

Planning and Development Acts 2000 to 2022

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 2460334

Appeal by Woodlawn Grove Residents Association care of Orla Hayes of 86 Woodlawn Grove, Cork Road, County Waterford and by John and Martina Kelly of San Martino, Ballinaneeshagh, Cork Road, Waterford, County Waterford against the decision made on the 9th day of August 2024 by Waterford City and County Council to grant, subject to conditions, a permission to Monaco Developments (Tramore) Limited care of BMA Planning of Taney Hall, Eglinton Terrace, Dundrum, Dublin in accordance with plans and particulars lodged with the said Council:

Proposed Development: Large-scale residential development (LRD): For development consisting of 292 residential units and associated uses comprising: Six number two-storey four-bedroom detached and semi-detached houses; 160 number two-storey three-bedroom detached, semi-detached and terraced houses; four number three-storey apartment blocks consisting of 60 number two-bedroom duplex apartment units; a five-storey apartment block comprising 66 number age-friendly apartments (32 number one-bedroom and 34 number two-bedroom units) and ancillary accommodation; a standalone single storey creche building (286 square metres) and associated external play area. Vehicular access is provided from

Ballybeg Drive. Provision is made for pedestrian and cycle connections to Ballybeg Drive, Cork Road, Clonard Park and future phase 2 development site. Permission is sought for all associated site and development works associated with the above including car parking, bicycle parking, ESB substations, surface water attenuation, connection to services, hard and soft landscaping and boundary treatments, all at the former Waterford Crystal Sports and Leisure Centre site, Cork Road, Waterford. The development involves the demolition of an existing single storey bungalow at 'Comeragh', Cork Road.

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 following:

- (a) the location of the site in the established urban area of Waterford City in an area zoned for residential (under RE – Provide for enterprise and /or residential led regeneration) and where the site is identified as one of a small number of "Opportunity Sites" (OPS22 Waterford Crystal Sports Complex, Cork Road (9.88 hectares)) where the site has potential to accommodate taller building(s),
- (b) the policies and objectives of the Waterford City and County Development 2022-2028,
- (c) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024),



- (d) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2018),
- (e) Urban Development and Building Heights, Guidelines for Planning Authorities (2020),
- (f) the Design Manual for Urban Roads and Streets (DMURS) (2013),
- (g) Architectural Heritage Protection- Guidelines for Planning Authorities (2011),
- (h) Planning System and Flood Risk Management (including the associated Technical Appendices) (2009),
- (i) the provisions of the Climate Action Plan (2024),
- (j) the objectives and targets of the National Biodiversity Action Plan (NBPA) 2023-2030,
- (k) the nature, scale and design of the proposed development,
- (l) the availability in the area of a wide range of social, community, transport and water services infrastructure,
- (m) the pattern of existing and permitted development in the area,
- (n) the submissions and observations received,
- (o) the report and recommendation of the Planning Inspector

the Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of



development at this 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.

Appropriate Assessment (AA)

The Board noted 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 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 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 site's 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 European Site Lower River Suir Special Area of Conservation (Site Code 002137), or any other European site, in view of the site's Conservation Objectives.

This screening determination is based on the following

- (i) the conservation objectives for the European Sites.

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

- (iii) the distance from the proposed works.

Environmental Impact Assessment (EIA)

The Board completed an Environmental Impact Assessment screening of the proposed development. Having regard to:

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (c) the location of the site on lands governed by RE – Provide for enterprise and/or residential led regeneration zoning and designation as an “Opportunity Sites” under OPS22 Waterford Crystal Sports Complex, Cork Road (9.88 hectares) of the Waterford City and County Development 2022-2028 and the results of the Strategic Environmental Assessment of the Waterford City and County Development 2022-2028 undertaken in accordance with the SEA Directive (2001/42/EC),
- (d) the existing use on the site and pattern of development in surrounding area,
- (e) the planning history relating to wider area of the site,
- (f) the availability of mains water and wastewater services to serve the proposed development,
- (g) the criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and

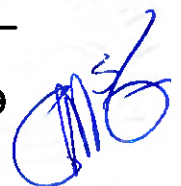


- (h) the features and measures proposed by the developer envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Demolition Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not, therefore, be required.

