

An
Bord
Pleanála

Board Order
ABP-309262-21

Planning and Development Acts 2000 to 2020

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 20/270

Appeal by Fewer Harrington and Partners care of KPMG Future Analytics of Stokes Place, Saint Stephen's Green, Dublin against the decision made on the 17th day of December, 2020 by Waterford City and County Council to refuse permission for the proposed development.

Proposed Development: Construction of 91 number residential units and a new single storey crèche building. The residential units will consist of eight number five bed detached houses, 12 number four bed semi-detached houses, 42 number three bed semi-detached houses, nine number three bed terraced houses, six number two bed terraced houses, and one number apartment building consisting of seven number two bed apartments and 7 number one bed apartments over four levels. The proposed development will also include new internal roadways and footpaths, the widening of the existing laneway to the west of the site, alterations to the existing roundabout at the proposed new site entrance, new vehicular and pedestrian access, new boundary treatments, landscaping, drainage, site services including a new ESB substation and all ancillary site works at Crobally Upper, Tramore, County Waterford. The proposed development was revised by further public notices received by the planning authority on the 1st day of December, 2020.

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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 following:

- (a) the policies and objectives set out in the National Planning Framework,
- (b) the policies and objectives set out in the Waterford County Development Plan 2011-2019,
- (c) the policies and objectives set out in the Tramore Local Area Plan 2014-2020,
- (d) the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018,
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009,

- (f) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2020,
- (g) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended,
- (h) the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009,
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a 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 submissions and observations received, and
- (n) the report of the Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's Report in respect of the identification of the European sites that 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 the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any other European sites, in view of the sites' conservation objectives, other than the following, for which Appropriate Assessment is required.

- Tramore Dunes and Back Strand Special Area of Conservation (Site Code: 000671),
- Tramore Back Strand Special Protection Area (Site Code: 004027).

Appropriate Assessment

The Board considered the Natura Impact Statement submitted with the appeal and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for the European sites: the Tramore Dunes and Back Strand Special Area of Conservation (Site Code: 000671) and the Tramore Back Strand Special Protection Area (Site Code: 004027). 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:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European Sites.

In completing the Appropriate Assessment, 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 Tramore Dunes and Back Strand Special Area of Conservation (Site Code: 000671) and the Tramore Back Strand Special Protection Area (Site Code: 004027), having regard to the site's conservation objectives.

In the overall conclusion, the Board was satisfied that the proposed development, subject to the identified mitigation measures, by itself or in combination with other plans and projects, would not adversely affect the integrity of the two European sites listed above, or any other European site, in view of the site's conservation objectives and there is no reasonable scientific doubt as to the absence of such effects.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 12th day of May, 2020, 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 detailed in the Natura Impact Statement submitted at appeal stage shall be implemented in full.

Reason: In the interest of clarity and to ensure the protection of European sites.

3. The following changes shall be carried out in accordance with the further information drawings received by the planning authority on the 24th day of November, 2020:

- (a) The dwellings fronting the Old Waterford Road shall be repositioned to accommodate footpath and cycle lanes.
- (b) The four bedroom bungalow style dwellings along Strangers Boreen shall replace the original proposal of three-storey five bedroom units.

- (c) Stranger's Boreen shall be widened to provide access to the four bedroom bungalow style dwellings

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

Reason: In the interest of visual and residential amenity and traffic safety.

4. Details of the proposed access off the roundabout shall be submitted to, and agreed with, the planning authority prior to commencement of development.

Reason: In the interest of clarity.

5. The areas of public open space shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the landscaping proposals received by the planning authority and the detailed requirements of the planning authority. This work shall be completed before any of the dwelling units are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

6. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, 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.

7. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

8. A comprehensive boundary treatment and 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;
 - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

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

Reason: In the interest of visual amenity.

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces and the public park. Details in this regard 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 dwelling unit.

Reason: In the interest of amenity and public safety.

10. 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.

11. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

12. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended.

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

13. 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.

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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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

15. 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 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.

16. 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 interest of public safety and residential amenity.

17. Site development and building works shall be carried out only between the hours of 0700 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.

18. Proposals for an estate/street name, house/apartment 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/apartment 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 place names for new residential areas.

19. 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.

20. 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.

21. 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.

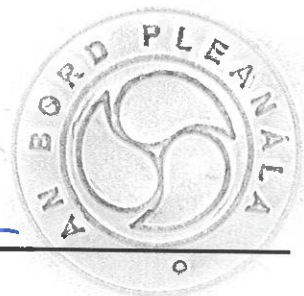
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Dave Walsh

Member of An Bord Pleanála

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



Dated this *15th* day of *November* 2021.