

Planning and Development Acts 2000 to 2022

Planning Authority: Meath County Council

Planning Register Reference Number: 21/1046

Appeal by Shane McLoughney and Fidelma McMahon care of 13 Caislean Mainear, Kentstown Road, Navan, County Meath against the decision made on the 20th day of January, 2022 by Meath County Council to grant subject to conditions a permission to Albert Developments Limited care of John Spain Associates of 39 Fitzwilliam Place, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a residential development (accessed from the recently constructed LDR6 Road). The development (Phase 1A) will consist of the demolition of existing agricultural structures (circa 530 square metres) and the construction of 98 number residential units comprising 41 number houses (40 number three bedroom and one number four bedroom house - House Types A1, A2, B1, B2, C1, C2, D - two storeys, House Types F1, F2, F3,- three storeys), facades of houses to have brick/render options in finish; 23 number apartments (12 number one bedroom apartments and 11 number two bedroom apartments) in a four-storey apartment building, along with adjoining three- storey duplex element (block 1) comprising 10 number duplex apartments (five number two bed apartments and five number three bed duplex

apartments) and three-storey duplex building (block 2) fronting onto the recently constructed 'LDR6' road comprising 24 number duplex apartments (12 number two bed apartments and 12 number three bed duplex apartments), 151 number car parking spaces and 46 number bicycle spaces, open space and all associated infrastructure, foul and water supply (including a temporary pumping station), site development, attenuation and landscape works as well as roads to facilitate the development with vehicular and pedestrian access to be provided from the recently constructed LDR6 Road which connects to the R153 (Kentstown Road) to the south; all at a site within the townlands of Ferganstown, Ballymacon and Athlumney, Navan, County Meath, relating to a site of circa 3.07 hectares as amended by the further public notice received by the planning authority on the 17th day of November, 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.

Reasons and Considerations

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

- (a) the site's location on lands with a zoning objective for new residential development and the overall policies and objectives of the Meath County Development Plan 2021 to 2027,
- (b) the nature, scale and design of the proposed development and the availability in the area of a wide range of social infrastructure in addition to the pattern of existing and permitted development in the wider area,

- (c) 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,
- (d) the Guidelines for Sustainable Residential Developments in Urban Areas (Cities, Towns and Villages) and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009, and
- (e) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of Housing, Local Government and Heritage.

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this location, would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity, would respect the existing character of the area, would not constitute a flood risk, and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

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 Screening Report for Appropriate Assessment and screening assessment as completed by the Inspector. The Board concluded that the proposed development, by itself or in combination with other development in the vicinity, would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, other than the River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299), a European Site for which there is a potential for significant effects.

Appropriate Assessment: Stage 2:

The Board considered the Natura impact statement and associated documentation submitted, the mitigation measures contained therein and the submissions on file, and carried out an appropriate assessment of the implications of the proposed development for the River Boyne and River Blackwater Special Area of Conservation (site code: 002299) in view of the Conservation Objectives for the site. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the assessment, the Board considered the following:

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

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out by the Inspector of the potential effects of the proposed development on the European Site, 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 River Boyne and River Blackwater Special Area of Conservation (Site Code: 002299) in view of the site's Conservation Objectives. This conclusion is based on a complete assessment of all aspects of the proposed development and that there is no reasonable scientific doubt as to the absence of adverse effects.

Environmental Impact Assessment Screening

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the developer, which contains the information set out in Schedule 7A to the Planning and Development Regulations 2001, as amended, identifies, and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) The nature and scale of the proposed development, which is below the threshold in Schedule 5 of the Planning and Development Regulations 2001, as amended.
- (b) The location of the site on lands governed by zoning objective A2, 'new residential', in the Meath County Development Plan 2021-2027.
- (c) The existing use on the site and pattern of development in the surrounding area.
- (d) The planning history relating to the site.
- (e) The availability of mains water and wastewater services to serve the proposed development.
- (f) The location of the development outside of any sensitive location specified in Article 299 (C)(1)(a)(v)(i) of the Planning and Development Regulations 2001, as amended.
- (g) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003)

- (h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- (i) The features and measures proposed by the developer, envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan and the management of surface water,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

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 to the planning authority on the 5th day of November, 2021 and the 17th day of November 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 total number of dwelling units permitted is 98. The development shall be constructed and laid out in accordance with the site layout plan drawing reference number 1816 P(100) received by the planning authority on the 5th day of November, 2021.

Reason: In the Interest of clarity.

3. Prior to the commencement of development, the developer shall submit to, and agree in writing with the planning authority details of the following alterations:
- (a) Boundary type 2,(Drawing Number 18187-2-131 received 5/11/21) shall be replaced with a two metre high concrete block wall (capped, rendered concrete block or brick, in accordance with DM obj 29 of the Meath County Development Plan 2021-2027), or as agreed with the planning authority,
 - (b) revised design solutions to prevent overlooking on the side gables of the two number duplex blocks facing north onto the LDR6 Road,
 - (c) a pedestrian access shall be provided along the northern site boundary from the proposed development to the LDR6 Road, and
 - (d) details of the materials, colours and textures of all the external finishes to the proposed structures.

