

An  
Bord  
Pleanála

Board Order  
ABP-310803-21

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Waterford City and County Council**

**Planning Register Reference Number: 20/400**

**Appeal** by Ivor and Ave Bagge of Adamstown, Kilmeaden, County Waterford and by Others against the decision made on the 15<sup>th</sup> day of June 2021 by Waterford City and County Council to grant subject to conditions a permission to Michael Guiry care of John F. Santry of Belevedere, Newtown, Waterford in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of 40 number dwellinghouses, consisting of (i) 14 number two-storey, semi-detached houses, (ii) 16 number two-storey, terraced houses in two blocks, and (iii) 10 number two-storey terraced houses in three blocks, with option of providing a third floor to any of these three blocks. Together with the installation of all necessary services, including connection to existing foul drain and connection from existing public water main, both on main road adjoining (R680) and all associated site development works, including access from the existing public road adjoining (R680) at Adamstown, Kilmeaden, County Waterford.

The proposed development was revised to 25 number houses and 6 number apartments by further public notices received by the planning authority on the 23<sup>rd</sup> day of March 2021.

## **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 provisions of the Waterford County Development Plan 2011-2017, and the scale and layout of the proposed development on this fully serviced site, it is considered that, subject to compliance with the conditions as set out below, the proposed development would be consistent with the provisions of the residential zoning objective for the site and would not seriously injure the visual or residential amenities of the area. The proposed development would, therefore, 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 imposition of a condition to omit the three houses closest to the existing residential properties and the landscaping of this area would provide an adequate separation distance that would ensure

that the proposed development would be acceptable in terms of overlooking, would integrate with the immediate built environment and would not seriously injure the amenities of the area.

## **Stage 1 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 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 site's 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 site's Conservation Objectives other than the Lower River Suir Special Area of Conservation (Site Code: 002137) which is the European site for which there is a likelihood of significant effects.

## **Stage 2 Appropriate Assessment**

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) is the European site for which there is a likelihood of significant effects.

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 the Lower River Suir Special Area of Conservation (Site Code: 002137). The Board considered that the information

before it was adequate to allow the carrying out of an Appropriate Assessment.

- (i) likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) mitigation measures which are included as part of the current proposal,
- (iii) Conservation Objectives for this European Site,

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 aforementioned European Site, having regard to the site's Conservation Objectives.

In the overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European site in view of the site's conservation objectives.

## 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 12<sup>th</sup> day of March 2021 and the 20<sup>th</sup> day of May 2021 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:

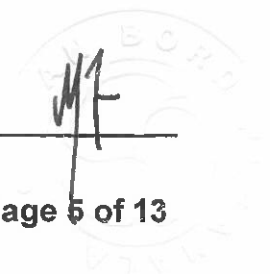
- (a) House numbers 17, 18 and 25, as set out on the site layout plan submitted with the clarification of further information drawing number 2188/001-C1 Rev A received by the planning authority on the 20<sup>th</sup> day of May 2021, shall be omitted from the proposed development and this area shall be incorporated into public open space and shall be appropriately landscaped.
- (b) Two number car parking spaces to the front of house number 17, two number car parking spaces to the front of house number 18, and the road surface between shall be omitted and this area shall be incorporated into public open space and shall be appropriately landscaped.
- (c) The agricultural access gate proposed to the north-east corner of the site shall be omitted and the open space shall be appropriately landscaped.

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 interest of residential amenity.

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

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



4. 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.

5. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with a landscape scheme which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

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

6. 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.

7. 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.

8. 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 for occupation of any house or apartment unit.

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

9. 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.

10. The internal road and vehicular circulation 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 DMURS. Drawings and particulars 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 interest of amenity and of traffic and pedestrian safety.

11. A minimum of 10% of all communal car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, to facilitate the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority before making available by the developer for occupation of the residential units in the proposed development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.



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

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

13. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development, the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate that Sustainable Urban Drainage System measures have been installed, and are working as designed, and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health and surface water management.

14. (a) 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.

- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.
- (c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

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

15. 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 occupation of the development.

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

16. The construction of the development shall be managed in accordance with a site-specific detailed Construction Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall incorporate all mitigation measures indicated in the Natura Impact Statement and shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

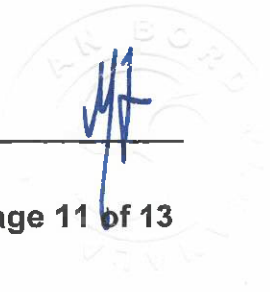
**Reason:** In the interests of nature conservation, public safety and residential amenity.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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. 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.



19. Prior to the commencement of any house 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 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.

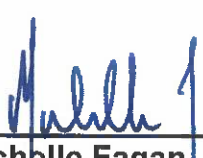
**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

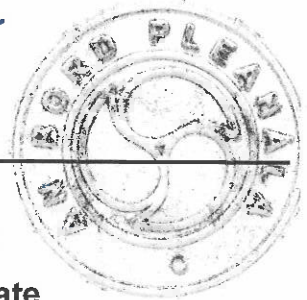
20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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.

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



Dated this 25<sup>th</sup> day of April 2022.