



An
Bord
Pleanála

Board Order ABP-313498-22

Planning and Development Acts 2000 to 2022

Planning Authority: Limerick City and County Council

Planning Register Reference Number: 21/580

Appeal by Michael Murphy Homes Limited care of HRA Planning of 3 Hartstonge Street, Limerick City against the decision made on the 13th day of April, 2022 by Limerick City and County Council to refuse permission for the proposed development.

Proposed Development: A residential development comprising 55 number residential units, (four number two-storey two-bedroom semi-detached houses; 42 number duplex units in four three- storey blocks with one and two bed apartments on the ground floor and three-bedroom houses over; nine number two-storey three-bedroom terrace houses in two blocks), demolition of an existing block wall on northern boundary of site along with the construction of all associated roads, boundary treatments, pavements, car parking, street lighting, foul and surface water drainage and all ancillary site development works. This surface will be accessed via Hillcroft Close, Saint Patrick's Road, Singland, Limerick.

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

The Board had regard to the zoning of the site, the location of the site in Limerick City and Suburbs, the fact that the site is identified for potential residential development in Table 1, Section 1.4.2, Volume 2(a) of the Limerick Development Plan 2022-2028 and that the layout accommodates future connections to adjoining lands, and the fact that the disturbance caused at construction stage will be limited in duration.

The Board considered that the layout improved the passive surveillance of the existing adjoining open space, that the density proposed complies with the Limerick Development Plan 2022-2028, that the scheme provided for a variety of house type and size, and that the dwellings substantially comply with the requirements as set out in the Development Plan.

The Board concurred that the development of all the lands identified as site number 79 in Table 1 (as referenced above) would be preferable, but the Board considered that the development of this site does not prejudice the future development of the adjoining lands that front onto St. Patricks Road, or a future vehicular connection to St Patricks Road should the adjoining land be developed.

The Board concluded that, subject to compliance with the conditions set out below, the proposed development would 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 the zoning of the site, the location of the site in Limerick City and Suburbs, the fact that the site is identified for potential residential development in Table 1, Section 1.4.2, Volume 2(a) of the Limerick Development Plan 2022-2028 and that the layout accommodates future connections to adjoining lands, and the fact that the disturbance caused at construction stage will be limited in duration. The Board considered that the layout provided for an improvement to the existing adjoining open space by way of overlooking, that the density proposed accords with

the Development Plan, that the scheme provided for a variety of house type and size, and that the dwellings substantially accorded with requirements as set out in the Development Plan.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature, scale and location of the proposed development, and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the sites' conservation objectives, and that a Stage 2 Appropriate Assessment (and submission of a Natura impact statement) is not, therefore, 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 22nd day of December, 2021 and the 21st day of March, 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. The number of dwellings hereby permitted shall be 54.

Reason: In the interest of clarity

3. The following details shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development:-
- (a) drawings identifying the storage for duplex units in accordance with the storage space requirements set out in Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in March, 2018,
 - (b) the number of car parking spaces and cycle parking spaces to comply with the requirements of the Limerick Development Plan 2022-2028, and
 - (c) car and cycle parking layout.

Reason: To meet the requirements of the future residents in the interest of residential amenity.

4. 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 the 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.

5. 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 unit.

Reason: In the interests of amenity and public safety.

6. 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, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have 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 in the interest of sustainable transportation.

7. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

8. 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 and surface water management

9. 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.

10. 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) hard landscaping works, specifying surfacing materials, furniture and finished levels;
- (b) details of all boundary treatments; and
- (c) a timescale for implementation

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.

11. 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.

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. (a) The areas of the development for Taking in Charge shall be agreed in writing with the planning authority, prior to the commencement of development on site.
- (b) The areas that are for residents' use only private park and communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (c) 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 the development in the interest of residential amenity.

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. 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.

16. 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.

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. The construction of the development shall be managed in accordance with a 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 provide details of intended construction practice for the development, including:

- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
- (b) location of areas for construction site offices and staff facilities,
- (c) details of site security fencing and hoardings,
- (d) details of on-site car parking facilities for site workers during the course of construction,
- (e) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site,
- (f) measures to obviate queuing of construction traffic on the adjoining road network,
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (i) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater,

- (j) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (k) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains, and
- (l) hours of site development and building works.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

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 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.

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.



Mary Henchy

Member of An Bord Pleanála

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

Dated this *30th* day of *November* 2023