

An
Bord
Pleanála

Board Order
ABP-318174-23

Planning and Development Acts 2000 to 2022

Planning Authority: Louth County Council

Planning Register Reference Number: 221000

Appeal by Brian McElarney of Glencairn, Dublin Road, Haggardstown, Dundalk, County Louth and by Helen O'Connell care of EHP Services of 154 Riverside Drive, Red Barns Road, Dundalk, County Louth against the decision made on the 8th day of September, 2023 by Louth County Council to grant subject to conditions a permission to Morlaris Limited care of Stephen Ward Town Planning and Development Consultants of Jocelyn House, Jocelyn Street, Dundalk, County Louth in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of an existing derelict structure on site and construction of 39 number dwellings (six number one bed, 12 number two bed and 21 number three bed) in a combination of houses and duplex apartments ranging in height from two to three storey. The duplex apartments are provided with balconies. A new vehicular access is proposed from the R132 as part of the development, as well as all associated site development works including undergrounding of overhead ESB lines, an ESB substation, public open space, landscaping, boundary treatments, public lighting, footpaths and roads associated with the development all at Dublin Road, Haggardstown, Dundalk, County Louth, The site is bound by the Dublin Road

(R132) to the west, an existing dwelling to the north and an existing dwelling known as Saint Cecilia's to the south, and by an open ditch to the east beyond which are agricultural lands. The proposed development was revised by further public notices received by the planning authority on the 28th day of July, 2023. The revisions include a reduction in number of units from 39 to 37 number units (five number one bed, 12 number two bed, 16 number three bed and four number four bed) in a combination of houses and duplex apartments ranging in height from two to three storey.

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 sites zoning objective for residential development, the provisions of the Louth County Development Plan 2021-2027, to the sites location within an existing urban area, to the existing pattern of development in the area and to the nature and scale of the proposed development, 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 and would be generally acceptable in terms of public open space provision, traffic safety and infrastructural services arrangements and would not adversely affect the integrity of any European Site. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Board carried out an Appropriate Assessment in relation to the potential effects of the proposed development on the Dundalk Bay Special Area of Conservation (Site Code 000455) and Dundalk Bay Special Protection Area (Site Code 004026), and agreed with the screening assessment and conclusion carried out in the Inspector's Report that Dundalk Bay Special Area of Conservation (Site Code 000455) and Dundalk Bay Special Protection Area (Site Code 004026) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the site and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an appropriate assessment of the implications of the proposed development on Dundalk Bay Special Area of Conservation (Site Code 000455) and Dundalk Bay Special Protection Area (Site Code 004026) in view of the site's Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the site's Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site specific Conservation Objectives for the European Site,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and



(iii) mitigation measures which are included as part of the current proposal. In completing the Appropriate Assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Site.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by the further plans and particulars received by the planning authority on the 28th day of July 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. 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 mitigation measures contained in the submitted Natura Impact Statement (NIS) shall be implemented.

Reason: To protect the integrity of European Sites.

3. This grant of permission is for 37 units only.

Reason: In the interest of clarity

4. The proposed development shall be amended as follows:
 - (a) The second-floor level bedroom within house numbers 1 and 4 of Block number 1 shall be omitted. The revision shall reduce the overall height of Block number 1 and its front gable projection so that it has a similar profile to that proposed within Block numbers 5 and 6. Revised plans and elevations of Block number 1 shall be submitted to the planning authority for written agreement prior to the commencement of development. The proposed palette of materials and finishes for Block number 1 shall be retained, that is, side elevations finished in brick.
 - (b) The glazing within the first-floor level bathroom windows of House numbers 1 to 4 shall be manufactured opaque and permanently maintained.

Reason: In the interest of visual amenity.

5. Details of the materials, colours and textures of all external finishes to the residential units shall be in accordance with the drawings and specifications hereby approved.

Reason: In the interest of visual amenity and to provide for acceptable standard and quality of development for future residents.

6. (a) Prior to the commencement of 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 residential 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.
- (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 of the residential units 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.

7. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings.

