

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: 23/216

Appeal by Oliver Hughes on behalf of Arden Vale Residents Group of 92 Arden Vale, Tullamore, County Offaly, and by The Davitt Street Residents Association care of Kevin Boyce of 19 Davitt Street, Tullamore, County Offaly against the decision made on the 3rd day of October, 2023 by Offaly County Council to grant subject to conditions a permission to John Flanagan Developments Limited care of McCrossan, O'Rourke, Manning Architects of Number 1 Grantham Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Large scale residential development (LRD) consisting of the demolition of existing buildings and the construction of large scale residential development (LRD) comprising 148 dwellings which will consist of: 90 number houses (comprising 89 number two-storey and one number single storey; eight number two bedroom houses, 58 number three bedroom houses and 24 number four bedroom houses); 20 dwelling apartments (Block A, comprising 4 number one-bed units and 16 number two-bed units) and 38 number age friendly assisted living units (Block B, comprising of 28 number one-bed units and 10 number two-bed units) with

associated communal and administrative facilities, both at four storeys; a creche and all ancillary site development works including access, roads and footpaths, landscaping and boundary treatments, public and private open space areas, car parking, bicycle parking, ESB substations, bin and bicycle stores, replacement waste water pumping station and drainage connections and all ancillary site development works on land at Wellwood housing site, Tyrrell's Road, Ardan/Puttaghan, Tullamore, County Offaly.

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.

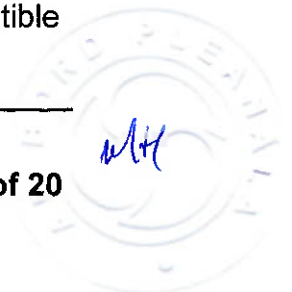
Reasons and Considerations

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

- (a) the site's location adjoining the established urban area of Tullamore with a land-use zoning objective for 'New Residential', under the Offaly County Development Plan 2021-2027;
- (b) the policies and objectives set out in 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 emerging development in the area;
- (e) the provisions of Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021;

- (f) the provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth;
- (g) Sustainable Urban Housing: Design Standards for New Apartments, 2023;
- (h) the Urban Development and Building Heights Guidelines for Planning Authorities 2018;
- (i) the provisions of Guidelines for Planning Authorities on Sustainable Residential Development and Compact Settlements 2024;
- (j) 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;
- (k) 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;
- (l) Section 37(2)(a) of the Planning and Development Act, 2000 (as amended), in respect of the material contravention process provided for;
- (m) submissions and observations received; and
- (n) the report of the planning Inspector.

The Board noted the Inspectors recommendation to omit housing units from the scheme. The Board considered the planning authority's assessment of the land use zoning, and the masterplan that was submitted for Opportunity Site 9, (as identified in Chapter 7 of the Offaly County Development Plan 2021-2027), and concurred with the planning authority that the layout is compatible

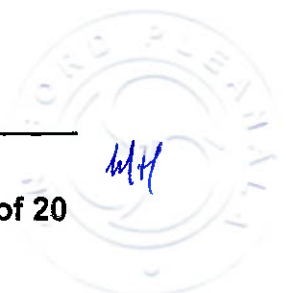


with the zoning, having regard to the totality of the Plan. The Board considered the omission of units would detract from the layout of the scheme and the residential amenity of future residents. The Board concluded that houses should not be omitted.

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum, scale and density of residential development in this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not cause serious injury to biodiversity and the natural environment, and would be acceptable in terms pedestrian, cyclist and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 on file, the information submitted as part of the application and the Inspector's Report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and 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 any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

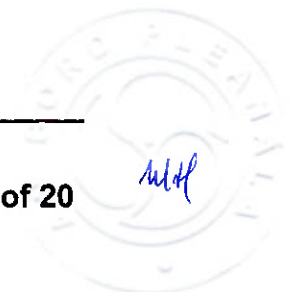


Environmental Impact Assessment Screening

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 under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended);
- The location of the site within the existing built-up urban area, which is served by public infrastructure, the site's limited ecological value and the existing pattern of development in the vicinity;
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended);
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003); and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).

