



Planning and Development Acts 2000 to 2022

Planning Authority: Westmeath County Council

Planning Register Reference Number: 21/680

Appeal by Phil Darcy care of Andrew Hersey Planning of 3 Atlantic View, West End, Kilkee, County Clare against the decision made on the 10th day of February, 2023 by Westmeath County Council to grant subject to conditions a permission to WHS Property Holdings Limited care of Fewer Harrington and Partners of Studio 14, The Atrium, Maritana Gate, Canada Street, Waterford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Partial demolition of existing shed to the north of the site and for the construction of one number 90 bed three storey Nursing Home, one number single storey Coffee Shop and 81 number residential units. The residential development will comprise the following: two number two-storey detached apartment blocks each with two number one and two bed apartments on ground floor and two number one and two bed apartments on first floor (total number of apartments in the two blocks total 16 units); five number two bed one-storey end-terrace elderly bungalows (Type A); seven number two bed one-storey mid-terrace elderly bungalows (Type B); one number two bed one-storey end terrace elderly bungalows (Type C); 26 number three bed two-storey end-terrace houses (Type D); two number three bed two storey mid-terrace houses (Type D); 16 number two bed two-storey

mid-terrace houses (Type E) and eight number three bed two-storey mid-terrace houses (Type F). Planning permission is also sought for all associated site works to include the following: one number new vehicular road access to the development with pedestrian access points to include new road markings and right turning lane off Castlepollard Road (R394), together with proposed boundary treatments, landscaping, public lighting, car parking, signage, ESB sub station and switch room, bin storage and bicycle storage to serve the development, new vehicular entrance within development to facilitate existing adjoining dwelling, associated site drainage works, wastewater connection, water supply connection and all other associated site development works, all at Robinstown (Levinge) and Robinstown (Tyrrell), off Castlepollard Road (R394), Mullingar, County Westmeath, as revised by the further public notices received by the planning authority on the 27th day of June, 2022 and the 8th 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

Having regard to:

- (a) the nature and scale of the proposed development, as amended by the clarification of further information submitted on the 17th day of November 2022,
- (b) the policies and objectives of the Westmeath County Development Plan 2021-2027,

- (c) the Mullingar Local Area Plan 2014 - 2020, (as extended),
- (d) the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024,
- (e) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in 2024,
- (f) the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in May 2009,
- (g) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport in September 2023, as amended,
- (h) the Planning System and Flood Risk Management Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in November 2009,
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history in the area, and

(m) the submissions and observations received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and density of development in this urban location on appropriately zoned and serviced lands, would be acceptable in terms of pedestrian and traffic safety and would not seriously injure the visual and residential 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

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's Report in respect of the identification of European sites that could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives.

The Board is satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on any European sites in view of the sites' conservation objectives, other than the following for which Appropriate Assessment is required:

- Lough Ennell Special Area of Conservation (Site Code: 000685) and
- Lough Owel Special Area of Conservation (Site Code: 000688).

Appropriate Assessment

The Board considered the Natura Impact Statement submitted with the planning application and all other relevant submissions and carried out an Appropriate Assessment of the implications of the proposed development on European sites: Lough Ennell Special Area of Conservation (Site Code: 000685) and Lough Owel Special area of Conservation (Site Code: 000688). The Board considered the information before it was adequate to carry out the Appropriate Assessment.

In completing the Appropriate Assessment, the Board considered in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which were included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

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 Lough Ennell Special Area of Conservation (Site Code: 000685) and Lough Owel Special area of Conservation (Site Code: 000688) having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development subject to identified mitigation measures, by itself or in combination with other plans or projects, would not adversely affect the integrity of the sites listed above, or any other European site, in view of the sites' conservation objectives and 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, as amended by the further information received by the planning authority on the 30th day of May, 2022 and the Clarification of Further Information received by the planning authority on the 17th 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. Planning permission is granted for a nursing home, a creche, a coffee shop and 80 number dwelling units only, as per the Proposed Site Plan drawing number CL-01 and house types submitted as further information received by the planning authority on the 17th day of November, 2022.

Reason: In the interest of clarity.

3. Within three months of this decision, the applicant shall submit to the planning authority for written agreement, revised elevation design and specification for the Nursing Home building to include:
- (a) a greater vertical emphasis on the elevational frontages to Castepollard Road and the Greenway to the west of the site,
 - (b) the vertical emphasis shall be created by using revised fenestration design, and a mix of materials on the façades as opposed to the current blanket brick or nap plaster finish façade,
 - (c) the revised design should be to minimise the monolithic appearance of the overall façade treatment, and
 - (d) details, including samples, of the materials, colours and textures of the external finishes to the proposed buildings.

