



An
Bord
Pleanála

Board Order
ABP-313188-22

Planning and Development Acts 2000 to 2021

Planning Authority: Sligo County Council

Planning Register Reference Number: 2213

Appeal by Gary and Moira Maxwell of Woodfield House, Ballymote, County Sligo against the decision made on the 10th day of March 2022 by Sligo County Council to grant subject to conditions a permission to SDCH Properties Limited care of Séan Dockry and Associates of 24 Middle Street, Galway in accordance with plans and particulars lodged with the said Council.

Proposed Development: Development consisting of the construction of 58 number residential units (10 number one bed, 20 number two bed, 18 number three and 10 number four bed) and all associated site and external works including the widening of the existing site entrance serving an existing adjacent dwelling house (Planning Reference 2451/70) and amendments to the boundaries of that dwelling's site at Maghera Townland, Ballymote, County Sligo.

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 RES zoning provisions for the site set out in the Sligo County Development Plan 2017-2023, it is considered that, subject to compliance with the conditions set out below, the proposed development would provide a satisfactory standard of residential amenity for future residents, would not seriously injure the visual and residential amenities of adjoining properties, would be acceptable in terms of pedestrian and traffic safety and convenience, would not be prejudicial to public health 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, 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. Prior to commencement of development, a Revised Site Layout Plan and Site Boundary Treatment Plan shall be submitted to, and agreed in writing with, the planning authority showing the following revisions:
 - (a) The relocation of Block C (and any other development) so it is a minimum of two metres from the shared western boundary (with the railway).
 - (b) Provision of a 2.4 metres capped blockwork wall along the shared western boundary (with the railway). This section corresponds to the site boundary marked E – I on drawing number P-003 Site Boundary Treatments Plan.
 - (c) A 1.8 metre high capped blockwork wall (replacing a proposed post and rail fence boundary) shall be provided in the sections of the site boundary corresponding to the site boundary marked R-S and Q-R on drawing number P-003 Site Boundary Treatments Plan.

Reason: In the interest of clarity and the protection of residential amenities.

3. The existing site entrance (adjacent to the Corn Mill development) shall be used as a cycle and pedestrian route only. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority, details of the proposed cycle and pedestrian route.

Reason: In the interests of clarity, amenity and public safety.

4. A tree and vegetation survey of the site, which shall be carried out by an arborist or landscape architect, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained. The submission shall include details of measures for the protection of those trees which it is proposed to be retained.

Reason: In the interest of clarity and the protection of natural and visual amenities of the area.

5. 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 construction traffic routing and management, construction parking, materials storage, noise management measures and off-site disposal of construction/demolition waste.

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

6. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

7. The following requirements of Iarnród Éireann Infrastructure shall be strictly adhered to in accordance with the requirements of the planning authority:
 - (a) The Railway Safety Act 2005 places an obligation on all persons carrying out any works on or near the railway to ensure that there is no increase in risk to the railway as a consequence of these works. Because of the proximity of the site to the Railway, the developer shall take into account this obligation in Design, Construction and Operation of the scheme.
 - (b) Provision shall be made for maintaining the security of the railway boundary during the course of the works and all boundary treatment works shall be completed prior to commencement of major development works on site.
 - (c) Railway mounds, ditches and drains shall remain undisturbed without the prior written agreement of Iarnród Éireann.

- (d) No additional liquid, either surface water or effluent, shall be discharged to, or allow to seep onto, the railway property or into railway drains/ditches.
- (e) A Way Leave Agreement shall be entered into between the developer and Iarnród Éireann if any proposed storm water is to be discharged through an existing culvert or a new one is proposed.
- (f) No building shall be constructed within two metres of the boundary treatment on the developers side. This is to allow for the developer to maintain his/her building, without the need to enter Iarnród Éireann Railway property.
- (g) Should the developer require the use of a tower crane or other equipment that could swing over the railway property, then the developer shall enter into an agreement with Iarnród Éireann/C.I.E. regarding this issue.
- (h) No trees shall be planted directly along the railway boundary as they can impair the vision of train drivers or their views of signals. Furthermore, falling leaves and/or leaf litter on rails can adversely affect the operation of trains by causing poor wheel/rail adhesion.
- (i) Lights from the proposed development, either during the construction phase or when the development is completed, shall not cause glare or in any way impair the vision of train driver or personnel operating on-track machines.
- (j) Should the developer intend to cut down trees that are in proximity of the railway line such that if they were to fall towards the line they would block it, the developer shall arrange with Iarnród Éireann, for a safe system of work to be established to undertake this work.

- (k) The developer shall be made aware of the normal vibrations and noise emanating from railway operations and maintenance. The development including the boundary treatment shall be so designed to withstand such vibrations and noise. The developer in this regard should be aware that the railway has the capacity to operate 24 hours a day, seven days a week.

- (l) For development of residential units in areas adjoining the railway corridor, the developer and/or his/her agents shall conduct quantified noise assessment to ensure noise levels at the proposed residential units do not equal or exceed undesirable noise levels, as specified in the Local Authority's Noise Action Plan. It shall be responsibility of the developer and/or his/her agent to specify necessary mitigation measures where specified noise levels are exceeded. The noise assessment shall consider a number of scenarios when predicting noise levels, including the following:
 - (a) within development with windows closed,
 - (b) within development with open windows, and
 - (c) exterior of development within private or communal gardens.

- (m) No works shall take place on C.I.E property without prior written permission from Iarnród Éireann.

Reason: In the interests of protecting Iarnród Éireann assets, public health and clarity.

8. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

9. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, a fully detailed landscaping scheme to include full details of size, species and location for all trees to be planted and full details of the proposed arrangements for hard and soft landscaping and boundary treatment. 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. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development 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 interests of residential and visual amenities.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

12. 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. 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 interests of amenity and of traffic and pedestrian safety.

13. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

14. Proposals for a name and numbering scheme and associated signage for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of urban legibility.

15. A plan containing details for the management of waste, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste, especially recyclable materials, in the interest of protecting the environment.

16. 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.

17. 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.

18. 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.

19. 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.

Dr. Maria Fitzgerald

Maria FitzGerald

Member of An Bord Pleanála

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

Dated this 8th day of Aug. 2022.

