

An
Bord
Pleanála

Board Order
ABP-318510-23

Planning and Development Acts 2000 to 2022

Planning Authority: Westmeath County Council

Planning Register Reference Number: 22577

Appeal by D M Leavy of Proudstown Road, Navan, County Meath and by Ruairí Ó Leocháin on behalf of Stand with Badgers, of Bramble Cottage, Kilrickle, County Galway against the decision made on the 31st day of October, 2023 by Westmeath County Council to grant, subject to conditions, a permission to Marina Quarter Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development:: Amendments to permitted application Westmeath County Council Register Reference 14/7103 An Bord Pleanála reference PL25.244826 for the removal of 38 number permitted units (not constructed) to be replaced by: Construction of 70 number residential units comprising: four number two-bed terraced houses (circa 78 square metres each), 60 number three-bed semidetached (circa 96-116 square metres each) and six number four-bed semidetached houses (circa 147 square metres each) with associated private gardens. The creche facility, public open spaces, landscaping, roads layouts, car parking, boundary treatment works, public lighting and all associated site works associated with the 87 number

remaining units retained as permitted under Westmeath County Council reference 14/7103 An Bord Pleanála reference PL25.244826 will remain unchanged. All pedestrian and vehicular access roads and footpaths including a section of the planned east/west distributor road connecting to a section of the distributor road permitted under Westmeath County Council reference 14/7103 An Bord Pleanála reference PL25.244826 and 22/253 to the east of the site. All associated site development works, services provision, drainage works, public open space (circa 1.03 hectares), landscaping, boundary treatment works, public lighting, associated ESB substation cabinets, bin stores, car and bicycle parking provision. This development will form part of a larger/future phase of the development, all on a circa 10.87 hectare site at Drumacon, Cornamaddy, Athlone, County Westmeath. The site is generally bounded to the west by greenfield lands and Cornamagh Cemetery, to the north by greenfield lands, to the south by greenfield lands and the Ballymahon Road (N55) and to the east by the existing Drumaconn housing estate. A five-year permission is being sought for development. The proposed development was revised by further public notices received by the planning authority on the 22nd day of June 2023.

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 nature, scale, and extent of the proposed development;

- (b) the provisions of the Project Ireland 2040 National Planning Framework;
- (c) the provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (January 2024);
- (d) the provisions of the Design Manual for Urban Roads and Streets (2019);
- (e) the provisions of the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031;
- (f) the provisions of the Westmeath County Development Plan 2021-2027 and Athlone Town Development Plan 2014-2020, including the 'RA - Residential' and 'OS - Open Space' zonings for the site;
- (g) the documentation submitted with the planning application, such as the Environmental Impact Assessment Report (EIAR) and the Appropriate Assessment Screening and Natura Impact Statement;
- (h) the submissions and observations received on file including from the local authority, prescribed bodies, and third parties;
- (i) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites;
- (j) the planning history of the site and adjoining areas; and
- (k) the reports of the Planning Inspector.

Appropriate Assessment Screening

The Board considered the Natura Impact Statement submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on the Natura 2000 network. The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that Lough Ree Special Area of Conservation (Site Code 000440) and Lough Ree Special Protection Area (Site Code 004064) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2

The Board considered the Appropriate Assessment Screening and Natura Impact Statement and associated documentation submitted with the planning application and grounds of appeal, the mitigation measures contained therein, the submissions on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the identified European sites, namely Lough Ree Special Area of Conservation (Site Code 000440) and Lough Ree Special Protection Area (Site Code 004064), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment. In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (i) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,

- (ii) the mitigation measures which are included as part of the current proposal, and
- (iii) the conservation objectives for the European sites.

The Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European sites, in view of the sites' conservation objectives.

Environmental Impact Assessment

The Board completed an Environmental Impact Assessment of the proposed development taking account of:

- (a) the nature, scale, location, and extent of the proposed development,
- (b) the Environmental Impact Assessment Report and associated documentation submitted in support of the application;
- (c) the submissions received from the applicant, local authority, prescribed bodies, and observers in the course of the application; and,
- (d) the Planning Inspector's reports.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately

identifies and describes the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board agreed with the examination, set out in the Inspector's report, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application.

Reasoned conclusion on the significant effects

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated where relevant, as follows:

- (a) Biodiversity:
 - (i) impact on badgers, which will be mitigated by the provision of an artificial sett and relocation of a proposed path.
 - (ii) impact on bats, which will be mitigated by following protocols for tree removal, by provision of bat boxes, by replacement planting and by careful lighting design.
- (b) Land, Soil, Water, Air and Climate:
 - (i) Potential contamination of watercourses from runoff of surface water during construction impacting on protected sites; to be mitigated by control of sediment in runoff, set out in chapter 9 of the Environmental Impact Assessment Report and in the Construction Environmental Management Plan.
 - (ii) Potential contamination of watercourses from runoff of surface water during operation impacting on protected sites; to be mitigated by the provision of a petrol interceptor and attenuation prior to discharge.

