

An
Bord
Pleanála

Board Order
ABP-313173-22

Planning and Development Acts 2000 to 2022

Planning Authority: Laois County Council

Planning Register Reference Number: 21/496

Appeal by Tony Duncan and others of Redlough House, Ratheven, Portlaoise, County Laois and by Others against the decision made on the 16th day of March, 2022 by Laois County Council to grant subject to conditions a permission to Thomas Kelly and Sons Group care of Avison Young of fourth Floor, 2-4 Merrion Row, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a residential development with a gross floor area of 11,066 square metres and comprising a total of 99 number residential units; one number crèche with a gross floor area of 178.70 square metres; private amenity space; services; landscaping and associated site works. The schedule of residential accommodations is as follows: four number two-bedroom back-to-back duplex apartments; 10 number two-bedroom semi-detached dwellings; 14 number three-bedroom semi-detached dwellings; five number three-bedroom detached dwellings; four number three-bedroom staggered townhouses; 20 number three-bedroom terraced townhouses and 42 number four-bedroom semi-detached dwellings. A total area of 0.4 hectares is provided for the purposes of public open space which equates to

12% of the net site area with a multi-use games area. The construction of a new distributor road adjoining the existing Rathevan link road at the north-west of the site (with potential future link provided to the Portlaoise Northern Orbital Route), internal access roads; pedestrian footpaths; pedestrian crossing points; cycle lanes; along with a future bus corridor/bus gate route. New storm water connections located at the existing Rathevan link road and at the south-west corner of the site. New connection to the existing public foul network located at the south-west corner of the site. A total of 212 number parking spaces and 211 number cycle parking spaces (all surface level) are provided within the proposed development. Of these spaces, 13 number car spaces are provided for the crèche. The proposal includes all site landscaping works; electricity substations; boundary treatments; planting; lighting; servicing; signage; surface water attenuation; bin storage; associated site development above and below ground and ancillary works, all on a site of circa 4.6 hectares at Rathevan, Portlaoise, County Laois.

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 residential zoning objective pertaining to the site and the provisions of the Laois County Development Plan 2021-2027, the nature and scale of the development proposed and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of visual and residential amenities, would be adequately provided with infrastructure and community services and would be acceptable in terms of traffic and pedestrian safety. The proposed development 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 documents submitted on the 18th day of February 2022, 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. Mitigation measures set out in sections 3.3.3 and 3.3.4 of the Hydrogeological Report received with the application shall be implemented in full. In addition, prior to commencement of development a robust construction phase Environmental Management Plan, including an outline for materials management, shall be submitted for the written agreement of the planning authority; and trenches for underground foul water pipework shall be sealed using low permeability materials, for example, low permeability clay.

Reason: To prevent water pollution.

3. Prior to commencement of development, the groundwater levels along the access road at the northern end of the site shall be established, and mitigation measures agreed in writing with the planning authority in relation to any groundwater which may be encountered in the excavation for the proposed road.

Reason: In the interest of orderly development and to protect groundwater quality.

4. 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.

5. Prior to commencement of development, a site layout plan and details of cycle parking and storage facilities shall be submitted for the written agreement of the planning authority, which shall be in accordance with 'SPPR 4 - Cycle Parking and Storage' of the Sustainable and Compact Settlements Guidelines for Planning Authorities (January 2024).

Reason: To comply with the requirements of the Guidelines.

6. 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.

7. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Eireann. Foul effluent shall be connected to the public foul sewer. Any necessary upgrades to the capacity of the Borris Road Wastewater Pumping Station shall be in place prior to connection of the proposed development or occupation of any unit.

Reason: In the interest of public health.

8. All surface water run-off shall be collected and disposed of within the site to the surface water sewer. No such surface water run-off shall be allowed to flow onto the public roadway, foul sewer or adjacent properties. The rate of surface water discharge from the development to the public surface water network shall be regulated taking account of existing discharges from adjacent lands and provision made for such retention and throttling/flow restriction as necessary to regulate the discharge.

The proposed development shall not interfere with existing land or road drainage.

Precise details in relation to location, capacity, size and specification of the surface water attenuation system shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: In the interest of orderly development and public health.

