

An
Bord
Pleanála

Board Order ABP-318926-24

Planning and Development Acts 2000 to 2022

Planning Authority: Wexford County Council

Planning Register Reference Number: 20230488

Appeal by Lindsey Ryan of 17 Manor View, Roxborough Manor, Mulgannon, Wexford against the decision made on the 21st day of December, 2023 by Wexford County Council to grant permission subject to conditions 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: Permission for development consisting of the construction of a mixed-use development comprising residential units and a commercial building accommodating a childcare facility, office hub and retail/restaurant unit, with vehicular access from the Roxborough Manor access road. The residential development shall consist of 99 number dwellings comprising 60 number houses and 39 number own door duplex apartments. The houses shall consist of a mix of single and two-storey detached, semi-detached and terraced dwellings comprising 43 number three-bedroom units and 17 number four-bedroom units. The duplex apartments shall be located in buildings of two and three storeys and shall comprise 39 number two bedroom units with associated balconies. The single storey commercial building shall accommodate a childcare facility (circa 454 square metres), an office hub (circa 293 square metres) and a retail/restaurant unit (circa 362 square metres) with associated car parking, signage and service area. The

development shall include: four number vehicular access points from existing access road and new internal access roads; car parking (224 number spaces), motorcycle parking, bicycle parking, bin storage and recycling banks; landscaping, public open spaces, children's play area and boundary treatments; drainage infrastructure including a stormwater attenuation pond; all associated site works and services at Roxborough Manor, Mulgannon, Wexford as revised by further public notices received by the planning authority on the 24th 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

Having regard to the provisions of the Wexford County Development Plan 2022-2028, the planning history of the site, to the location of the appeal site within and adjacent to an established residential estate, and to the nature, scale, design and density of the proposed development, it is considered that, subject to compliance with conditions set out below, the proposed development would be acceptable in terms of layout and design and would not seriously injure the residential or visual amenities of the area or of properties in the vicinity. 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 24th 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. The mitigation and monitoring measures outlined in the plans and particulars including the Ecological Impact Assessment (EclA) relating to the proposed development, shall be implemented in full or as may be required in order to comply with the following conditions. Where any mitigation measures set out in the EclA or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European sites and biodiversity and in the interest of public health.

3. 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.

4. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local 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 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, regarding appropriate mitigation.

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, shall be complied with by the developer.

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.

5. The Construction Environmental Management Plan (CEMP) 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.

6. 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 proper planning and sustainable development.

8. The proposed creche building will be constructed in accordance with the submitted plans and shall be completed and ready for use prior to the first occupation of the proposed dwellings.

Reason: In order to ensure the satisfactory development of the open space areas, and their continued use for this purpose.

9. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be contoured, soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 8th day of May 2023. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed in writing with the planning authority and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

10. 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.

11. 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 each unit 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.

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.

Reason: In the interest of public health.

13. The developer shall enter into water supply and wastewater connection agreements with Uisce Eireann, prior to commencement of development. A Confirmation of Feasibility for connection to the Irish Water network shall be submitted to the planning authority prior to the 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 interests 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 interests of visual and residential amenity.

16. Proposals for an estate/street name, house/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 house/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.

17. 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.

18. The construction of the 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 interests of public safety and residential amenity.

19. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, 0800 to 1400 on Saturday, 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.

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

21. 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.

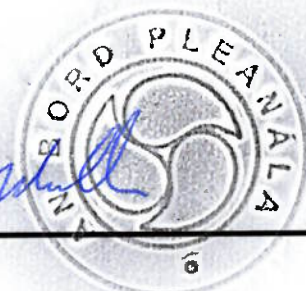
22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains,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

23. 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.

Peter Mullan



Peter Mullan

Member of An Bord Pleanála

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

Dated this 17th day of December, 2024