



An  
Bord  
Pleanála

## Board Order ABP-318870-24

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Westmeath County Council**

**Planning Register Reference Number: 23/60270**

**Appeal** by Mary O'Driscoll care of Clare Gleeson of The Hill, Abbeyfeale, County Limerick and by Patrick Lynch of Proudstown Road, Navan, County Meath against the decision made on the 20<sup>th</sup> day of December, 2023 by Westmeath County Council to grant subject to conditions a permission to Marina Quarter Limited care of McCutcheon Halley Planning Consultants of 6 Joyce House, Barrack Square, Ballincollig, County Cork in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Large-scale residential development comprising of the construction of 181 number residential units and all associated ancillary development works including three number ESB substations, footpaths, cycle lanes, car and bicycle parking, drainage, bin storage, landscaping/amenity areas and the undergrounding of existing 38KV overhead electricity lines at Rathgowan, Mullingar, County Westmeath. Access will be via the existing roundabout on the R394 (C-Link road). Pedestrian access will also be provided on to Ashe Road. This development will form two phases of a larger (three-phase) residential development at this location at Rathgowan, Mullingar, County Westmeath.

## 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 design of the proposed development, as amended,
- (b) the policies and objectives of the Westmeath County Development Plan 2021 – 2027,
- (c) Housing for All - A New Housing Plan for Ireland, issued by the Department of Housing, Local Government and Heritage (2021),
- (d) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage (2024),
- (e) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage (2022),
- (f) the Urban Development and Building Heights, Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government 2018, (updated 2020),

- (g) the Design Manual for Urban Roads and Streets (DMURS) (2013), issued by the Government of Ireland (updated 2023),
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices) 2009, issued by the Department of Environment, Heritage and Local Government (updated 2020),
- (i) the location of the site in the established key town of Mullingar,
- (j) the availability in the area of a wide range of social, community, transport and water services infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history within the area,
- (m) the submissions and observations received, and
- (n) the report of the Planning Inspector.

### **Appropriate Assessment Screening**

The Board agreed with the screening assessment and conclusion carried out in the Inspector's report that the proposed development is not directly connected with or necessary to the management of a European Site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the sites' conservation objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans

or projects, would not be likely to have a significant effect on any European site, in view of the sites' conservation objectives, and that that a Stage 2 Appropriate Assessment was not, therefore, required.

## **Environmental Impact Assessment**

The Board completed an environmental impact assessment of the proposed development, taking into account:

- (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, planning authority, prescribed bodies, and observers in the course of the application, and,
- (d) the Planning Inspector's report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant, adequately considers alternatives to the proposed development, and 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 and agreed with the Inspector's reasoned conclusions that the main significant direct and indirect effects of the proposed development on the environment are, and would be mitigated, as follows:

- (a) A positive impact with regard to population and material assets due to the increase in housing stock that would be made available in Mullingar;
- (b) The potential for moderate short-term negative impacts in terms of construction traffic will be mitigated as part of a construction management plan. There will be no significant negative impact on traffic junctions in the immediate area in the operational phase and any potential impact will be mitigated by way of design and implementation of a Mobility Management Strategy for the proposed development;
- (c) The potential negative effects arising from noise and air during the construction and operational phases, which will be short term in nature and will be mitigated by appropriate construction management and design measures outlined in the relevant section of the Environmental Impact Assessment report. Operational effects will be longer term but will be mitigated through design and operational practices and are not considered to be significant;
- (d) There will be changed views from various locations given the change from a largely greenfield site to a residential. The lands are zoned for residential development and the proposal is not expected to involve the introduction of new or uncharacteristic features into the local or wider landscape character setting, relative to what exists in the immediate and wider area. The potential impact will be positive; and
- (e) Potential indirect impacts on water during the construction and operational phase, which will be mitigated by construction management

measures and implementation of sustainable drainage system measures.

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 report 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:**

The Board considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with national, regional, and local planning policy, would constitute an acceptable density of development in this urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. 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 submitted on the 3<sup>rd</sup> day of November 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. Mitigation and monitoring measures outlined in the plans and particulars, including Chapter 17 of the Environmental Impact Assessment Report, 'Summary of Mitigation Measures & Monitoring' submitted to the planning authority on the 24<sup>th</sup> day of August 2023 shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

3. Details of the following shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:
- (a) Revised plans shall be submitted to and approved in writing by the planning authority. The revised plans shall demonstrate the provision of screening measures/defensible space adjacent to the two number ground floor level eastern facing habitable room (living/dining/kitchen) windows in Unit 03 of proposed Apartment Block A.
  - (b) All upper floor side elevation windows of the proposed residential dwellings, indicated by way of details received by the planning authority on the 3<sup>rd</sup> day of November 2023 for unit numbers 029, 030, 033, 045 and 100, shall be obscurely glazed and thereafter maintained as such, unless otherwise agreed in writing with the planning authority.
  - (c) Details, including samples, of the materials, colours and textures of all the external finishes to the proposed buildings.
  - (d) The specifications and finishes of the landscaping elements, paving, ducting, lighting, in addition to the general positioning of benches/bicycle racks, and all other public realm finishes.

**Reason:** In the interests of visual and residential amenities and good urban design.



4. (a) Tree protection shall be carried out in accordance with details submitted in the Tree Protection Plan and Arboricultural Impact Assessment, in accordance with the requirements of BS 5837 (2012) – Trees in Relation to Design, Demolition and Construction, received by the planning authority on the 24<sup>th</sup> day of August 2023.
- (b) The approved landscaping scheme, as amended by details received by the planning authority on the 3<sup>rd</sup> day of November 2023, shall be undertaken in the first planting season following the occupation or substantial completion of the development or each phase of the development as agreed, whichever is the sooner. The planting shall thereafter be maintained and any plants that die, become diseased or are removed within three years shall be replaced within the following planting season by plants of a similar size and species, unless the planning authority gives its written consent to any variation.
- (c) The designated public open space areas, when developed in accordance with the agreed details, shall be made available for continuous use and enjoyment of the public.

