



An  
Bord  
Pleanála

## Board Order ABP-318400-23

### Planning and Development Acts 2000 to 2022

Planning Authority: Louth County Council

Planning Register Reference Number: 23/60015

**Appeal** by Christopher Raymond of 3 Dunlin Street, Aston Village, Drogheda, County Louth against the decision made on the 26<sup>th</sup> day of October, 2023 by Louth County Council to grant subject to conditions a permission to Patrick and Evelyn Nomayo care of RDF Architects and Planning Limited of Unit 19, Charleville Town Centre, Charleville, County Cork in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a residential development containing 43 number dwelling units comprising of 20 number one-bedroom apartments, 20 number two-bedroom duplex apartments and three number three-bedroom terraced units within five blocks (A, B, C, D & E) ranging in two to three storeys consisting of the following: The construction of apartment blocks A and C to contain eight units, comprising of four number one-bedroom ground floor apartments and four number two-bedroom duplex apartments on first and second floor, each unit with their own private balcony/terrace. The construction of apartment blocks B, D and E to contain nine units each comprising of four number one-bedroom ground floor apartments, four number two-bedroom duplex apartments on first and second floor and one number three-bedroom terrace unit, all with their own private balcony/terrace. 46 communal car parking spaces, of which there are 10 number EV spaces and three number disabled spaces, enclosed bicycle parking shed, bulk storage and bin

MM

storage areas. Vehicular pedestrian and cycle access from the Termon Abbey Road. New pedestrian and cycle lanes along Termon Abbey Road and Newfoundwell Road. Provision of left-turning lane on Termon Abbey Road, upgrade of the existing R166 Newfoundwell Road and Termon Abbey Road junction to the south. Site access and circulation roadways, footpaths and cycle ways. Hard and soft landscaping with associated foot and cycle paths. Public lighting to parking spaces, roadways, open space areas, foot and cycle paths. Site services, utilities, drainage systems and all associated site works, all at Termon Abbey, Newfoundwell Road, Drogheda, County Louth.

## **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**

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the Louth County Development Plan 2021-2027, and the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024, would be an appropriate design, height and density at this location, would not seriously injure the residential amenities of property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted that the development plan was varied in May 2024, this variation was to update the county development plan to take account of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities published by the Department of Housing, Local Government and Heritage in January 2024. The Board noted that Table 13.11 (Car Parking Standards) was amended as part of this variation. In accordance with Table 13.11, in Area 3, the number of car parking spaces for residential dwellings, including duplex is a maximum of two per unit, with Apartments having a requirement for two per unit. The applicant is proposing 52 car parking spaces. The development is described in the public notice as including 43 dwelling units comprising of 20 number one-bed apartments, 20 number two-bed duplex and three number three-bedroom terrace units, the car parking is described as communal. In accordance with the current county development plan the maximum number of car parking spaces required is 86, the minimum number of car parking spaces required is 40. The applicant is proposing a total of 52 car parking spaces. The Board did not consider the proposed number of car parking spaces to materially contravene Table 13.11 of the Louth County Development Plan (that has been varied to accord with Government Guidelines). The Board concurred with the planning authority that the proposed number of car parking spaces is adequate to serve the development. The Board noted that the 23 of the units were described as duplex units in the public notices. The Regulations of Commercial Investment in Housing, July 2023 Guidelines for Planning Authorities sets out the new planning provision for restrictions on use of houses and duplex units. The Board concurred with the planning authority that it is appropriate to attach a condition restricting the sale of such units.

### **Appropriate Assessment Screening:**

The Board considered the information on the file and concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European Site, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## Conditions

1. The proposed 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 the planning authority on the 3<sup>rd</sup> 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Prior to commencement of development, the developer shall submit a revised landscaping plan showing mature trees along the northern boundary of the site for the written agreement of the planning authority. The aforementioned revised landscaping plan and the scheme of landscaping proposals and boundary treatments submitted on the landscaping plan (drawing number 2249-LAP001) received by the planning authority on the 13th day of February, 2023 shall be carried out in the first planting season following the commencement of development and permanently retained thereafter or as otherwise agreed in writing with the planning authority. Any planting which fails in the first five planting seasons shall be replaced. The areas of 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. The maintenance of this area shall be in accordance with the requirements of condition number 11 below.

**Reason:** In the interest of the visual amenities and biodiversity of the area.

3. Provision shall be made for roadways, junctions, cycleways, footpaths, parking spaces and ghost islands within and outside the development in accordance with the Revised Site Layout Plan (drawing number 21-082 – FI – 120) and the Proposed Infrastructure on R166 drawing (drawing number 22112TT-LA-P01). Details of such provision, including construction, finishes and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The cycleways, footpaths and ghost islands shall be provided in accordance with the agreed details prior to first occupation of the units.

**Reason:** In the interest of sustainable transportation and safety.

4. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

**Reason:** To prevent flooding and in the interest of sustainable drainage.

5. Prior to any works taking place on site, a bat survey shall be carried out by a suitably qualified ecologist. The developer shall fully comply with all recommendations. Documents/surveys demonstrating compliance, as prepared by a suitably qualified ecologist, shall be submitted for the written agreement of the planning authority prior to commencement of development. Should the presence of bats be established on site, no development shall occur until the necessary permission/derogation licence has been obtained from the relevant statutory body.

**Reason:** In the interest of orderly development.

6. 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 interest of amenity and public safety.

7. 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.

**Reason:** In the interest of visual amenity and to ensure an appropriate high standard of development.

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

**Reason:** In the interest of public health.

9. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of visual and residential amenity.

10. Proposals for an estate/street name, 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 apartment 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.

11. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a properly constituted Owners' Management Company. Membership of this company shall be compulsory for all purchasers of property in the development. Confirmation that this company has been set up shall be submitted to the planning authority prior to the sale/lease/occupation of the first residential unit. To this end, the developer shall provide a plan outlining the full extent of the site that will form the area that will fall under the control of the management company and outline the roads, open spaces, public lighting, landscaping, play equipment and drainage items, including pipe work, flow control devices and petrol interceptor prior to commencement of development.

**Reason:** To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

12. 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 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.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

14. The construction of the proposed development shall be managed in accordance with a Construction 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 proposed development, including:

- (a) The location of the site and materials compound(s), including area(s) identified for the storage of construction refuse.
- (b) The location of areas for construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of on-site car parking facilities for site workers during the course of construction.



- (e) 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.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network.
- (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 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 mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (j) 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.
- (k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be made available for inspection by the planning authority.

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

15. (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, as amended, that restricts all relevant 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.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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

16. 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 accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (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 for the area.

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or such other security as may be acceptable to the planning authority, to secure the satisfactory reinstatement of the site upon cessation of the project coupled with an agreement empowering the planning authority to apply such security or part thereof to such reinstatement. 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 satisfactory reinstatement of the site.

18. 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 27<sup>th</sup> day of November 2024.