Reason: In the interests of visual amenity and clarity.

4. (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. Prior to commencement of any development on the overall site, details of the first phase shall be submitted to, and agreed in writing with, the planning authority.
- (b) Work on any subsequent phases shall not commence until such time as the written agreement of the planning authority is given to commence the next phase. Details of further phases shall be as agreed with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. The road and footpaths shown to adjoining lands (adjacent to house 12 on the Proposed Site Plan drawing number CL-01 submitted to the planning authority on the 17th day of November, 2022) shall be as constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations, 2001, as amended. These areas shall be shown in a drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

6. The mitigation measures detailed in Section 6.3 Proposed Mitigation Measures of the Natura Impact Statement shall be implemented in full.

Reason: In the interest of clarity and to ensure the protection of the European sites.

7. The areas of public open space shown on the lodged plans (17th day of November, 2022) shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the landscaped proposals received by the planning authority and 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.

- 8 (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) 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 this development in the interest of residential amenity.

9. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. This scheme shall include the following: -

- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development,
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings,
- (c) details of proposed street furniture, including bollards, lighting fixtures and seating, and
- (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

Reason: In the interest of visual amenity.

10. (a) Any required hedgerow, tree or scrub removal or cutting to facilitate the proposed development shall not take place during the bird breeding season which is between the 1st day of March and the 31st day of August.
- (b) All environmental construction and ecological mitigation measures identified in the Construction and Environmental Management Plan and the Natura Impact Statement shall be implemented in full by the developer in conjunction with the times lines to be agreed with the planning authority prior to the commencement of the development, except as may otherwise be required in order to comply with the conditions of this Order.

Reason: In the interests of clarity and nature conservation and to ensure environmental sustainability of the subject site.

11. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces and the public park, 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.

12. 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.

13. The developer shall comply with the requirements of the roads, access, lighting and parking arrangements including facilities to recharge electric vehicles. In particular:

- (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.
- (d) The materials used, including tactile paving, in any roads/footpaths provided by the applicant shall comply with the detailed standards of the planning authority for such road works.
- (e) Mobility Management Plan shall be prepared and submitted to the planning authority for approval prior to the commencement of development.
- (f) The developer shall carry out a Stage 2 Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit) which shall be submitted to the planning authority

for written agreement. The developer shall carryout all agreed recommendations contained in the audits, at the developer's expense.

- (g) Within six months of substantial completion of the development, a Stage 2 quality Audit (including Road Safety, Access Audit, Cycle Audit and Walking Audit) of the constructed development shall be submitted to the planning authority for approval.

Reason: In the interests of traffic, cyclist and pedestrian safety.

- 14. 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 interests of visual and residential amenity.

- 15. 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 within each house plot 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.

16. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, submitted with the planning application.

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

17. 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.

18. Proposals for an estate/street name, house numbering scheme, apartment 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 place names for new residential areas.

19. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, details of how the use of the Elderly Housing, identified as housing Type A, Type B and Type C on the Proposed Site Plan drawing number CL-01 received by the planning authority on the 17th day of November, 2022 shall be managed.

Reason: To ensure the use of the units is for elderly residents.

- 20 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.

21. 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 apartment units permitted other than House Type A, Type B and Type C on the Proposed Site Plan drawing number CL-01 received by the planning authority on the 17th day of November, 2022, 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.

22. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann prior to commencement of development

Reason: In the interest of public health.

23. 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.
- (a) Prior to any ground works taking place archaeological test trenches of the proposed site shall be carried out, the results of which will inform the development of an archaeological strategy/methodology.

- (b) All ground works associated with the proposed development shall be monitored under licence by a suitably qualified archaeologist.
- (c) Should archaeological material be found during the course of works, the work on site shall be stopped pending a decision as to how best to deal with archaeology. The developer shall be prepared to be advised by the Department of Housing, Local Government and Heritage with regard to any necessary mitigation action (e.g. preservation in situ or excavation) and should facilitate the archaeologist in recoding any material found.

Reason: To ensure the continued preservation of places, sites, features or other objects of archaeological interest.

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.



Mary Henchy

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

Dated this 21st day of August 2024.