

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: 22/523

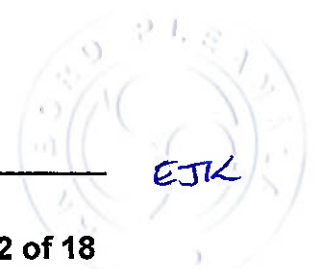
Appeal by Daingean Road Residents Association care of John Callaghan, Civil Engineer of 10 The Cloisters, Kells, County Meath against the decision made on the 16th day of May, 2023 by Offaly County Council to grant subject to conditions a permission to Daingean Road Residential Limited care of Stephen Ward Town Planning and Development Consultants Limited of Jocelyn House, Jocelyn Street, Dundalk, County Louth in accordance with plans and particulars lodged with the said Council:

Proposed Development: The proposed development will consist of 102 number dwellings in a mix of houses, duplex and apartment dwellings. A total of 62 number houses are proposed in detached, semi-detached and terraced format all two-storey in height and ranging in size from two to four bedrooms. The balance of dwellings i.e. 40 number comprise a mix of apartment/duplex dwellings that are accommodated in four separate three-storey buildings located in the northern and western part of the site. Apartment /duplex dwellings range in size from one number to three number bedrooms, with balconies provided at upper floor level. The proposed development also provides public open space areas to serve the development. A crèche is also

proposed to serve the development itself and the wider area. The crèche is accommodated in a single storey L-shaped building with a stated gross floor area of circa 382 square metres with associated outdoor amenity/play areas. A total of circa 173 number surface car parking spaces in addition to enclosed bicycle stands serving the apartment/duplex buildings and the proposed crèche are also provided. A new vehicular access to the site is proposed off Daingean Road and the development also provides for the construction of a section of new footpath and cycle path along the site frontage (approximately 300 metres) to tie in with existing pedestrian and cycle infrastructure to the west. The proposed development also includes the provision of a new wastewater pumping station in the central part of the site and the construction of new surface water and wastewater infrastructure along a section of Daingean Road also to the west of the application site. The proposed development also provides for all landscaping and boundary treatments; public lighting; an ESB sub-station; undergrounding of ESB powerlines and the repositioning of a 38kv pylon within the site; and all site development works, including alterations to site levels. A Natura Impact Statement (NIS) has been undertaken in respect of the proposed LRD and is included with the application at Daingean Road (L2025), Cappancur, Tullamore, County Offaly as revised by the further public notices received by the planning authority on the 23rd day of March, 2023.

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 coming to its decision, the Board had regard to the following:

- (a) the policies and objectives of the Offaly County Development Plan 2021-2027;
- (b) the location of the site adjoining the established urban area of Tullamore on lands zoned for residential use as well as for amenity, recreation and open space under the Offaly County Development Plan 2021-2027;
- (c) the nature, scale and design of the proposed development and the availability in the area of infrastructure;
- (d) the pattern of existing and permitted development in the area;
- (e) the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in December 2018;
- (f) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in December 2022;
- (g) the provisions of Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas, including the associated Urban Design Manual (2009) issued by the Department of Environment, Heritage and Local Government in May 2009;



- (h) 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 Environment, Community and Local Government in 2019;
- (i) the provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices) issued by the Department of Environment, Heritage and Local Government in 2009;
- (j) the submissions and observations received; and
- (k) the report of the Planning Inspector.

Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information submitted as part of the subject application Appropriate Assessment Screening Report and application documentation, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the screening assessment and conclusion in the report of the Planning Inspector and concluded that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on the Charleville Wood Special Area of Conservation (Site Code: 000571), or any other European Site in view of the conservation objectives of such sites, either individually or in combination with any other plan or project, and that an

Appropriate Assessment is not, therefore, required. This screening determination is based on the following:

- the residential nature of the proposed development;
- its location on serviced land contiguous to the existing built-up area of Tullamore;
- the absence of hydrological links from the main part of the site to the Special Area of Conservation (SAC) that could provide an ecological pathway that could give rise to a potential for an effect on the SAC; and
- the limited scale and nature of the proposed works in the vicinity of the Corndarragh Stream which would not give rise to likely significant effects on the SAC.

Preliminary Examination for Environmental Impact Assessment

The Board completed preliminary examination for environmental impact assessment of the proposed development and concluded that it would not have the potential to have significant effects on the environment, having regard to:

- the nature and scale of the proposed development, which is below the threshold in respect of classes 10(b)(i), 10(b)(iv) and 14 of Part 2 to Schedule 5 of the Planning and Development Regulations 2001, as amended;
- the location of the proposed housing and crèche on lands zoned within the Offaly County Development Plan 2021-2027 as for residential use, and the results of the Strategic Environmental Assessment of the Development Plan;

- the separation between the proposed housing and the proposed Natural Heritage Area at the Grand Canal;
- the nature of the existing site and the pattern of development in the surrounding area;
- the availability of mains water and wastewater services to serve the proposed development; and
- the criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.

