gate, Canada Street, Waterford.

Proposed Development:

A planning permission for a strategic housing development at Knockboy, Waterford City.

The proposed development consisted of a new residential development of 361 number units comprising:

- 207 number houses (13 number two-bed, 116 number three-bed and 78 number four-bed)
- 154 apartments within 15 number four storey blocks (providing 53 number one-bed, 90 number two-bed and 11 number three-bed)
- A creche of circa. 574 square metres
- Seven number internal/external communal waste storage facilities (total floor area circa. 214.3 square metres)
- 638 car parking spaces and 390 number bicycle parking spaces within 15 number storage facilities (total floor area circa. 232 square metres). Additional visitor bicycle parking provided in the public realm.

- Two number ESB sub-stations/switchrooms (totalling circa. 10 square metres)
- Vehicular/pedestrian/cyclist accesses to the public road (Ballygunner Hill/St. Mary's Place)
- The total gross floor area of the proposed development is circa. 51,226.1 square metres.
- All associated site development works, landscaping, open spaces, boundary treatments and services provision (including connection to public foul and surface water drainage at Dunmore Road and Island Drive)

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

In coming to its decision, the Board had regard to the following:

- (a) the policies and objectives in the Waterford City Development Plan 2013-2019 (as extended);
- (b) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (c) the Guidelines for 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;

- (d) 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;
- (e) the Urban Development and Building Heights, Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018;
- (f) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (g) the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government, 2009;
- (h) the nature, scale and design of the proposed development;
- (i) the availability in the area of a range of social infrastructure;
- (j) the pattern of existing and permitted development in the area;
- (k) the planning history within the area including the subject site;
- (l) the submissions and observations received, and
- (m) the report of the Inspector.

Appropriate Assessment Screening

The Board considered the Screening Report for Appropriate Assessment, the Natura Impact Statement and all the other relevant submissions and carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites.

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the Lower River Suir Special Area of Conservation (site code 002137), and the (River Barrow and River Nore Special Area of Conservation (site

code 002162), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

Appropriate Assessment

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development for European Sites, namely, the Lower River Suir Special Area of Conservation (site code 002137), and the River Barrow and River Nore Special Area of Conservation (site code 002162), 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 development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

The Board accepted and adopted 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.

Environmental Impact Assessment

The Board undertook an Environmental Impact Assessment of the proposed development, taking into account:

- (a) the nature, scale and location of the proposed development,
- (b) the Environmental Impact Assessment Report (EIAR) and associated documentation submitted in support of the application,

- (c) the submissions made in connection with the planning application, and
- (d) the Inspector's report.

The Board considered that the EIAR, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development and identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

The Board completed an environmental impact assessment in relation to the proposed development and, in doing so, agreed with the examination, set out in the Inspector's report, of the information contained in the EIAR, the associated documentation submitted by the applicant, and submissions made in the course of the application, and adopted the Inspector's assessment in this regard.

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated as follows:

- Potential indirect effects on Water, which will be mitigated during the occupation of the development by the proposed surface water management and attenuation proposals and the drainage of foul effluent to the city's sewerage system and which will be mitigated during construction by appropriate management measures.
- Potential direct effect on Biodiversity, which will be mitigated through the proposed landscaping scheme and retention of existing hedgerows where feasible. Potential impacts to bats will be mitigated through appropriate lighting design. General disturbance and displacement of fauna will be mitigated through a range of measures including restrictions on habitat removal and the felling of trees.
- Potential Traffic and Transportation impacts, which will be mitigated by the phasing of the development, design of the entrance to the development and by the completion of local road improvement measures.

- Potential significant direct effect on Landscape and Visual Impact by the change in use and appearance of a relatively large site from agricultural to residential use. The proposed apartments and housing will be mitigated through the design and layout of the scheme, retention of existing trees and hedgerows where feasible and the replacement planting proposed as part of the landscape plan.

The Board concluded that, subject to the implementation of the mitigation measures set out in the EIAR, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable, having regard to its overall benefits.