- (iii) Potential impact of dust and noise during construction; to be mitigated by measures to minimise and monitor construction dust and noise, set out mainly in chapter 9 of the Environmental Impact Assessment Report and in the Construction Environmental Management Plan.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the Environmental Impact Assessment Report, and subject to compliance with the conditions set out below, the effects of the proposed development on the environment, by itself and in combination with other plans and projects in the vicinity, would be acceptable. In doing so, the Board adopted the reports and conclusions of the inspector. Overall, the Board is satisfied that the proposed development would not have any unacceptable effects on the environment.

Proper Planning and Sustainable Development

Having regard to the planning history for the site and the nature and scale of the proposed development, providing for amendments to a permitted development, the Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the development objectives and other provisions of the Westmeath County Development Plan 2021-2027, would positively contribute to an increase in housing stock, would be acceptable in terms of urban design and layout, would align with national policy to achieve higher density compact settlements and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure the residential or visual amenities of the area or unduly impact on the natural environment. The proposed development 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 revised by the further plans and particulars received by the planning authority on the 15th day of June 2023 and 1st day of September 2023 and in accordance with conditions of the parent permission An Bord Pleanála reference PL25.244826, planning authority register reference 14/7103, 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. This permission shall have a duration for implementation which coincides with the parent permission (last day of August 2025).

Reason: In the interest of clarity.

2. Prior to the commencement of development, a revised boundary treatment plan shall be submitted for the written agreement of the planning authority which shall provide for a 1.8 metres high block wall which shall run along the shared boundary of all back-to-back dwellings.

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

3. (a) Prior to the commencement of any development in the vicinity of the esker, the developer shall consult the National Parks and Wildlife Service regarding all proposed mitigation measures for badger management, including those detailed in the Badger Mitigation Strategy (May 2023). The outcome of these

consultations, together with details and a timetable for all proposed measures, shall be submitted for the written agreement of the planning authority.

- (b) All works in the vicinity of the esker shall be undertaken under the supervision of a suitably qualified and experienced ecologist.
- (c) A monitoring survey of the artificial sett shall be undertaken by a suitably qualified and experienced ecologist every three months for the first two years following completion of the development.
- (d) A mitigation monitoring report shall be submitted to the planning authority every three months for a two-year period following completion of the development. This shall detail management, monitoring and mitigation measures, with any associated impacts to badgers on the site and will include proposals for any corrective measures required, for the written approval of the planning authority.

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

- 4. The mitigation measures identified and contained within the Environmental Impact Assessment Report, the Appropriate Assessment Screening and Natura Impact Statement, and other plans and particulars submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

Reason: In the interests of clarity, and of protecting the environment and public health.

- 5. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing

with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

7. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

8. 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 with the proposed development.

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

9. (a) The developer shall implement the findings/suggestions in the quality audit as per submitted Design Manual for Urban Roads and Streets advise note 4 – Quality audit.

- (b) Prior to the commencement of the development the developer shall submit a Stage 1 and 2 Road Safety Audit for the development to the planning authority.
- (c) Prior to first occupation of the development the developer shall submit to the planning authority a Stage 3 Road Safety Audit for the proposed development.
- (d) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed standards of the planning authority for such works.

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

- 10. Drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interests of public health and orderly development.

- 11. 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.

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

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

13. 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 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.

14. A Construction Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall provide, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters and surfacewaters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

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

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. A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, to facilitate the installation of EV charging stations/points at a later date. Where proposals relating to the installation of EV charging has not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to the occupation of the development.

Reason: To provide for and to future proof the development, in order to facilitate the use of Electric Vehicles in the interests of sustainable transport.

17. Prior to the commencement of any 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 residential units permitted, to first occupation by individual purchasers, that is 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.

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

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

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

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge and landscaping, treatment and completion of the development hereby permitted.

20. 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.

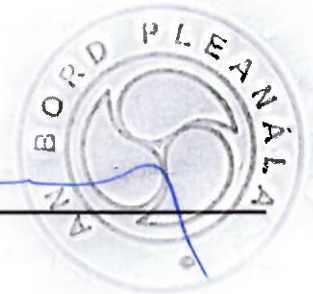
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Martina Hennessy

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**



Dated this 24th day of July 2024.