It is considered that the proposed development would not have the potential to have likely significant effects on the environment and that the preparation and submission of the information set out in Schedule 7A of the regulations, or an environmental impact assessment report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, having regard to the zoning of the site and the other provisions of the Offaly County Development Plan 2021-2027 and to the established pattern of development in the area, the proposed development would, subject to compliance with the conditions set out below, provide housing of an acceptable scale and form at a suitable location. The proposed development would provide its residents with an adequate level of residential amenity and would not seriously injure the residential amenities of property in the vicinity. It is considered that the proposed development would make a positive contribution to the character and visual amenities of the area, would not seriously injure the natural heritage or ecology of the area, would not give rise to traffic hazard, would not be an undue risk of flooding and would not give rise to an undue risk of flooding on other land. The proposed development would be adequately served by wastewater and water supply networks.

The Board considered that the proposed development would comply with the provisions of the Offaly County Development Plan 2021-2027 and would be in keeping 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 information submitted on the 8th 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. All mitigation measures set out in the submitted Noise Impact Assessment, Ecological Impact Assessment and Bat Survey and Assessment shall be implemented in full in the carrying out and occupation of the permitted development.

Reason: To protect residential amenity and natural heritage.

3. The development shall be carried out in accordance with the phasing set out in drawing 2123-PA-012. No dwelling shall be erected on the second or subsequent phase until the written agreement of the planning authority has been given. No dwelling shall be occupied anywhere in the permitted scheme until all necessary services have been provided for it to the satisfaction of the planning authority.

Reason: To protect residential amenity.

4. The materials, colours and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

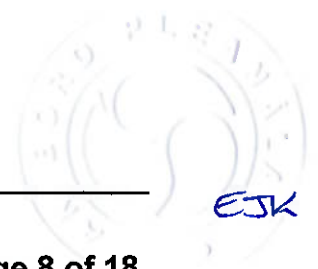
Reason: In the interest of visual amenity.

5. The permitted development shall be landscaped and boundary treatments provided in accordance with the detailed comprehensive scheme of landscaping which accompanied the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

6. Proposals for a development name 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 such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.



7. Public lighting shall be provided in accordance with the scheme submitted with the application to the satisfaction of the planning authority.

Reason: In the interests of amenity and public safety.

8. 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.

9. The road network serving the proposed development, including the footpaths, kerbs, cycleways, driveways and parking areas shall be in accordance with the requirements of the Design Manual for Urban Roads and Streets (DMURS) and the detailed construction standards of the planning authority for such works. In particular the proposed cycleway along the Daingean Road shall be laid out to provide priority for cyclists proceeding along that road over vehicles exiting or turning right into the permitted housing scheme.

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



10. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands. These areas shall be shown for taking in charge in a drawing to be submitted to and agreed in writing with the planning authority prior to commencement of development.

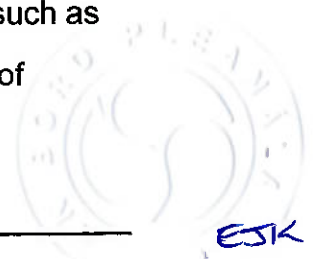
Reason: In the interest of permeability and proper planning and sustainable development.

11. The boundary wall of unit thirteen and of the proposed crèche shall be built to facilitate maintenance of the ESB wayleave in accordance with the details submitted to the planning authority as further information.

Reason: In the interest of orderly development.

12. A minimum of 10% of all car parking spaces shall 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 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 and in the interest of sustainable transport.



13. 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.

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. 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 apartment 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.



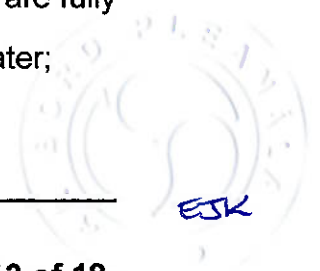
16. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) 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.

17. The construction of the development shall be managed in accordance with a Construction Environmental 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 with measures to reflect mitigation described in the submitted draft Construction Environmental Management Plan, Ecological Impact Assessment and Tree Survey, in addition to the following:
- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;



- (b) Location of access points to the site for any construction related activity;
- (c) Location of areas for construction site offices and staff facilities;
- (d) Details of site security fencing and hoardings;
- (e) Details of on-site car parking facilities for site workers during the course of construction;
- (f) 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;
- (g) Measures to obviate queuing of construction traffic on the adjoining road network;
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- (i) 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;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;

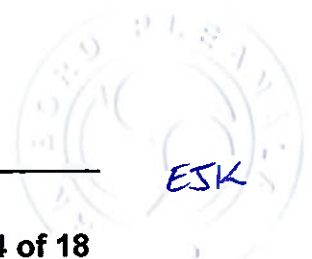


- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

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

18. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 and 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 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.

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, 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.

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 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.

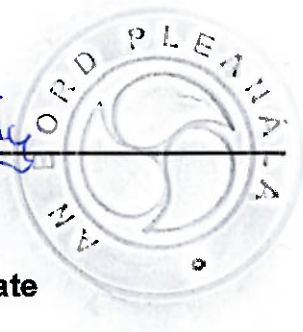
Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board



Dated this *2nd* day of *October*, 2023