Conclusions on Proper Planning and Sustainable Development

Having regard to the zoning objectives relating to the site, to the design, layout and scale of the proposed development and to the pattern of development in the area, it is considered that, subject to the conditions set out below, the proposed development would be consistent with the policies of the Waterford City Development Plan 2013-2019, including the core strategy, would not give rise to serious injury to the residential amenities of property in the vicinity or the visual amenities of the area, and would be acceptable in terms of pedestrian and traffic safety and convenience and public health. As such, the proposed development would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the proposed development would provide a satisfactory arrangement and quantum of open space to serve all elements of the proposed development. It also considered that, given the site topography and the proposed pedestrian and vehicular connectivity to adjoining lands, the proposed development would be compliant with, and would not give rise to a conflict with the Design Manual for Urban Roads and Streets and that the internal road network would be acceptable. It was also of the view that the interface of the south-eastern section of the development with the adjoining undeveloped zoned open space lands would be satisfactory. It did not agree with the Inspector that the proposed development

would materially contravene the zoning objective and Objective 7.7.2 of the Waterford City Development Plan 2013-2019, as it considered that the proposed development would be compliant with the Development Plan 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. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The development shall be amended as follows:
 - (a) Apartment Block Number 6 shall be amended by the omission of Apartment Numbers 312-321 and the extension of the pocket park located to the north of these apartments into this area. The eastern gable of Apartments Block Number 6, which shall comprise Apartment Numbers 322-331, shall be revised accordingly.
 - (b) The apartment blocks shall not be gated. The proposed gates located at the vehicular access points to the apartment blocks shall be permanently removed.
 - (c) The proposed Distributor Road in the eastern section of the site shall be realigned to run north of the area of Zoned Open Space, in front of House Numbers 164-174, replacing the local access road at this location. The realigned Distributor Road shall extend to the eastern site boundary in order to serve the adjoining residential zoned land. The area of the original Distributor Road located to the east of Apartment Block Number 8 shall be subsumed into the area of Zoned

Open Space to the immediate north.

- (d) House Numbers 284-291 shall be omitted from the development and the area developed as public open space.

Revised plans illustrating these amendments, including detailed proposals for the extended pocket park, the repositioned and expanded Zoned Open Space area, the open space to the east of the graveyard and a revised eastern gable to the amended Apartment Block Number 6 shall be submitted to the planning authority for written agreement prior to the commencement of development

Reason: In the interest of visual and residential amenity and to ensure that the development is served with an appropriate level of open space.

3. The mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report and Natura Impact Statement submitted with this application, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment.

4. The internal road network serving the proposed development shall comply with the detailed standards of the planning authority for such road works.

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

5. Prior to commencement of development, revised plans shall be submitted to and agreed in writing with the planning authority providing the following:

(a) Raised junctions and pedestrian crossing at all junctions on the main distributor road.

(b) A three metre wide combined footpath and cycle lane both sides of the main distributor road.

(c) A controlled pedestrian crossing (with LED Pedestrian Crossing Beacon), to the north and south of the proposed entrance on the Knockboy Road.

(d) Proposals for the repositioning of the bus stop on Knockboy Road.

Reason: To protect the public road network and in the interests of traffic safety and orderly development.

6. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

7. (a) The archaeological mitigation measures as detailed in section 14.7 of the Environmental Impact Assessment Report shall be implemented in full.
- (b) The Department of Culture, Heritage and the Gaeltacht shall be furnished with a final report describing the results of all archaeological excavation and recording following the completion of all archaeological work on site and any necessary post-excavation specialist analysis. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation of places, sites, features or other objects of archaeological interest.

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.

Reason: In the interest of visual amenity.

9. 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.

10. All rear gardens shall be bounded by walls, 1.8 metres in height., which shall be either block walls capped and rendered on both sides or concreted post and panel walls.

Reason: In the interest of residential amenity.

11. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future 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.

12. (a) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a comprehensive landscape plan detailing all hard and soft landscaping. The landscape plan shall provide full details of location, type and number of plants throughout the site. When planted, the trees, shrubs and other planting shall be adequately protected from damage by animals or wind. If any tree or plant dies or is otherwise lost within a period of five years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.
- (b) All landscaping shall be completed prior to the first occupation of the proposed development. The upkeep and maintenance of the landscaping and public open space areas shall be the responsibility of the developer until such time as the estate has been taken in charge by the local authority.
- (c) Details of all boundary treatments, which shall include individual front/inter-site plot boundary treatment, shall be submitted to and agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

13. 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.

14. 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.

15. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, all estate and street signs and house 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 and to ensure the use of locally appropriate placenames for new residential areas.

16. Site development and building works shall be carried out only between the hours of 0800 to 1900 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 residential amenities of property in the vicinity.

17. 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.

18. 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.

Reason: In the interest of sustainable waste management.

19. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

20. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

21. 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.

22. 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 2019