The Board 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 an Environmental Impact Assessment Report would not, therefore, be required.



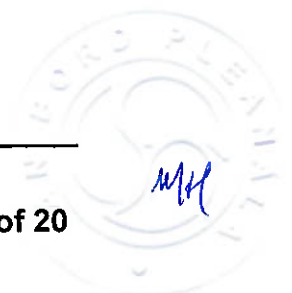
Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development is compliant with the provisions of the Offaly County Development Plan 2021–2027 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information plans and particulars submitted to the planning authority on the 6th day of September 2023, and by the further plans and particulars received by An Bord Pleanála on the 27th day of October 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. The total number of residential units permitted in this development is 147 number.

Reason: In the interest of clarity.



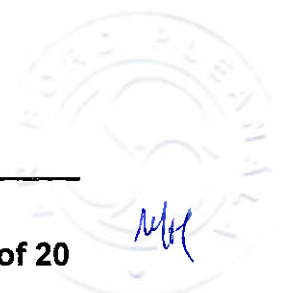
2. The proposed development shall be amended as follows:
 - (a) The floor plans associated with House Type B1 shall be amended to include the windows detailed on the side elevation (associated with the WC and bathroom).
 - (b) The 20 number visitor bicycle parking spaces located to the north-west of the car parking area serving the proposed apartments shall be relocated proximate to the entry to proposed Block B.
 - (c) Five number additional on-street bicycle parking spaces shall be provided to serve parents/children attending the proposed childcare facility.

Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

3. The development shall be carried out in accordance with the phasing set out in Drawing number PL005 received by the planning authority on the 16th day of May 2023, unless otherwise agreed in writing with the planning authority. 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 ensure the timely provision of amenities and infrastructure for future residents and to protect residential amenity.



4. Details of 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.

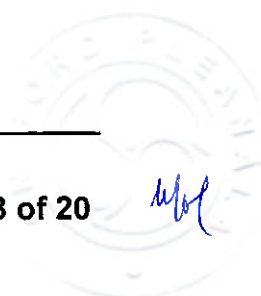
Reason: In the interest of visual amenity.

5. Prior to the occupation of the proposed childcare facility, finalised service details, as well as details of any proposed signage to be applied to the elevations of the respective buildings, including details of the glazing, materials, colour, lettering and depth of the signage, shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of clarity and the visual amenity of the area.

6. The permitted development shall be landscaped, and boundary treatments provided in accordance with the 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 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 five 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: In the interest of residential and visual amenity.

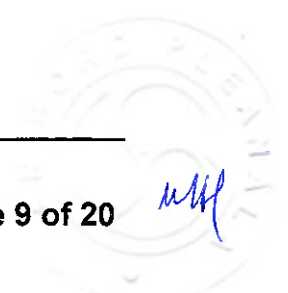


7. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme agreed with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

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

8. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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



9. 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:

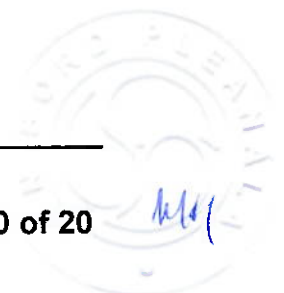
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. 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.



10. Public lighting shall be provided in accordance with a scheme, which shall include lighting for the 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 commencement of 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 interests of amenity and public safety.

11. Proposals for an estate/street name, house/apartment 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/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/ marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

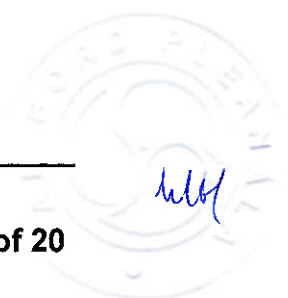


12. Prior to the occupation of the residential units, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use of sustainable modes of transport.

13. A plan containing details for the management of waste 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 and non-residential 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.