9. The following details shall be submitted to and agreed in writing with the planning authority prior to commencement of development:

- (a) The boundary treatment/access arrangements at the potential future link to the Portlaoise Northern Orbital Route to the north of the site and the potential future bus corridor access point C to Lake Drive to the south-east of the site shall be completed up the site boundary with precise details including measures to prevent the creation of any ransom strip/s.
- (b) The tie-in of the proposed access road and footpaths serving the proposed development and the adjoining infrastructure shall be to the satisfaction of the planning authority and Road Design Section.
- (c) The design of the south-eastern ends of the two internal access roads and footpaths extending south-eastwards.
- (d) The road, footpaths and raised table finishes shall be impermeable. As a result of this requirement to change permeable paving to impermeable paving the developer shall recalculate the attenuation volumetric requirement, revising plans and particulars accordingly.
- (e) The location and design of bin collection storage points.
- (f) Following completion, the development shall be maintained by the developer until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

10. The developer shall engage the services of a suitably qualified archaeologist to carry out an Archaeological Assessment of the development site, in relation to archaeological features and deposits previously identified during the geophysical survey. No sub-surface work shall be undertaken until the Archaeological Assessment has been completed and commented on by the Department of Housing, Local Government and Heritage.

The archaeologist shall carry out any relevant documentary research and inspect the development site. This assessment shall also define a buffer area or areas contiguous with the archaeology identified during the geophysical survey. No sub-surface work should be undertaken in the absence of the archaeologist without his/her express consent.

A programme of test excavation shall be carried out at locations chosen by the archaeologist (licensed under the National Monuments Acts 1930-2004), having consulted the site drawings and the National Monuments Service (NMS) section of the Department.

Having completed the work, the archaeologist shall submit a written report stating their recommendations to the NMS section of the Department of Housing, Local Government and Heritage. Where archaeological material/features are shown to be present, preservation in situ, preservation by record (excavation) or monitoring may be required.

Reason: To ensure the continued preservation, wither in situ or by record of places, caves, sites, features or other objects of archaeological interest.

11. All upper floor, rear and side bathroom windows, shall be fitted with opaque glass.

Reason: In the interest of orderly development.

12. 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. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

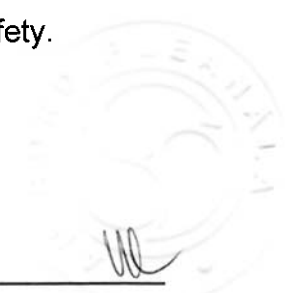
13. At least 10% of communal parking spaces shall be provided with functioning electric vehicle charging stations/points. Ducting shall be provided for all remaining communal parking spaces.

Reason: In the interest of orderly development.

14. Public lighting in the development shall be LED technology luminaries with minimum 10 year warranty. Lighting levels in accordance with IS EN 13201.

External lighting shall be cowled and directed away from the public roadway and adjoining properties.

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



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

16. (a) No part of the proposed development shall encroach, oversail or otherwise physically impinge upon any adjoining property save with the prior written agreement of the owner(s) thereof.
- (b) All public and private property shall be adequately protected at all times particularly during construction works.
- (c) Any damage caused to the adjoining public thoroughfare shall be made good at the developer's expense to the satisfaction of the planning authority.

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

17. (a) A scheme indicating boundary treatments and landscaping shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) This shall include details of retaining walls as required.
- (c) Boundary screening and mature hedgerows and trees shall be retained where feasible.
- (d) Only native trees and shrubs shall be used in the landscaping scheme.
- (e) The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.
- (f) 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.
- (g) The scheme shall include any necessary fencing of the lands adjoining the proposed development, including those within the subject site in which residential development is not permitted.

Reason: In order to screen the development, in the interest of visual amenity.

18. The construction of the development shall be managed in accordance with a Construction Management Plan, to include a Construction Stage Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

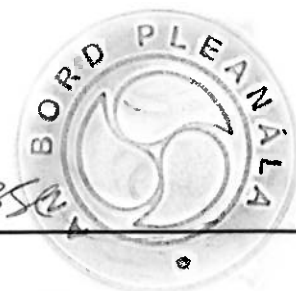
19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion 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 of the development.

20. 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.


Una Crosse



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

Dated this ^{1st} day of March 2024.