



An
Bord
Pleanála

Board Order
ABP-318284-23

Planning and Development Acts 2000 to 2022

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 23/60345

Appeal by Brian Tynan and Margaret Tynan of 22 Williamstown Village, Williamstown Road, Waterford, County Waterford and by Angela Phelan of 23 Williamstown Village, Williamstown Road, Waterford, County Waterford against the decision made on the 26th day of September, 2023 by Waterford City and County Council to grant subject to conditions permission to Marina Quarter Limited care of McCutcheon Halley of 6 Joyce House, Barrack Square, Ballincollig, Cork.

Proposed Development: Phase 4A of a residential development consisting of 79 number units, a creche, one number ESB Substation and all associated site development works including access, footpaths, cycle paths, parking, drainage, landscaping, lighting, bin stores and amenity areas. The proposed development forms part of a Masterplan which will provide for 305 number units and one number creche and seeks to modify parts of the previously permitted Phase 1 (planning register reference numbers 21/833 and 23/60056) and Phase 2 (planning register reference number 22/653) and supersede Phase 3 (planning register reference number 22/466). The proposed modifications to Phases 1 and 2 include alterations to the site layout to the west of the primary access road that will replace all elements of the

permitted layout including the creche and residential units. This will result in a total of 133 number units to the east of the primary access road being constructed under the Phase 1 and 2 permissions. The proposed modifications to the site layout plan also include amendments to the internal layout of the permitted public open space. The proposed development works include the construction of a new storm water sewer on the Dunmore Road which is associated with Island View pumping station. Access to the site will be via the existing entrance onto Williamstown Road to the south of the site, all at 'The Paddocks', Williamstown Road, Grantstown, County Waterford.

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 Waterford City and County Development Plan 2022-2028, to the residential land use zoning of the site, to the nature of the proposed development and to the pattern and phasing of development in the masterplan area and surrounds, 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 the amenities of property in the vicinity 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

The Board noted that having carried out screening for Appropriate Assessment of the project, it has been concluded that it may have a significant effect on the Lower River Suir Special Area of Conservation (site code 002137) and the River Barrow and River Nore Special Area of Conservation (site code 002162), without the implementation of mitigation measures. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of their conservation objectives.

The Board noted that the Inspector concluded that with the implementation of the mitigation measures in Section 4.2 of the Natura Impact Statement that the proposed Phase 4A development would not result in significant individual or cumulative effects on the Lower River Suir Special Area of Conservation (site code 002137) and the River Barrow and River Nore Special Area of Conservation (site code 002162). That neither will it have any influence on the attainment of the conservation objectives.

Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the Lower River Suir Special Area of Conservation (site code 002137) and the River Barrow and River Nore Special Area of Conservation (site code 002162) or any other European site, in view of the site's conservation objectives. The Board noted that this conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

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 An Bord Pleanála on the 9th day of November 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 mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented in full or as may be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or any conditions of approval required further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European sites and biodiversity and in the interest of public health.

3. (a) The mitigation measures detailed in Section 5 of the Ecological Impact Assessment (EclA) shall be implemented.
- (b) A suitably qualified Ecological Clerk of Works shall be retained by the local authority to oversee pre-commencement surveys, the site clearance and construction of the proposed development. The ecologist shall have full access to the site as required and shall oversee the implementation of mitigation measures. Upon completion of works, an ecological report of the site works shall be prepared by the appointed Ecological Clerk of Works to be kept on file as part of the public record.

Reason: In the interest of biodiversity and the protection of European Sites.

4. (a) Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) All bathroom windows shall be obscure glazed.

Reason: In the interest of visual amenity.

5. The creche is to be built and fitted out prior to the first occupation of houses within the development.

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

6. The site including the areas of open space shown on the approved plans shall be landscaped in accordance with a landscape scheme which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. This shall as far as possible, include for the retention of trees and hedgerows along the southern boundary. The landscaping 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 landscaping and the open space areas, and their continued use for this purpose.

7. (a) The developer shall implement the boundary treatments proposed in the submitted site layout/documentation received by the planning authority on the 4th day of August, 2023.
- (b) The retaining walls throughout the development shall be in accordance with the 'retaining wall details drawing number 22089-AKM-XXXX-XX-DR-COI-700001, 'retaining wall layout' draw number 22089-AKM-XXXX-XX-DR-COI-50005 and the Landscape Strategy and Landscape Plans (Details Area 1 drawing number 301, Detail Area 2 drawing number 302, Detail Area 3 drawing number 303, Detail Area 4 drawing number 304 and Landscape Sections drawing number 305) and Section Drawings drawing numbers 23054/P/004A, 23054/P/004B, 23054/P/004C and 23054/P/004D.

