



An
Bord
Pleanála

Board Order
ABP-315825-23

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: PL2/22/274

Appeal by Forest View Residents' Association care of Andrew Hersey of 3 Atlantic View, West End, Kilkee, County Clare against the decision made on the 20th day of January, 2023 by Offaly County Council to grant subject to conditions a permission to Fitzpatrick and Heavey Homes Limited of Unit B10 and B11, Greenogue Square, Greenogue Business Park, Rathcoole, County Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Erection of a fully serviced residential housing development of 40 units, consisting of four number single storey semi-detached two bedroom bungalows, two number single storey mid-terrace one bedroom bungalows, 20 number three bedroom two-storey semi-detached houses, six number three bedroom two-storey mid-terrace houses and eight number one bedroom apartments in four number two-storey semi-detached blocks, with all associated site services, landscaping, site works, boundary treatments, and new access; all at Lands to the east of and accessed via the existing development at Forest View, Banagher Road (R439), Townparks, Birr, County Offaly as revised by the further public notices received by the planning authority on the 7th day of October, 2022 and the 16th day of December, 2022.

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

It is considered that the proposed residential development on zoned and serviced land, subject to compliance with the conditions set out below, accords with the Offaly County Development Plan 2021-2027 and the Birr Local Area Plan 2023-2029, would be acceptable in terms of traffic safety and convenience, would not seriously injure the residential amenities of the area and would 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 plans and particulars submitted to the planning authority on the 14th day of September, 2022 and on the 29th 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 development hereby permitted shall be carried out and completed at least to the construction standards set out in the "Recommendations for Site Development Works for Housing Areas" issued by the Department of the Environment and Local Government in November 1998. Prior to commencement of development, the developer shall agree with the authority, in writing, the procedures for inspection and monitoring of the development by the authority to ensure compliance with these standards and shall thereafter comply with the agreed procedures during the construction of the overall development. Following completion, the development shall be maintained by the developer, in compliance with these standards, 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.

3. The finished floor levels of the residential units shall be as specified on drawing number 22.101.04 Rev 1 received by the planning authority on the 29th day of November 2022 and shall not be modified in any way without the prior written consent of the planning authority.

Reason: In the interest of clarity.

4. The landscaping scheme shown on drawing number 201-FB.01-DRW and 250-FB.01-DET, as submitted to the planning authority on the 14th day of September, 2022 shall be carried out within the first planting season following substantial completion of external construction works.

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 three 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 interest of residential and visual amenity.

5. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, soiled, seeded, and landscaped in accordance with 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 roofs of the proposed dwellings shall be blue-black or slate-grey in colour throughout (including ridge tiles) using slates or flat-profile tiles only.

(b) Photographic samples of all external building materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. Prior to commencement of development, the developer shall enter into water and waste water connection agreements with Uisce Eireann.

Reason: In the interest of public health.

8. (a) Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:
 - (i) further details of the proposed attenuation storage unit. The unit shall be of sealed construction to prevent its storage capacity from being depleted as a result of infiltration from ground/surface water, and
 - (ii) site specific details of the proposed flow control device. Details shall show how the depth of storage relationship together with the head discharge relationship will be suitable for the proposed attenuation unit,
- (b) Surface water run-off from roofs, roads and hardstanding areas shall be collected and disposed of within the site, as agreed with the planning authority. No such surface water run-off shall be allowed to flow onto the public roadway, adjoining properties or to enter the public wastewater network.

Reason: In the interest of orderly development.

9. 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

10. 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.

11. 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.

12. The noise level during site development and building works shall not exceed 55 dB(A) rated sound level (that is, corrected sound level for a tonal or impulsive component) at the nearest noise sensitive location between 0700 and 1900 hours, Monday to Friday inclusive, and shall not exceed 45 dB(A) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.

13. Site development and building works shall be carried out only 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.

14. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority details of resurfacing of Forest View; and the developer shall liaise with the planning authority with regard to the design and provision of the proposed footpath from Forest View to link up with the existing footpath to the south.

Reason: In the interest of pedestrian safety.

15. Public roads shall be maintained in a clean state for the duration of site development works and construction.

Reason: In the interests of orderly development and traffic safety.

16. 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 house.

Reason: In the interests of amenity and public safety.

17. 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.

Reason: In the interests of visual and residential amenity.

18. 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 interests of the common good.

19. 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.

20. 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.

21. 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.

Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *26th* day of *October*, 2023.

