



Planning and Development Acts 2000 to 2022

Planning Authority: Louth County Council

Planning Register Reference Number: 22331

Appeal by Peter Long and Albert and Tara Mullarkey of Market House Lane, Ardee, County Louth against the decision made on the 17th day of April, 2023 by Louth County Council to grant subject to conditions a permission to MRM Structural Limited care of Fitzgerald Kavanagh and Partners of 1 Mount Street Crescent, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Works to a site located within an Architectural Conservation Area as follows: demolition of three number habitable dwellings/two number with ground floor shop units and existing out buildings, demolition of existing boundary walls to Market House Lane, alteration to existing road entrance to Market House Lane and the construction of two number retail units and 28 number housing units comprising a mix of apartments, terraced dwellings including: (i) Block A: eight number apartment units (House Type E, F, G, H, I), comprising of two one-bed apartments over two number ground floor retail spaces, four number two-bedroom duplex apartments and two number three-bedroom duplex apartments with own door access; (ii) Block B: 10 number terraced houses comprising five number two-bedroom and five number three-bedroom houses (House Type A, B); (iii)

Block C: four number terraced houses comprising one number two-bedroom and three number three-bedroom houses (House Type A, B); (iv) Block D: three number terraced houses, comprising of two number three-bedroom and one number four-bedroom houses (House Type D, J); (v) Block E: three number terraced houses, comprising of three number four-bedroom houses (House Type C). The proposed development will also include the provision of surface car parking (28 number spaces including two number accessible), bicycle parking (44 number spaces), bin stores, private open space, public open space, foul and surface water drainage, street lighting, boundary treatments and all ancillary site development works necessary to facilitate the development, all at Market Street and Market House Lane, Ardee, County Louth. Further public notices were received by the planning authority on the 23rd day of March, 2023 which includes significant further information: change in location of site boundary and reduction of site area from 0.4988 hectare to 0.4587 hectare, revised proposal as follows: construction of one number retail unit (previously two number) and 45 number housing units (previously 28 number). Housing unit proposed revised to comprise a mix of apartment and duplex unit including: Block A (Part two, Part three storey): 19 number residential units comprising of seven number two bed apartments, four number one bed duplex, seven number two bed duplex, one number three bed duplex and one number ground floor retail space, Block B: (two storey): 12 number residential units comprising six number two bed apartments, six number three bed apartments, Block C: (three storey): eight number residential units comprising of two number three bed apartments, two number one bed duplex, four number two bed duplex and Block D: (three storey): six number residential units comprising of two number two bed apartments, four number two bed duplex units, revision of site layout in line with revised proposed including reduction of provision of surface car parking (17 number spaces including one number accessible), increase in bicycle parking (116 number spaces), re design of bin stores, private open space, public open space, foul and surface water drainage, street lighting, boundary treatments

and all ancillary site development works necessary to facilitate the revised development at Market Street and Market House Lane.

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 town centre zoning objective of the subject site, its location within the existing urban area and to the nature and scale of the proposed development and the prevailing pattern and character of development in the area, 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 of property in the vicinity, would not negatively impact on the built heritage of Ardee and would be acceptable in terms of traffic safety and convenience. The proposed development 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, as amended by the further plans and particulars received by the planning authority on the 23rd day of March 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 proposed development shall be amended as follows: -
 - (a) the incidental areas of open space adjoining Blocks B, C and D shall be incorporated into the private open space areas of the ground floor units and appropriately enclosed or gated, unless otherwise agreed with the planning authority,
 - (b) the window on the northern elevation of unit 32 (Block C) shall be high level only or fitted with appropriate screening such as louvres,
 - (c) the ground floor level window on the northern elevation of duplex unit 40 (Block D) be relocated to the western elevation of the unit,
 - (d) the first floor level window on the northern elevation of duplex unit 40 (Block D) shall be high level only or fitted with appropriate screening such as louvres, and
 - (e) the side elevations of all balconies shall be appropriately screened.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity and to secure the integrity of the proposed development.

3. The historic stone walls at the sites eastern and western boundaries shall be permanently retained and repaired as required. Prior to commencement of development, the applicant shall submit to the planning authority a photographic survey and condition report assessing the structural stability of the historic stone walls within the site and indicate how these features would be protected during the construction phase.

Reason: In the interests of built heritage and safety.

4. The proposed smooth render finish at first and second level shall be omitted and a schedule of all materials to be used in the external treatment of the development to include a variety of high-quality finishes, such as brick and stone, roofing materials, windows and doors shall be submitted to, and 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 and to ensure an appropriate high standard of development.

5. (a) Pedestrian access to the public open space areas shall be permanent, open 24 hours a day, with no gates or security barrier at the entrance to the development or within the development in a manner which would prevent pedestrian access.
- (b) Prior to the occupation of any residential unit, the developer shall ensure that the public open space, as outlined in the site layout plan and landscape drawings shall be fully completed and open to the public.

Reason: In the interest of social inclusion and to secure the integrity of the proposed development including open spaces.

6. Prior to commencement of development, the applicant shall agree in writing with the planning authority, the final details of furniture and equipment including seating areas, play spaces and bicycle parking to be provided within the areas of public and communal open space.
- Reason:** In the interest of residential amenity and to ensure an appropriate high standard of development.
7. Proposals for a naming/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 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.
8. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs including any signs installed to be visible through the windows, advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the retail units or within the curtilage of the site, unless authorised by a further grant of planning permission.
- Reason:** To protect the visual amenities of the area.

9. 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 house.

Reason: In the interests of amenity and public safety.

10. The scheme shall be landscaped in accordance with the landscape scheme submitted unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following completion of the substantial completion of the external construction works. All planting shall be adequately protected from damage until established. Any trees, plants or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

11. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to, and agreed in writing with, the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.

Reason: To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

12. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted to, 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.

13. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

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

14. 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) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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.

15. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless agreed in writing with the planning authority.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

16. 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.

17. 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.

18. (a) Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.
- (b) Prior to commencement of development, the developer shall submit to the planning authority for written agreement, a Stage 2 - Detailed Design Stage Storm Water Audit.

- (c) Upon completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interests of public health and surface water management.

19. 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.

20. 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 interests of public safety and residential amenity.

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

22. Prior to the commencement of the development of any 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 pursuant to Section 47 of the Planning and Development Act 2000, that restricts any such residential units permitted (the number and location of each housing unit being specified in such agreement), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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

23. Prior to commencement of development, the developer 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.



Liam Bergin

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

Dated this 28th day of August 2024.