- (c) The final detailed design of the retaining walls shall be certified by a suitably qualified, chartered and indemnified structural engineer and upon completion of works the retaining walls works shall be certified by suitably qualified, chartered and indemnified structural engineer, details of which shall be submitted to the planning authority.
- (d) The design details/specification and location of all guardrails to top or retaining walls shall be agreed in writing with the District Engineer (Metro Area), Waterford City and County Council prior to the commencement of development. A copy of written agreement with the District Engineer shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (e) A vehicle restraint system, details of which shall be agreed in writing with the District Engineer prior to the commencement of development shall be erected on the corners at Site number 19, Site number 22 and at the location of the turning head at Site number 39 and at Site number 41. The exact location and design specification shall be agreed with the District Engineer.
- (f) Final details of all proposed site boundary treatments, including the construction of retaining walls shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interests of visual and residential amenities.

8. (a) A raised table shall be provided at junction to the south/southwest of Site number 47. The exact location and final design specifications shall be agreed in writing with the District Engineer (Metro Area), Waterford City and County Council prior to the commencement of development. A copy of the written agreement of the District Engineer shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The development shall be carried out in accordance with the agreed revisions.
- (b) The estate road junction to the southeast of Site number 78 shall be raised and uncontrolled pedestrian crossings provided to all three legs of the junction and the pedestrian crossing point to the south/southwest of Site number shall be omitted. The exact location and final design specifications shall be agreed in writing with the District Engineer (Metro Area), Waterford City and County Council prior to the commencement of development. A copy of the written agreement of the District Engineer shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The development shall be carried out in accordance with the agreed revisions.
- (c) Prior to the commencement of development, a Traffic Management Plan shall be agreed with Roads Section, Waterford City and County Council and a letter of agreement from the District Engineer (Metro Area), Waterford City and County Council shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

- (d) The developer shall be responsible for the provision of a traffic yield sign and the application of appropriate markings at road junctions to include a centre line to the primary access road. The locations of the signs and any road as agreed with the District Engineer (Metro Area), Waterford City and County Council shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
- (e) A wheel wash shall be employed at the entrance to the site for the duration of construction on site and shall be used by construction traffic exiting the site. The public roads used by construction traffic associated with the development permitted herein, shall be maintained free from debris generated/originated from the site/development works.
- (f) All works carried out on the public footpath or the public road shall require a Road Opening Licence and Hoarding Licence. These licences are available from the District Engineer (Metro Area), Waterford City and County Council.
- (g) Any interference with or damage to the road or footpath in the area caused during the construction of the development shall be made good at the expense of the developer to the confirmed written satisfaction of the District Engineer (Metro Area), Waterford City and County Council. Evidence of all agreements shall be submitted to the planning authority within one month of said agreement(s).
- (h) Adequate drainage shall be provided to ensure that freestanding water is not formed on the roadway or footpaths. All road gullies within residential areas shall be of a lockable variety.

- (i) The development shall not interfere with the roadside drainage and will not discharge any storm water onto the public road.
- (j) The road layout, paths, kerbs, turning spaces, junctions shall be designed, constructed and completed in accordance with the Department of the Environment Community and Local Government publication "Design Manual for Urban Roads and Streets".
- (k) Full details of all road, footpath, cycle path, raised junctions, tactile paving materials and finishes to be agreed with the District Engineer (Metro Area), Waterford City and County Council. A letter of agreement from the District Engineer (Metro Area) shall be submitted to, and agreed in writing with, the planning authority.
- (l) Access from the public road, pedestrian crossings and internal road and vehicular circulation network serving the proposed development, including turning bays, parking areas, footpaths and kerbs, signage and traffic calming measures, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS), issued by the Department of the Environment, Community and Local Government in March 2019, as amended.

In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

9. Water supply and 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.

10. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann (Irish Water) to provide for a service connection to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

11. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Outdoor 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 residential unit.

Reason: In the interests of amenity and public safety.

12. 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 over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

13. 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. 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 and to ensure the use of locally appropriate placenames for new residential areas.

14. A management plan for the control of alien invasive species, including a monitoring programme, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and to prevent the spread of alien plant species.

15. 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 ensure the satisfactory completion and maintenance of this development.

16. Prior to planned use of cranes on site, the developer shall undertake a safety assessment undertaken by an approved instrument flight procedure designer in accordance with Irish Aviation Authority guidelines. The developer shall liaise with the Waterford Airport and Waterford Airport shall be notified of the intention to commence crane operations with at least 30 days prior notification of their erection.

Reason: To ensure the safety of aircraft operations of Waterford Airport and in the interest of the proper planning and sustainable development of the area.

17. 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.

18. 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 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.

19. Site development and building works shall be carried only out between the hours of 0700 to 1800 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.

20. 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, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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. (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 houses 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 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 residential units, in which case the planning authority shall confirm in writing to the developer 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 in

accordance with the 'Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities', May 2021.

22. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

23. 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.

24. 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 20th day of December 2024.