

An
Bord
Pleanála

Board Order ABP-318497-23

Planning and Development Acts 2000 to 2022

Planning Authority: Wexford County Council

Planning Register Reference Number: 2023/0844

Appeal by Neil Laundon and others care of 4 Manor Grove, Roxborough Manor, Mulgannon, County Wexford against the decision made on the 27th day of October, 2023 by Wexford County Council to grant subject to conditions a permission to Colm Neville Construction Unlimited Company care of Raymund Kelly Architects of 80 South Main Street, Wexford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of six number two-storey dwellings (one number two-bedroom and five number three-bedroom) at the location of a creche previously permitted under planning register reference number W2010012 (An Bord Pleanála reference number PL 85. 237980), construction of a single storey childcare facility (circa 454 square metres) to the north of the existing Roxborough Manor access road, new internal access roads, car parking (40 number spaces), bicycle parking and bin storage, landscaping, boundary treatments and all associated site works and services, all at Roxborough Manor, Mulgannon, Wexford.

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 Wexford County Development Plan 2022-2028, the relevant provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in January 2024, and having regard to the planning history of this site and the associated landholding, the location of the proposed development within and adjacent to an established residential development within the suburbs of Wexford Town, the pattern of existing development in the area and the density, scale, form and nature 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 amenities of the area, would be acceptable in terms of traffic safety and car parking, would not be prejudicial to public health, and would not give rise to a risk of flooding. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 2nd 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. The proposed childcare/creche building shall be constructed in accordance with the submitted plans and particulars and shall be completed and ready for use prior to the first occupation of the six dwellings.

Reason: To provide suitable childcare facilities for existing and future residents in accordance with the provisions of the Childcare Facilities: Guidelines for Planning Authorities issued by the Department of the Environment and Local Government in June 2001, and in the interest of the amenities of the area.

3. The landing window at the first-floor level to House Number 1 shall be in obscured glass.

Reason: In the interest of residential amenity.

4. 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.

5. (a) Prior to the commencement of any house 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), pursuant to Section 47 of the Planning and Development Act 2000, as amended, 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 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.

6. Prior to commencement of development:

- (a) a workplace Health and Safety Plan shall be submitted to the planning authority for consultation with the Health and Safety Authority, and
- (b) a Waste Management Plan shall be submitted to the planning authority for consultation with the Department of Agriculture and Food.

Reason: In the interest of public health.

7. (a) The developer shall engage a suitably qualified (license eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks associated with the development. Prior to commencement of such works, the archaeologist shall consult with and forward to the planning authority archaeologist or the National Monuments Service, as appropriate, a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains or animal burial sites be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service and Health and Safety Authority of the Health Service Executive, regarding appropriate mitigation.
- (b) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service and the Health and Safety Authority of the Health Service Executive, shall be complied with by the developer.

- (c) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

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

8. Prior to 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 a 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 shall be submitted to the planning authority for written agreement prior to 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 proper planning and sustainable development.

9. Prior to commencement of development, the developer shall submit detailed plans for the proposed bin storage areas for the proposed dwellinghouses for the written agreement of the planning authority. Each bin enclosure shall be enclosed, ventilated, lockable and no higher than 1.8 metres and constructed in brick to match the proposed dwellings.

Reason: In the interest of residential amenity.

10. 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 the development 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.

11. The access from the public road and internal road and vehicular circulation network serving the proposed development, including turning bays, 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.

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

12. 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.

13. Prior to commencement of development, the developer shall enter into water supply and wastewater connection agreements with Uisce Éireann. A Confirmation of Feasibility for connection to the Uisce Éireann network shall be submitted to the planning authority prior to commencement of development.

Reason: In the interest of public health.

14. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Lighting Design 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 interest of amenity and public safety.

15. 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.



16. The construction of the proposed development shall be managed in accordance with a Construction Environment 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 intended construction practice for the proposed development, including measures for the protection of existing residential development, traffic management during the construction phase, noise and dust management measures and off-site disposal of construction/demolition waste.

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

17. The Construction Environmental Management Plan shall include the location of any and all archaeological or cultural heritage constraints relevant to the proposed development as set out in Archaeological Assessment Report. The CEMP shall clearly describe all identified likely archaeological impacts, both direct and indirect, and all mitigation measures to be employed to protect the archaeological or cultural heritage environment during all phases of site preparation and construction activity.

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

18. Construction and demolition waste shall be managed in accordance with a final construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects" published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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 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.

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, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.



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

21. Prior to 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 planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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.

22. 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.



MaryRose McGovern

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

Dated this 10 day of February 2025.