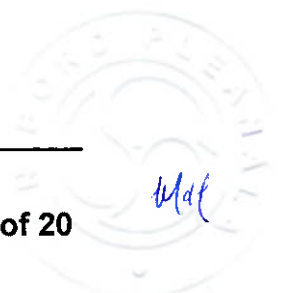


14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021)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

15. Arden Vale shall not be used for construction traffic access. Access to the pumping station through Arden Vale shall only be for maintenance of the pumping station after upgrades are constructed.

Reason: In the interest of residential amenity.



16. The construction of the development shall be managed in accordance with a final project Construction and 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 the construction practice for the development, including:
- (a) location of the site and materials compound(s), including areas identified for the storage of construction refuse;
 - (b) location and details of areas for construction site offices, staff facilities, site security fencing and hoardings;
 - (c) details of on-site car parking facilities for site workers during the course of construction;
 - (d) 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;
 - (e) measures to obviate queuing of construction traffic on the adjoining road network;
 - (f) details of construction phase mobility strategy, incorporating on-site mobility provisions;
 - (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) alternative arrangements to be put in place for pedestrians, cyclists and vehicles in the case of the closure of any public road or footpath during the course of site development works;
 - (i) details of appropriate measures to mitigate vibration from construction activity in accordance with BS6472: 1992 Guide to Evaluation of Human Exposure to Vibration in Buildings (1Hz to 80Hz) and BS7385: Part 2 1990: Evaluation and Measurement for

Vibration in Buildings - Guide to Damage Levels from Ground-Borne Vibration, and for the monitoring of such levels;

- (j) details of appropriate mitigation measures for noise and dust, 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 watercourses;
- (n) a record of daily checks that the works are being undertaken in accordance with the final project Construction and Environmental Management Plan shall be kept for inspection by the planning authority; and
- (o) invasive species management plan.

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

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

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

18. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

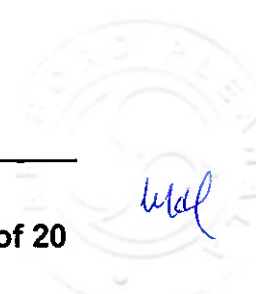
Reason: In the interest of amenity and of traffic and pedestrian safety.

19. All mitigation measures set out in the submitted Ecological Assessment and Noise Impact Assessment shall be implemented in full in the carrying out and occupation of the permitted development.

Reason: To protect residential amenity and natural heritage.

20. A minimum of 10% of all car parking spaces should be provided with functioning electric-vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric-vehicle charging points or stations at a later date. Where proposals relating to the installation of electric-vehicle ducting and charging stations or points has 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 provide for and/or future proof the development such as would facilitate the use of electric vehicles.



21. 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.

22. In the context of proposed Blocks A and B, no additional development shall take place above roof parapet level, including lift motor enclosures, air-handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment.

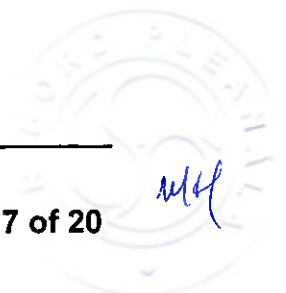
Reason: To protect the visual amenities of the area.

23. 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.

24. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

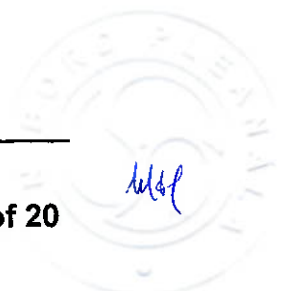


25. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of Section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act, 2000 (as amended), unless an exemption certificate shall have been applied for and been granted under Section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act, 2000 (as amended), and of the housing strategy in the development plan of the area.

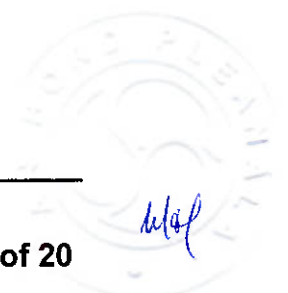
26. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, 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.



27. 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.



28. 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.



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

Dated this 26th day of January 2024.