



Planning and Development Acts 2000 to 2022

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 22/146

Appeal by Stephen and Michele Beatty care of MDP and Partners of Second Floor, 2/3 Colbeck Street, The Viking Triangle, Waterford against the decision made on the 8th day of February, 2023 by Waterford City and County Council to grant subject to conditions a permission to Survey Limited care of Hughes Planning and Development Consultants of 85 Merrion Square South, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Development which will consist of: (i) construction of a residential development comprising 74 number two-storey houses (54 number three-bedroom and 20 number four-bedroom) and three number two-storey blocks accommodating 16 number mews dwellings (4 number two-bedroom and 12 number three-bedroom), each house is to be served by private amenity space in the form of a rear garden whilst the mews dwellings are served by external terraces at first floor level, (ii) construction of childcare facility (342.5 square metres), with associated external amenity space, located centrally within the wider scheme, (iii) provision of 152 number on-curtilage/parking bay vehicular parking spaces to serve the residential units and 21 number vehicular parking spaces to serve the childcare facility, (iv)

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provision of new vehicular entrance off the Dunmore Road, and (v) all ancillary site and infrastructural works, inclusive of foul/surface water drainage, attenuation areas, boundary treatment, landscaping, open space areas including play spaces/playgrounds/bbq area, internal access roads and pedestrian footpaths, necessary to facilitate the proposed development. The 74 number houses comprise four number House Type D (three-bedroom), nine number House Type C (three-bedroom), 41 number House Type B (three-bedroom) and 20 number House Type A (four-bedroom). The 16 number mews dwellings comprise four number Mews Type 2 (two-bedroom) and 12 number Mews Type 1 (three-bedroom); all on lands at Knock boy, Dunmore Road, County Waterford as amended by the revised public received by the planning authority on the 24th day of November, 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

Having regard to the provisions of the Waterford City and County Development Plan 2022-2028, to the residential land use zoning of the site, to the nature of the proposed development and to the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity and would constitute an acceptable form of development at this location. 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 Lower River Suir Special Area of Conservation (Site Code: 002137) and the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on the Lower River Suir Special Area of Conservation (Site Code: 002137) and the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) 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 sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered had regard, in particular, to the following:

- (i) the site specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) mitigation measures which are included as part of the current proposal.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Site.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by further plans and particulars submitted on the 18th day of November, 2022 and by the clarification of further information submitted to the planning authority on the 13th day of January, 2023 and by the further plans and particulars received by An Bord Pleanála on the 3rd day of April, 2023, 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. As shown on the Site Plan submitted on the 13th day of January, 2023 (drawing/project number 19-141-202 K), this permission relates to the provision of 89 units and a creche building.

Prior to the commencement of the development a revised Site Layout Plan shall be submitted to the planning authority showing the correct numbering of the units within the overall scheme, i.e., to allow for the omission of units numbers 60-63 now shown as an area of open space.

Reason: In the interest of clarity.

3. (a) Prior to the commencement of any house 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), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses 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.
- (b) An agreement pursuant to Section 47 of the Planning and Development Act 2000, as amended, shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated, to the satisfaction of the planning authority, that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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 in accordance with the "Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities", issued by the Department of Housing, Local Government in May, 2021.

4. (a) 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.
- (b) All bathroom windows shall be obscure glazed.

Reason: In the interest of visual amenity.

5. The mitigation and monitoring measures outlined in the plans and particulars including the Natura Impact Statement relating to the proposed development, shall be implemented in full or as may be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or any

conditions of approval required further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European sites and biodiversity and in the interest of public health.

6. A suitably qualified Ecological Clerk of Works shall be retained by the developer to oversee pre-commencement surveys, the site clearance and construction of the proposed development. The ecologist shall have full access to the site as required and shall oversee the implementation of mitigation measures. Upon completion of works, an ecological report of the site works shall be prepared by the appointed Ecological Clerk of Works to be kept on file as part of the public record.

Reason: In the interest of biodiversity and the protection of European Sites.

7. (a) Full details of the proposed in-stream works and the realignment of the water course within the site, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (b) Measures required by Inland Fisheries Ireland shall also be incorporated into the arrangements. Where such measures require details to be agreed, all such details shall be placed on file and retained as part of the public record.

Reason: In the interest of environmental protection and public health.

8. The site including the areas of open space and the detention basin area shown on the approved plans shall be landscaped in accordance with a landscape scheme which shall be agreed in writing with the planning authority prior to the commencement of development. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.

Reason: In order to ensure the satisfactory development of the open space areas, and their continued use for this purpose.

9. Final details of all proposed site boundary treatments shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual and residential amenities.

10. The access from the public road and internal road and vehicular circulation network serving the proposed development, including turning bays, 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 DMURS.

Reason: In the interest of amenity and of traffic and pedestrian safety.

11. A footpath connecting with the existing footpath adjoining the south-eastern road frontage shall be provided along the Dunmore Road within the three metres set back area shown on the Site Plan submitted to the planning authority on the on the 13th day of January, 2023 (drawing/project number 19 -141-202 K) and a pedestrian link from the Dunmore Road to the site. Prior to the commencement of development, detailed specification for same shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interests of pedestrian safety and connectivity to the wider area.

12. A management plan for the control of alien invasive species, including a monitoring programme, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and to prevent the spread of alien plant species.

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 for each unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

14. Water supply and 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.

15. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann. A Confirmation of Feasibility for connection to the Irish Water network shall be submitted to the planning authority prior to the commencement of development.

Reason: In the interest of public health.

16. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted public lighting report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.

Such lighting shall be provided prior to the making available for occupation of any residential unit.

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. 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 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.

19. 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.

20. 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 the intended construction practice for the proposed development, including measures for the protection of existing residential development, hours of working, traffic management during the construction phase, noise and

dust management measures and off-site disposal of construction/demolition waste.

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

21. 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.

22. 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.

23. 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.

24. 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.

25. 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.



M. Henchy

Mary Henchy

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 13th day of February 2024.