Reason: In the interest of the proper planning and sustainable development of the area and the protection of amenities.

4. Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:-
- (a) detailed design of the secondary access routes that link the proposed development to LDR6 Road . This includes, but not limited to, the junction with each roundabout, the internal junctions, drainage, kerbs, footpaths, cycleways and public lighting,
 - (b) a phasing proposal for the completion and Taking in Charge by Meath County Council of the section of the southern secondary access road within the boundary of the site,
 - (c) a Stage 2 and Stage 3 Road Safety Audit and amend the layout as necessary to ensure that all recommendations are addressed, and
 - (d) a revised public lighting submission. The public lighting shall be designed and installed in accordance with Meath County Council's public lighting technical specification and requirements document.

Reason: In the interest of the proper planning and sustainable development of the area and the protection of amenities.

5. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

6. (a) Prior to commencement of development, the developer shall provide details for the proposed orifice control devices and check dams to ensure run-off is restricted to green field run-off rates.
- (b) All individual soakways as per detail shown on drawing numbers 2135/301, 302 and 303 shall be designed to BRE 365 specification plus 20% for climate change and shall have capacity to half empty in less than 24 hours.
- (c) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, the proposed pipe size for the proposed culvert of existing water course.
- (d) All work shall fully comply with the Greater Dublin Strategic Drainage Study (GDSDS) Regional Drainage Policies - Volume 2, for new developments.

Reason: In the interest of public health.

7. 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 Design Manual for Urban Roads and Streets (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.

8. 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.

9. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) A plan to scale of not less than [1:500] showing –
 - (i) the species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.
 - (ii) details of screen planting which shall not include cupress/cyparis x leylandii.
 - (iii) details of roadside/street planting which shall not include prunus species,
 - (iv) hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.
 - (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

- (c) A timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, 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 residential and visual amenity.

10. 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.

11. 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.

12. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

13. 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 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.

14. Prior to the commencement of works associated with the development, the developer shall submit a finalised Construction Environmental Management Plan CEMP, for the written agreement of the planning authority. The content of the CEMP shall align with the preliminary CEMP submitted with the application and shall include the requirements set out below:
- (a) An ecological clerk of works (ecologist) shall be appointed to input to the CEMP and oversee its implementation on site, to ensure all works are carried out in strict accordance with best practice guidelines and that all mitigation measures (Ecological Impact Assessment – page 18 to 21 – section 6; bat report and badger report) shall be undertaken and to liaise and report to statutory bodies (as required).
 - (b) Appropriate preventative measures shall be detailed within the Construction Environmental Management Plan to ensure that non-native invasive species are not introduced, spread or dispersed. These measures shall follow as relevant, the manual “The Management of Noxious Weeds and Non-Native Invasive Plant Species on National Roads” issued by the NRA (2010) and shall take cognisance of the Best Practice Management Guidelines produced by Invasive Species Ireland.
 - (c) All mitigation measures outlined in the bat report shall be implemented in full under the supervision of suitably qualified bat specialist and the lighting scheme shall be designed in consultation with the bat specialist to minimise impact on bats – incorporating the dark skies proposed in appendix V.
 - (d) Hedges and trees shall not be removed during the nesting season (March 1st to August 31st) in accordance with the Wildlife Act, (as amended).

A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for

inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

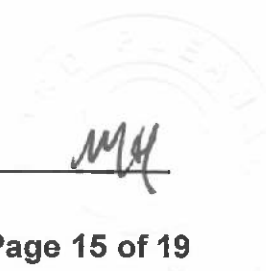
Reason: In the interest of environmental protection.

15. An ecological clerk of works (ecologist) shall be appointed to ensure that all works will be carried out in strict accordance with best practice guidelines and all mitigation measures (detailed in the Natura impact statement, page 12) shall be fully implemented, and to liaise with statutory bodies (as required).

Reason: In the interest of environmental protection.

16. 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.



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. 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, as amended, 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.

19. Prior to the commencement of development, the applicant shall submit a drawing for the written agreement of the Planning Authority clearly indicating the areas to be taken in charge by the Local Authority. Prior to occupation of any units within the site, details of a management company providing adequate measures for the future maintenance of common area, not being taken in charge, within the site boundary onwards from their completion in a satisfactory manner shall be submitted to, and agreed in writing with, the planning authority.

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

20. The proposed development shall be carried out in accordance with the proposed phasing plan received by the planning authority on the 5th day of November, 2021 unless otherwise agreed in advance in writing with the planning authority. Each phase shall be completed to the written satisfaction of the planning authority before the next phase commences. The applicant shall not commence Phases 01 – 02 or Phase 01 – 03 without the prior written agreement of the planning authority.

Reason: In the interest of the proper planning and sustainable development of the area.

21. 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.

22. 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.

23. 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.



Mary Henchy

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 29th day of September 2023.