

Planning and Development Acts 2000 to 2022

Planning Authority: Louth County Council

Planning Register Reference Number: 2364

Appeal by Christopher Browne of 73 Chapel Street, Dundalk, County Louth against the decision made on the 6th day of April, 2023 by Louth County Council to grant subject to conditions permission to McPartland Brothers Builders care of Genesis Planning Consultants of Dean Swift Building, Armagh Business Park, Hamiltonsbawn Road, Armagh, Northern Ireland in accordance with plans and particulars lodged with the said Council.

Proposed Development: Permission for a Large-scale Residential Development consisting of a total of 183 number residential units along with provision of creche as follows: (a) Site excavation works to facilitate the proposed development to include excavation and general site preparation works. (b) The provision of a total of 64 number residential dwellings which will consist of the following unit mix - 38 number three-bed semi-detached dwellings (house type A); eight number four-bed semi-detached dwellings (house type A1); eight number three-bed semi-detached dwellings (house type A1); one number four-bed semi-detached dwelling (house type A2); one number three-bed semi-detached dwelling (house type A2); four number four-bed detached dwellings (house type B); three number four-bed detached dwellings (house type C), and one number three-bed detached dwelling

(house type D). (c) The provision of a total of 119 number apartments/duplex units consisting of 21 number one-bed units; 57 number two-bed units and 41 number three-bed units across six number blocks ranging in height up to six number storeys). (d) Provision of a creche. (e) Provision of associated car parking at surface level via a combination of in-curtilage parking for dwellings and via on-street parking for the creche, duplexes and apartment units. (f) Provision of electric vehicle charge points with associated infrastructure ducting to provide charge points for residents throughout the site. (g) Provision of associated bicycle storage facilities at surface level throughout the site and bin storage facilities. (h) Use of existing access from Dublin Road with associated upgrade works to the existing internal access road to facilitate vehicular, pedestrian and cycle access. (i) Provision of internal access roads and footpaths and associated connections to the existing Bellfield residential estate. (j) Provision of residential communal open space areas to include a formal play area along with all hard and soft landscape works with public lighting, planting and boundary treatments to include boundary walls, railings and fencing. (k) Provision of one number ESB substation. (l) Internal site works and attenuation systems to include for hydrocarbon and silt interceptors on the storm network prior to discharge to the on-site soakways, and (m) all ancillary site development/construction works to facilitate foul, water and service networks for connection to the existing foul, water, gas and ESB networks. A Natura Impact Statement has been submitted with this application, all at Bellfield, Haggardstown, Dundalk, County Louth.

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

In arriving at its decision, the Board had regard to the following:

- (a) the provisions of the Louth County Development Plan 2021 - 2027 (as varied);
- (b) the "A1 - Existing Residential" zoning objective for the majority of the site which seeks "to protect and enhance the amenity and character of existing residential communities" together with the "A2 - New Residential Phase 1" zoning objective for the remainder of the site (at the entrance to the north-west of the site) which seeks "to provide for new residential neighbourhoods and supporting community facilities";
- (c) "Housing for All", issued by the Department of Housing, Local Government and Heritage in 2021, and "Rebuilding Ireland Action Plan for Housing and Homelessness" issued in 2016;
- (d) the "Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities" and the accompanying "Urban Design Manual – A Best Practice Guide", issued by the Department of the Environment, Heritage and Local Government in May, 2009;
- (e) the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities", issued by the Department of Housing, Planning and Local Government in December 2022;
- (f) the "Urban Development and Building Heights - Guidelines for Planning Authorities" issued by the Department of Housing, Planning and Local government in 2018;
- (g) the provisions of the "Design Manual for Urban Roads and Streets" (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended;
- (h) the nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and services infrastructure;
- (i) the pattern of existing and permitted development in the area;

- (j) the submissions and observations received with the planning application and the appeal, and
- (k) the Inspectors Report.

The Board considered, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. 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 European Sites Dundalk Bay Special Area of Conservation (Site Code: 000455) and Dundalk Bay Special Protection Area (Site Code: 004026) were the only European sites in respect of which the proposed development has the potential to have significant effects and for which Appropriate Assessment is required.

Appropriate Assessment

The Board considered the Natura impact statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment.

The Board completed an appropriate assessment of the implications of the proposed development for the affected European sites, namely Dundalk Bay Special Area of Conservation (Site Code: 000455) and Dundalk Bay Special Protection Area (Site Code: 004026), in view of the sites' conservation objectives.

