

An
Bord
Pleanála

Board Order
ABP- 312841-22

Planning and Development Acts 2000 to 2022

Planning Authority: Westmeath County Council

Planning Register Reference Number: 21/97

Appeal by Russell MacNabb care of The Planning Partnership of The Bank Building, 52 Oliver Plunkett Street, Mullingar, County Westmeath and by Alan Reilly of 137 Ashfield, Mullingar, County Westmeath on behalf of Ashfield Residents Association against the decision made on the 4th day of February, 2022 by Westmeath County Council to grant permission subject to conditions to Glenveagh Homes Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of 98 number residential units, one number childcare facility, one number pumping station and all associated ancillary development works including a shared cycle and pedestrian pathway which runs along the southern, western and northern boundary of the site, access, footpaths, parking, drainage, landscaping and amenity areas at Rathgowan, Mullingar, County Westmeath. Access will be via the existing entrance on the R394(C-Link) to the north of the site. This development will form part of a larger two phase development at this location, at Rathgowan, Mullingar, County Westmeath. The proposed development was revised by further public notices received by the planning authority on the 6th day of August, 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

Having regard to the following:

- (a) the policies and objectives set out in the National Planning Framework, 2040,
- (b) the policies and objectives set out in the Westmeath County Development Plan 2021-2027,
- (c) the policies and objectives set out in the Mullingar Local Area Plan 2014-2020, as extended,
- (d) the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities issued by the Department of Environment Heritage and Local Government in 2009,
- (e) the Design Manual for Urban Roads and Streets (DMURS) 2023, as amended,
- (f) The Planning System and Flood Risk Management Guidelines for Planning Authorities issued by the Department of Environment Heritage and Local Government in 2009
- (g) the nature, scale and design of the proposed development,
- (h) the availability in the area of a range of social, community and transport infrastructure,

- (i) the pattern of existing and permitted development in the area,
- (j) the planning history in the area,
- (k) the submissions and observations received, and
- (l) the inspector's report,

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 close to the town centre, would be acceptable in terms of pedestrian and traffic safety, and would not seriously injure the visual and residential amenities of the area. 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 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 is 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 European sites, in view of the site's conservation objectives, other than the following for which there is a possibility of significant effects, and for which Appropriate Assessment is, therefore, required:

- Lough Ennell Special Area of Conservation (Site Code: 000685)
- Lough Ennell Special Protection Area (Site Code: 004044)

Appropriate Assessment

The Board considered the Natura Impact Statement submitted with the planning application and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development on European Sites: Lough Ennell Special Area of Conservation (Site Code: 000685) and Lough Ennell Special Protection Area (Site Code: 004044). The Board considered the information before it was adequate to carry out the 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 were included as part of the current proposal, and
- (c) the conservation objectives for the European Sites.

In completing the Appropriate Assessment, the Board has 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 Lough Ennell Special Area of Conservation (Site Code: 000685) and Lough Ennell Special Protection Area (Site Code: 004044) having regard to the sites' conservation objectives.

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

Environmental Impact Assessment Screening

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

Having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001-2022,
- the location of the proposed residential units, on lands zoned within the Mullingar Town City Development Plan 2014-2020 for Residential Development with a stated objective 'to protect, provide and improve residential amenities', and the results of the Strategic Environmental Assessment of the development plan,
- the nature of the existing site and the pattern of development in the surrounding area,
- the availability of mains water and wastewater services to serve the proposed development,
- the location of the development outside of any sensitive location specified in Article 109(4)(a)(v) of the Planning and Development Regulations 2001, as amended,
- 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),

- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- the features and measures proposed by the applicant that are envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified to be provided as part of the project Construction and Demolition Waste and By-Product Management Plan, the Preliminary Construction Management Plan, the Outline Construction and Environmental Management Plan, the Cultural Heritage Impact Statement and the Engineering Services Report,

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.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below including those permitting a total of 98 residential units, the proposed development would constitute an acceptable quantum and density of development in this outer-urban greenfield location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and scale of development, would be acceptable in terms of impacts on traffic, would provide an acceptable form of residential amenity for future occupants, would not be at risk of flooding, or increase the risk of flooding to other lands and would be capable of being adequately served by wastewater and water supply networks. The Board considered that the proposed development would be compliant with the provisions of the Mullingar Town Development Plan 2014-2020 (as extended) and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information received by the planning authority on the 13th day of July 2021, and clarification of further information received by the planning authority on the 3rd day of December 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. Planning permission is granted for 98 number dwelling units only, a single creche and pumping station as per the site layout drawing and house types received as further information by the planning authority on the 3rd day of December 2021.

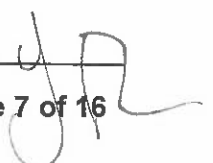
Reason: In the interest of clarity.

3. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

4. The mitigation measures detailed in Section 10 of the Natura Impact Statement submitted at application stage shall be implemented in full.

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



5. The areas of public open space shown on the lodged plans received by the planning authority on the 3rd day of December 2021 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 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.

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 accessways, 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. 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.

8. 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 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 unit.

Reason: In the interests of amenity and public safety.

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

Reason: In the interest of public health.

11. (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) The materials used, including tactile paving, in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of traffic, cyclist and pedestrian safety.

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.

Reason: In the interests of amenity and of traffic and pedestrian safety

13. A minimum of 10% of all car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking 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 to and agreed in writing with the planning authority prior to the occupation of the development.

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

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 within each house plot 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.

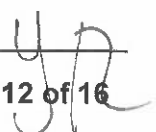
Reason: In the interests of public safety and residential amenity.

17. 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 proper planning and sustainable development.

18. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0900 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.



19. 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 names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

20. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) All ground reduction should be subject to a programme of archaeological monitoring, under licence, by a suitably qualified archaeologist,
 - (c) where archaeological material is shown to be present, avoidance, preservation in situ, or preservation by record (excavation) may be required. Works may be halted pending receipt of advice from the National Monuments Service, Department of Housing, Local Government and Heritage who will advise the applicant/developer with regard to these matters.
 - (d) On completion of monitoring of ground reduction and any archaeological excavations arising, the archaeologist shall submit a written report to the

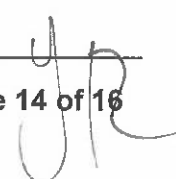
planning authority and to the Department of Housing, Local Government and Heritage for consideration.

- (e) 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 site and to secure the preservation and protection of any remains that may exist within the site.

21. 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.



22. 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.

23. 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.

24. 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.



Tom Rabbette

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

Dated this 31st day of July 2023