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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Offaly County Council**

**Planning Register Reference Number: 22595**

**Appeal** by Donal Shortt and Kathleen Shortt of Upper Main Street, Banagher, County Offaly against the decision made on the 8<sup>th</sup> day of December, 2023 by Offaly County Council to grant permission subject to conditions to Thor Hammer Limited of care of Vincent Hannon Architects of 1 to 3 Abbey Street, Abbeyquarter North, Sligo, County Sligo in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Development to consist of (a) demolition of existing single-storey vacant commercial premises; (b) construction of five number dwellings, consisting of three number two-bed houses and two number three-bed houses; (c) all associated services connections and site works at Upper Main Street, Banagher, Birr, County Offaly as revised by further public notices received by the planning authority on the 13<sup>th</sup> day of November, 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

The proposed development of housing on serviced, zoned, brownfield land in the centre of the town of Banagher accords with the provisions of the Offaly County Development Plan 2021-2027. Furthermore, the proposed development, subject to compliance with the conditions set out below, would not detract from the residential amenities of existing properties in the area, would not adversely impact on the visual amenities of area and would provide future occupants with adequate residential amenities. 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 amended by the further plans and particulars received by the planning authority on the 13th 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.

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

2. Prior to commencement of development revised drawings shall be submitted to, and agreed in writing with, the planning authority, showing proposals for the provision of visitor bicycle parking.

**Reason:** In the interest of providing for an adequate standard of development.

3. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

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

4. 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.

5. The finished floor level of the residential units shall be as specified on drawing number 220209-3-102 Rev F11 (proposed site layout), received by the planning authority on the 13<sup>th</sup> day of October 2023 and shall not be modified in any way without the prior written agreement of the planning authority.

**Reason:** In the interest of proper planning control.

6. Proposals for a street name, house numbering and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

**Reason:** In the interest of urban legibility.

7. 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.

8. The construction of the 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 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) the details of site security fencing and hoardings;
- (d) the details of on-site car parking facilities for site workers during the course of construction;
- (e) the 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) the provision of parking for existing properties at during the construction period;
- (j) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) the 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) the off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil; and
- (m) the means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;

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

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 with the proposed development.

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

10. (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 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 unit or duplex 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.

11. 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.

12. 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.



**Tom Rabbette**

**Member of An Bord Pleanála**

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

Dated this 9<sup>th</sup> day of Sept. 2024.