The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development, either individually or in combination with other plans or projects,
- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European sites.

In completing the appropriate assessment, the Board accepted and adopted the screening and the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, either by itself or in combination with other plans or projects, would not adversely affect the integrity of the European sites, in view of the sites' conservation objectives.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A of the Planning and Development Regulations 2001, as amended, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended;
- (b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended;
- (c) the location of the site on lands governed by zoning objective "A1 - Existing Residential" zoning objective for the majority of the site which seeks "to protect and enhance the amenity and character of existing residential communities" together with the "A2 New Residential Phase 1" zoning objective for the remainder of the site (at the entrance to the north-west of the site) which seeks "to provide for new residential neighbourhoods and supporting community facilities" in the Louth County Development Plan 2021 - 2027 (as varied), and the results of the strategic environmental assessment of the Louth County Development Plan undertaken in accordance with the SEA Directive (2001/42/EC);
- (d) the existing use on the site and pattern of development in surrounding area;
- (e) the planning history relating to the site;
- (f) the availability of mains water and wastewater services to serve the proposed development;
- (g) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- (h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height, and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposed development would, subject to conditions, provide an acceptable form of residential amenity for future occupants. The Board considers that the proposed development would be compliant with the Louth County Development Plan 2021 - 2027 (as varied), and would, therefore, 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, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The Developer is required to phase the development as follows, unless otherwise agreed in writing with the Planning Authority:
- (a) The apartment blocks and duplexes within the overall scheme shall be constructed prior to any houses,
 - (b) The crèche facility shall be constructed prior to the occupation of any residential unit on site.
 - (c) The public open space and associated play equipment including lighting shall be completed in full and all public areas landscaped as submitted and available for use prior to the occupation of any residential unit on site.

Reason: To ensure orderly development and a proper standard of construction and ensure residential facilities are in place prior to occupation.

3. Details of the materials, colours, and textures of all the external finishes to the proposed building shall be as submitted with the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of visual amenity.

4. 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 apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names 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 site 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.

5. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, 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.

6. 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.

7. The road network serving the proposed development, including turning bays, junction with the public road, parking areas, footpaths and kerbs and access road to service areas shall be in accordance with the detailed construction standards of the Planning Authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

8. A minimum of 10% of all car parking spaces serving the apartments and duplex units should be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

9. 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 and surface water management

10. The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

11. (a) All the environmental, construction and ecological mitigation measures, as set out in the Natura Impact Report and associated documentation submitted with the application, shall be implemented by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.
- (b) The developer should retain the services of a recognised and suitably qualified ecologist to oversee the construction of the subject development and advice on the specified measures as set out in the application. The developer shall confirm the name of the ecologist prior to commencement of development for the written agreement of the planning authority.
- (c) The developer should provide bat boxes as required ensuring that bat roosting nests are provided along tree lines around the subject site so as to prevent loss or reduction of existing habitats for commuting bats.

Reason: To avoid any potential harmful effects to the Natura Network and to ensure environmental sustainability of the subject site.

12. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

13. 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.

14. 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:
- (a) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) location of areas for construction site offices and staff facilities;
 - (c) details of site security fencing and hoardings;
 - (d) details of on-site 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, to include proposals to facilitate the delivery of abnormal loads to the site;

- (f) measures to obviate queuing of construction traffic on the adjoining road network;
- (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) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (j) 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) 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; and
- (m) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

15. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Fridays inclusive, between 0900 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.

16. 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.

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 Act 2000, as amended, and of the housing strategy in the development plan of the area.

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) All ground reduction should be subject to a programme of archaeological monitoring, under licence, by a suitably qualified archaeologist,
 - (c) where archaeological material is shown to be present, avoidance, preservation in situ, or preservation by record (excavation) may be required. Works may be halted pending receipt of advice from the National Monuments Service, Department of Housing, Local

Government and Heritage who will advise the applicant/developer with regard to these matters.

- (d) On completion of monitoring of ground reduction and any archaeological excavations arising, the archaeologist shall submit a written report to the planning authority and to the Department of Housing, Local Government and Heritage for consideration.
- (e) In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

19. 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.

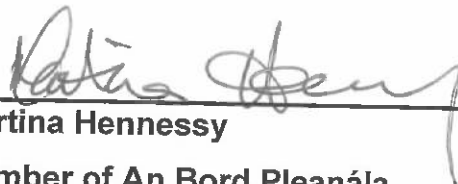
Reason: To restrict new housing to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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.



Martina Hennessy

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.



Dated this 31st day of July 2023.