8. The following requirements in relation to the landscaping of the site shall be carried out:

- (a) Prior to the commencement of development, the developer shall submit a revised landscape layout plan to the planning authority for written agreement which provides suitable native screen planting, with a reduced height and crown spread along the northern site boundary (that is, to the north of Block numbers 2 and 3). The updated landscape layout plan shall also have regard to the changes at further information stage which includes revisions to the car parking to the south of Block number 2, the layout and design of Block number 4 and the provision of a communal garden adjacent to this block.
- (b) The developer shall retain the services of a suitably qualified landscape architect throughout the life of the site development works. The approved hard and soft landscaping scheme shall be implemented fully in the first planting season following the commencement of the development and finalised prior to the sale of any of the residential units hereby granted planning permission. Any plant materials that die or are removed within three years of

planting shall be replaced in the first planting season thereafter.

- (c) Prior to the commencement of development, the developer shall demonstrate (with appropriate details prepared by the consultant landscape architect/arborist) to the satisfaction of the planning authority measures to maintain the existing hedges along the northern site boundary.
- (d) The proposed two metre high northern, eastern and southern boundary wall (Boundary Type B) shall be capped and rendered on both sides.

Reason: In the interest of residential and visual amenity.

- 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. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

- 11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard 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.

12. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction and Environmental Management Plan (CEMP) for the written agreement of the planning authority. This plan shall include details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The CEMP shall be prepared in conjunction with and signed off by the project ecologist and shall detail and have regard to the various mitigation measures included within the Natura Impact Statement submitted with the application and as amended at further information stage. The agreed CEMP shall be implemented in full in the carrying out of the development.

Reason: In the interest of environmental protection.

13. A detailed Construction Traffic Management Plan shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

14. The developer shall ensure all cycle lane connectivity along the public road and subject development are carried out in accordance with Louth County Council Active Travel Section requirements and shall submit relevant drawings and details as required by them.

Reason: In the interest of amenity and public safety.

15. Prior to the occupation of any unit within the development:
- (a) All roadways and footpaths shall be finished with a permanent durable surface course and the roadway shall be applied with line marking and road signage as per the submitted drawings.
 - (b) The street lighting serving the development, as detailed in the public lighting scheme submitted with the application shall be operational.
 - (c) Car parking spaces shall be constructed on a durable surface and laid out to the satisfaction of the planning authority.

Reason: In the interest of amenity and public safety.

16. The developer shall ensure that all in curtilage car parking spaces and a minimum of 20% of the communal car parking spaces shall be provided with functioning electric vehicle charging stations/points. Ducting shall be provided for all remaining car parking spaces facilitating the installation of electric vehicle charging points/stations at a later stage.

Reason: In the interest of a properly planned and serviced development.

17. Prior to commencement of development, the developer shall submit a Car Parking Management Plan to the planning authority for written agreement. This plan shall include a drawing illustrating the signing, lining and allocation of the car parking spaces within the development and details of the management of same.

Reason: In the interest of managing a shared car parking provision.

18. All ground works associated with the proposed development shall be monitored under licence by a suitably qualified archaeologist. Should archaeological material be found during the course of the works, the work on site shall be stopped pending a decision as to how best deal with the archaeology and the Applicant shall liaise with the National Monuments Service of the Department of Housing, Local Government and Heritage with regard to same.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

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

Reason: To safeguard the amenity of property in the vicinity.

20. Proposals for the name, house numbering scheme and associated signage for the proposed development 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. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

21. 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 and for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and 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.

22. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Policy. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement, the procedures for inspection and monitoring of the development by the planning authority to ensure compliance with these standards.

Reason: To ensure the development is carried out and completed to an acceptable construction standard.

23. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing overground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

24. 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.

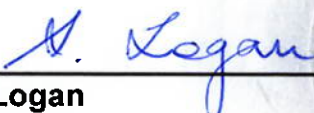
25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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.

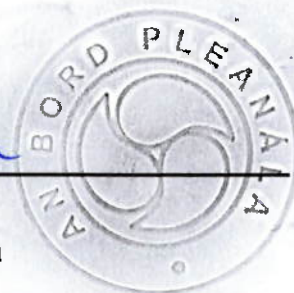
26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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 or 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.



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



Dated this 19th **day of** September **2024.**