



An
Bord
Pleanála

Board Order
ABP-316334-23

Planning and Development Acts 2000 to 2022

Planning Authority: Westmeath County Council

Planning Register Reference Number: 22325.

Appeal by Gerry Maguire care of The Planning Partnership of The Bank Building, Oliver Plunkett Street, Mullingar, County Westmeath against the decision made on the 27th day of March, 2023 by Westmeath County Council to refuse a permission for the proposed development.

Proposed Development: Construction of a Retirement Village and Residential Care Home, on a site of 4.51 hectares. The proposed development comprises a 108 number bed two-storey residential care home of 6,279 square metres, 30 number one-bed, single storey assisted living units, 15 number two-bed, single storey independent living units, a community hall 195 square metres, an extended cottage building (as existing), new junction and access road off the Mullingar Road, 128 number car parking spaces, 35 number secure cycle parking spaces, all internal roads, footpaths, communal and private garden areas, landscaping and boundary treatments, as includes for the undergrounding of the ESB overhead line; on site wastewater pumping station, surface water attenuation area; solar photovoltaic panels at roof level to residential care home, at Mullingar Road, Kinnegad, County Westmeath. The proposed development was revised by

pm

further public notices 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 following:

- (a) the nature and scale of the proposed development, as revised by further plans and particulars submitted to the planning authority on the 21st day of November 2022;
- (b) the policies and objectives of the Westmeath County Development Plan 2021-2027;
- (c) Kinnegad Objectives Map 10 in particular Site Specific Objective CPO 8.109, to allow the appropriate consideration of provision of nursing home with an activity facility and meeting room as a central area for a smaller small cluster of housing that would support an elderly population in accessing services they require;
- (d) the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage (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 (2024);
- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009;
- (g) the Design Manual for Urban Roads and Streets (DMURS) 2019, as amended;
- (h) the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009;
- (i) the nature, scale and design of the proposed development;
- (j) the pattern of existing and permitted development in the area;
- (k) the planning history in the area;
- (l) the submissions and observations received; and
- (m) the report of the Planning Inspector,

it is considered, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable scale and design of development in this urban location on serviced lands, would comply with the Westmeath County Development Plan 2021-2027 objectives regarding the aging population, 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 a significant effect on any European sites, in view of the site's conservation objectives, other than River Boyne and River Blackwater Special Protection Area (Site Code 004232) and River Boyne and River Blackwater Special Area of Conservation (Site Code 002299), for which Appropriate Assessment is required.

Appropriate Assessment Stage 2

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. 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,

pnc

- (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 and accepted and adopted the Appropriate Assessment carried out in the Planning Inspector's report in respect of the potential effects of the proposed development on the River Boyne and River Blackwater Special Protection Area (Site Code 004232) and River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) having regard to the sites' conservation objectives.

In the overall conclusion, the Board was satisfied that the proposed development subject to identifiable 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 revised by the further information submitted on the 21st day of November 2022 and the 1st day of February 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. The development shall be phased as follows;
 - (a) The nursing home and assisted living units shall be completed prior to the commencement of development of the independent living units.
 - (b) The independent living units shall not be occupied until the community hall is in place and landscape works have been completed, unless an alternative phasing proposal is agreed, in writing, with the planning authority.

Reason: To ensure support facilities are in place to support residents.

3. The mitigation measures detailed in Section 6-3 of the Natural Impact Statement shall be implemented in full.

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

4. The assisted living units, the independent living units, the community hall and the residential care home including the grounds shall be operated and maintained as a retirement village, the management details of this shall be submitted to the planning authority for their written agreement prior to commencement of development.

Reason: To accord with the development plan Objective CPO 8.109, to ensure that the development supports an elderly population in assessing services they require locally.

5. The details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development on the site.

Reason: In the interest of visual amenity.

6. (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 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 in writing with the planning authority prior to commencement of development, except as may otherwise be required in order to comply with the conditions of this Order.

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

7. 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 the development.

Reason: In the interest of amenity and public safety.

8. 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 developer shall comply with the detailed standards of the planning authority for such road works.
 - (e) A Mobility Management Plan shall be prepared and submitted to the planning authority for approval prior to the commencement of the 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 its written agreement. The developer shall carry out all agreed

pm

recommendations contained in the audits, at the developer's expense.

- (g) Within six months of substantial completion of the development, a Stage 3 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.

- 9. 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 interest of visual and residential amenity.

- 10. 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 within each unit 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.

11. A Construction Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall provide, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters and surfacewaters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

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

12. Site development and building works shall be carried out only between the hours of 0800 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.

13. Proposals for an estate/street name, house/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/apartment 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

pm

name(s).

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

14. The developer shall enter into water and wastewater connection agreements with Uisce Éireann prior to commencement of development.

Reason: In the interest of public health.

15. Drainage arrangements, including 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.

17. 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 suitability 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 (for example, preservation in situ, or excavation) and should facilitate the archaeologist in recording any material found.

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

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 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 proposed development.

19. The developer shall pay a financial contribution to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of a public footpath/cycleway and pedestrian crossing along the Mullingar Road (Regional Road 148) in the general vicinity of the proposed access to the development. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of

development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

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.



Peter Mullan

Member of An Bord Pleanála

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

Dated this *29th* day of *July*, 2024.