**Reason:** To ensure the provision of amenity afforded by appropriate landscaping design, and site treatment, and to ensure the sustainability of the approved landscape design through its successful establishment and long-term maintenance.

5. (a) Any required hedgerow, tree, or scrub removal or cutting to facilitate the proposed development shall not take place during the bird breeding season which is between the 1<sup>st</sup> day of March and the 31<sup>st</sup> day of August.
- (b) All environmental, construction and ecological mitigation measures identified in the submitted CEMP, and Environmental Impact Assessment Report shall be implemented in full by the developer in conjunction with the timelines set out therein, except as may otherwise be required in order to comply with the conditions of this order.
- (c) The developer shall retain the services of a recognised and suitably qualified ecologist to oversee the construction of the subject development and advice on the specified measures as set out in the application. The developer shall confirm the name of the ecologist prior to commencement of development for the written agreement of the planning authority.
- (d) The developer shall provide bat boxes as required ensuring that bat roosting nests are provided along tree lines around the subject site so as to prevent loss or reduction of existing habitats for commuting bats.

**Reason:** In the interests of clarity and nature conservation, and to ensure environmental sustainability of the subject site.

6. The developer shall comply with all the requirements of the planning authority in relation to roads, access, lighting and parking arrangements, including facilities for the recharging of electric vehicles. In particular:
- (a) The roads and traffic arrangements serving the site (including sightlines, footpath connections and signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
    - (i) The roads layout shall comply with the requirements of the Design Manual for Urban Roads and Streets, in particular carriageway widths, corner radii and pedestrian crossings.
    - (ii) The materials used in any roads / footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
    - (iii) A Mobility Management Plan shall be prepared and submitted to the planning authority for approval prior to the commencement of development.
    - (iv) The developer shall carry out a Stage 2 Quality Audit (which shall include a Road Safety Audit, Access Audit, Cycle Audit and Walking Audit), which shall be submitted to the planning authority for its written agreement. The developer shall carry out all agreed recommendations contained in the audits, at the developer's expense.
  - (b) Within six months of substantial completion of the development, a Stage 3 Quality Audit (including Road Safety Audit, Access Audit, Cycle Audit and Walking Audit) of the constructed development shall be submitted to the planning authority for approval.

- (c) All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (d) Clearly designated spaces for car share use shall be provided.
- (e) A detailed Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

**Reason:** In the interests of pedestrian, cyclist and traffic safety.

7. (a) Prior to the commencement of development, the final design of the segregated cycle track / cycleway / footway / footpath/ pedestrian crossings (incorporating red surfacing to cycleway, vertical separation and associated signage and lining in accordance with the Cycle Design Manual) and any other associated works along the outer perimeter of the subject site along the R394 (Mullingar C-Link) and the L1000 (Ashe Road) and running north south through the development shall be submitted to and agreed in writing with the planning authority. The final design shall provide for a consistent configuration and layout of segregated cycleways and footpaths, with a continuous link from the R394 to the L100, that provides for the minimisation of conflict at all junctions including at the L1000 and the central green area.
- (b) The developer shall enter into an agreement with Westmeath County Council, pursuant to Section 47 of the Planning and Development Act 2000, as amended, in relation to all agreed design works required on the R394 and the L1000 and these works shall thereafter be carried out at the full expense of the developer, unless otherwise agreed in writing with the planning authority.
- (c) Prior to first occupation of any residential unit within the development, the Active Travel Infrastructure on the R394 and L1000 shall be fully completed, unless otherwise agreed in writing with the planning authority.

**Reason:** In the Interest of orderly development and to secure the provision of appropriate Active Travel Infrastructure.

8. Prior to commencement of development, revised plans and details shall be submitted to and agreed in writing with the planning authority. The submission shall demonstrate the following:
- (a) Breakdown of the type of car parking provision throughout the scheme, including in-curtilage parking, out of curtilage parking, parking for each unit type, disabled parking, and visitor parking spaces. Revised plans and details shall clearly demonstrate the location and number of each type of car parking space as detailed above. The submission shall comply with minimum car parking standards as outlined in the Westmeath County Development Plan 2021-2027.
  - (b) Breakdown of the type of cycle parking provision throughout the scheme, including in-curtilage parking, visitor parking, and specific cycle parking provision for each unit type. Revised plans and details shall clearly demonstrate the location and number of each type of cycle parking space as detailed above. The submission shall comply with minimum cycle parking standards as outlined in the Westmeath County Development Plan 2021-2027.

**Reason:** To ensure accordance with Development Management Standards and the proper planning and sustainable development of the area.

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 interests of visual and residential amenity.

10. 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 signs, and unit 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 place names for new residential areas.

11. The developer shall enter into water and waste water connection agreements with Uisce Éireann, prior to commencement of development.

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

12. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit to the planning authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interests of public health and surface water management.

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 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.



14. 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 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.

15. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, 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 interests of amenity and public safety.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

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

17. 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.

18. 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.

19. 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.

20. Prior to the commencement of 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 housing 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 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 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.

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 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.

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.

*Eamonn James Kelly*

**Eamonn James Kelly**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**



Dated this *3<sup>rd</sup>* day of *May*, 2024