

An
Bord
Pleanála

Board Order
ABP-317280-23

Planning and Development Acts 2000 to 2022

Planning Authority: Westmeath County Council

Planning Register Reference Number: 2360058

Appeal by Shaston Construction Limited care of The Planning Partnership of The Bank Building, 52 Oliver Plunkett Street, Mullingar, County Westmeath against the decision made on the 9th day of May 2023 by Westmeath County Council to refuse permission:

Proposed Development: Development comprising 71 number residential units at this site of 1.92 hectares. The proposed development will consist of: 30 number apartments in one number two-storey height block comprising 20 number two-bed apartments and 10 number one-bed apartments and 41 number two-storey houses comprising; 13 number two-bed terraced units and 28 number three-bed semi-detached units, the formation of a new vehicular access, two number communal bin stores, two number bicycle stores. The proposal includes all associated hard and soft landscaping, boundary treatments, footpaths, an ESB substation and all other ancillary works above and below ground, at Ardmore Road, Mullingar, County Westmeath.

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 Westmeath County Development Plan 2021-2027 and the Mullingar Local Area Plan 2014-2020 (as extended), as supported by national policy as set out in the National Planning Framework (2018), and Ministerial Guidance, Sustainable Residential Development and Compact Settlements (2024) both issued by The Department of Housing, Planning and Local Government, according to which new residential development should be increased in density and directed into locations with existing built up serviced areas and the zoning of the site for residential purposes, to the nature of the proposed development and to the pattern of development in the surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would accord with relevant policies and objectives of the development plan, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not result in traffic hazard, would not have significant negative effects on the environment and would constitute an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board agreed with the screening assessment and conclusion in the Inspector's reports, and associated Technical Note from the Inspectorate Ecologist that, on the basis of the nature and scale of the development proposed to be retained, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening report and preliminary Construction and Environment Management Plan, the proposed development, by itself or in combination with other development, plans and projects in the vicinity, would not be likely to have a significant effect on Lough Enell Special Area of Conservation (Site Code 000685) or Lough Enell Special Protection Area (Site Code 004044), or any other European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment was not, therefore, required.

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 submitted and received on appeal on the 6th day of June 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. (a) The proposed apartment design shall be in accordance with the application drawings received by the planning authority on the 15th day of March 2023, drawing numbers 2129-PA-01-100 and 2129-PA-01-200 respectively.
- (b) The house designs for Block 2 shall be in accordance with the drawings submitted on appeal on the 6th of June 2023, drawing numbers 2129-PA-2-100 and 2129-PA-02-200 respectively.

Reason: In the interest of clarity.

3. All roads and footpaths shown to adjoining lands shall be 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. This shall include the area between houses number 52 and 53 as shown on drawing number 2129-PA-00-003, received by An Bord Pleanála on the 6th day of June 2023. These areas shall be shown in a revised 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 planning and sustainable development.

4. All external finishes to the proposed development, shall be as submitted in the original plans and particulars lodged with the planning application, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

5. (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. The first phase shall include the Block 1 apartments, together with their associated site development works. 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 in writing with the planning authority.

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

6. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. 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.

7. The areas of communal open space shall be landscaped in accordance with drawing number 080522-LP-01 submitted by the developer with the appeal, shall be reserved for such and shall be soiled, seeded and landscaped in accordance with the submitted drawings. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.

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

8. The permitted development shall be landscaped, and the final details of all boundary treatments shall be provided in accordance with a detailed comprehensive scheme of landscaping and boundary treatments, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of three years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

9. Public lighting shall be provided in accordance with a scheme which shall include lighting of public open spaces, communal spaces and parking/servicing areas, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of the development. The design of the lighting scheme shall take into account the existing and permitted public lighting in the surrounding area. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interest of amenity and public safety.

10. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

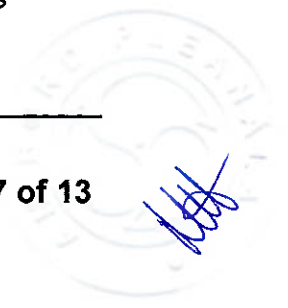
Reason: In the interest of public health.

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

Reason: In the interest of public health.

12. The management and maintenance of the proposed development following its completion (save for areas that are to be taken in charge) 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. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

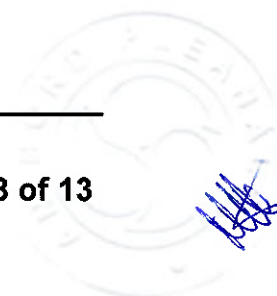
Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

14. 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 interest of visual and residential amenity.

15. All car parking spaces shall be provided with functioning electric vehicle charging stations/points. 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 and agreed in writing with the planning authority prior to the occupation of the development.

Reason: To facilitate the use of electric vehicles.



16. 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 Environmental Protection Agency'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 proper planning and sustainable development.

17. (i) The proposed development shall be carried out in accordance with a Construction and Environmental Plan to be submitted and agreed in writing with the planning authority prior to the commencement of the development. All mitigation measures outlined in the Preliminary Construction and Environmental Plan submitted on appeal shall be carried out as specified.
- (ii) In accordance with the mitigation measures as outlined in the Preliminary Construction and Environmental Plan and prior to the commencement of the development, the developer shall submit the following for agreement with the planning authority: a waste management plan, a surface water management plan, and an operational management plan.

Reason: In the interest of clarity and to mitigate potential environmental effects.

18. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

19. The site entrances and junctions, raised tables, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such works.

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

20. (a) 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, that restricts all relevant houses and duplex units permitted, to first occupation by individual purchasers, that is, those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers

and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

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

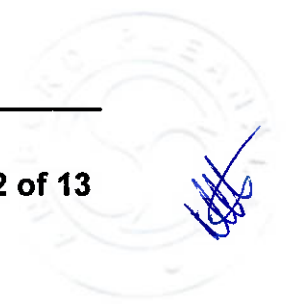
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

21. 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.


22. 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 landscaping commitments 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.



23. 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 15th day of November 2024.