

An
Bord
Pleanála

Board Order
ABP-315784-23

Planning and Development Acts 2000 to 2022

Planning Authority: Louth County Council

Planning Register Reference Number: 22567

Appeal by Ina McCrumlish and others care of Stephen Ward Town and Planning Consultants Limited of Jocelyn House, Jocelyn Street, Dundalk, County Louth and by Ronan Carr care of Stephen Ward Town and Planning Consultants Limited of Jocelyn House, Jocelyn Street, Dundalk, County Louth against the decision made on the 19th day of January, 2023 by Louth County Council to grant, subject to conditions, a permission to Susan and Seamus Fagan of St. Anthony's, Trinity Street, Drogheda, County Louth in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a detached three-bedroom dwelling and a three-storey building consisting of two number one-bedroom apartments at ground level and two number two bed duplex units at first and second floor with private balconies. The main access to the development is pedestrian access via Trinity Street, there is also secondary pedestrian access onto the River Boyne riverwalk. The development provides for all associated site development works, boundary treatments, landscaping and external lighting, all at 29-32 Trinity Stret, Drogheda, County Louth. The proposed development was revised by further public notices received by the

planning authority on the 24th day of November 2022. Changes to the development includes; revised redline site boundary, revision to NIS, increased height of buildings, Part V exemption application. Further information was also submitted regarding civil design; materials; landscape design; external lighting design, construction phase, increased storage and daylight assessment. Additional information includes archaeological assessment.

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:

- (a) the National and local policy objectives which support the development of infill/brownfield sites in achieving compact growth;
- (b) the Section 28 Ministerial Guidelines on Sustainable Residential Development and Compact Settlement issued by the Department of Housing, Local Government and Heritage in January, 2024 and Design Standards for New Apartments issued by the Department of Housing, Local Government and Heritage in September, 2023;
- (c) the zoning objectives pertaining to the site, as set out in the Louth County Development Plan 2021-2027;
- (d) the location of the site within a well serviced urban area in close in proximity to Drogheda Town centre and where public transport is available;

- (e) the pattern of development in the area, and the nature, scale and design of the proposed development;
- (f) all documentation submitted with the application and appeals; and
- (g) the report of the Planning Inspector,

the Board considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would provide an appropriate level of residential amenity for future residents, and would not seriously injure the residential or visual 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

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299), the Boyne Estuary Special Protection Area (Site Code 004080) and the Boyne Coast and Estuary Special Area of Conservation (Site Code 001957) are the European sites for which there is a possibility of significant effects in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development for European Sites in view of the sites Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the

proposed development in relation to the site's conservation objectives using the best available scientific knowledge in the field.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the implications of the proposed development on the integrity of the aforementioned European Sites, having regard to the sites Conservation Objectives. Having regard to the nature, scale and location of the proposed works which are partially located in the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) and in close proximity to Boyne Estuary Special Protection Area (Site Code 004080); Boyne Coast and Estuary Special Area of Conservation (Site Code 001957); the Board considered that it is reasonable to conclude on the basis of the information on the file, which is adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the aforementioned European sites, or any other European site, in view of the sites' Conservation Objectives.

This conclusion is based on:

- (a) A detailed assessment of all aspects of the proposed development that could result in significant effects or adverse effects on European Sites within a zone of influence of the development site.
- (b) Consideration of the conservation objectives and conservation status of qualifying interest species and habitats.
- (c) A full assessment of risks to special conservation interest bird species and qualifying interest habitats and species.
- (d) Application of mitigation measures designed to avoid adverse effects on site integrity and likely effectiveness of same.

- (e) Consideration and assessment of in-combination effects with other plans and projects.

In overall conclusion, the Board was satisfied the proposed development, individually and in combination with other plans and projects, would not undermine the favourable conservation condition of any qualifying interest feature or delay the attainment of favourable conservation condition for any species or habitat qualifying interest for these European sites.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars received on the 24th day of November 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 mitigation measures, as set out in Section 7 of the Natura Impact Statement received by the planning authority on the 24th day of November 2022, shall be fully adhered to.

Reason: To avoid any potential harmful effects to designated European Sites.

3. Prior to the commencement of site development works knotweed shall be eradicated from the site in accordance with the Treatment Recommendations Report prepared by Knotweed Control Ireland submitted with the application.

Reason: To prevent the spread of this non-native evasive species.

4. (a) 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.
- (b) The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. The approved landscaping scheme shall be implemented fully in the first planting season following each phase of the development and any plant materials that die or are removed within three years of planting shall be replaced in the first planting season thereafter.

Reason: In the interest of residential and visual amenity.

5. Public lighting shall be provided in accordance with a scheme, 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 residential unit.

Reason: In the interest of amenity and public safety.

6. Prior to the commencement of development, details of the materials, colours and textures of all the external finishes to the proposed buildings and surface materials shall be submitted for the written agreement of the planning authority.

Reason: In the interest of visual amenity.

7. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and 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.

8. 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 overground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

9. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

10. 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.

11. Site development and building works shall be carried out 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.

12. 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 adhere to the mitigation measures as set out in Section 7 of the Natura Impact Statement received by the planning authority on the 24th day of November 2022, and shall provide details of intended construction practice for the development, including:

- (a) the location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
- (b) the location of areas for construction site offices and staff facilities,
- (c) the details of site security fencing and hoardings,

- (d) the details of 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,
- (f) measures to obviate queuing of construction traffic on the adjoining road networks,
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (j) the 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,
- (k) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil,
- (l) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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



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

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 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 and, in particular recyclable materials, in the interest of protecting the environment.

14. Following the completion of the development and prior to occupation of any residential unit (unless an alternative timeframe is agreed in writing with the planning authority), the temporary haul road area shall be reinstated to its current condition and seeded, and any trees damaged during construction along the riverside walk shall be replaced. The above works shall be completed to the satisfaction of the planning authority.

Reason: In the interest of orderly development.

15. 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.

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.

- 16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

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 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.

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 or 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.


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

Dated this 19th day of August 2024.