Conclusions on Proper Planning and Sustainable Development

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density and height of development in this serviced urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design and would be acceptable in terms of pedestrian and traffic safety. The Board was satisfied that an approval for the proposed development would be consistent with national climate ambitions and with the relevant provisions of the Climate Action Plan 2024. Furthermore, the Board has performed its functions in relation to the making of its decision, in a manner consistent with Section 15(1) of the Climate Action and Low Carbon Act 2015, as amended by Section 17 of the Climate Action and Low Carbon Act 2021. 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, 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 the commencement of development, the following revised plans shall be submitted to, and agreed in writing with, the planning authority:
 - (a) House Type A2(h) at the location of Site Number 31 shall be revised to provide an angled popout style window, or similar, to the first-floor window to the side elevation (west) serving first floor bedroom to impede direct line of sight to the area immediately to the rear of the residential dwelling to the west, 'The Cottage', Cork Road, Waterford.
 - (b) All proposed bathroom windows shall be glazed in obscure glass.

Reason: In the interest of residential amenity of an adjoining property and the proper planning and sustainable development of the area.



3. 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 and surface water management.

4. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

5. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of the agreed landscaping plan. 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.

6. 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.

7. The proposed development shall be carried out on a phased basis in accordance with the submitted phasing scheme and taking in charge drawing number (LRD3_104), unless otherwise agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

8. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, 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.

9. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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.



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 for each residential unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan. This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. Prior to commencement of development, a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

12. 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 interest of sustainable transport and safety.

13. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until those elements of the development proposed to be taken in charge are taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

14. Prior to the commencement of development, the following details shall be submitted to, and agreed in writing with, the planning authority:
- (a) A revised swept path analysis clearly demonstrating fire tender and refuse truck movements throughout the site.
 - (b) The final car parking/setdown area for the creche.
 - (c) The final layout and design specifications for the intersections of footpath and the estate road, and the Homezone roads and adjoining paving in the curtilage of the dwellings.

- (d) The final design details/detailed specification of the proposed footbridge.
- (e) A revised site layout plan identifying an appropriately sized waiting area as identified in 'Problem Number 4' of the 'Quality Audit Report'. Confirmation shall be provided that the area is of an appropriate size to accommodate a waiting vehicle in accordance with the Cycle Design Manual and the recommendation of the Quality Audit.
- (f) Revised details identifying a filter drain parallel to the bicycle path.
- (g) Full and detailed specifications for the petrol interceptors and hydrobrakes, to include manufacturer maintenance recommendations.

The development shall be carried out in accordance with the agreed revised details.

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

- 15. (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs, and the underground car park shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

- 16. (a) The landscaping scheme, as submitted to the planning authority, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.
- (b) A suitably qualified Arboricultural Consultant shall be appointed and shall be responsible for tree protection during the course of construction works and to advise the Site Manager. Prior to works commencing the Arborist shall liaise with the planning authority to arrange a site visit to inspect tree protection measures and at key project stages thereafter.
- (c) Play spaces shall be installed and open for use prior to the occupation of the adjoining apartment block under construction.

Reason: In the interest of residential and visual amenity.



17. The developer shall engage a suitably qualified licence eligible archaeologist (licensed under the National Monuments Acts) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record [archaeological excavation] and/or monitoring may be required. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. 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.

18. The management and maintenance of the identified elements of the proposed development not proposed to be taken in charge, as per the detail submitted with the application, 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 commencement of development.

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

19. Proposals for an estate/street name, 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 apartment and house 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.

20. Prior to the commencement of the 'age friendly apartments', as per the plans and particulars lodged with the planning application on 18th day of June 2024 and as permitted herein, 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 the 'age friendly apartments as per the plans and particulars lodged with the planning application, to occupation by persons who are over 55 years old. An individual's entitlement to occupy the 'age friendly' apartment units permitted herein shall be demonstrated by virtue of them being over 55 years of age.

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, in the common good.

21. (a) Prior to 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 house or duplex unit) pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all relevant 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.

- (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 residential unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units 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 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 residential 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.

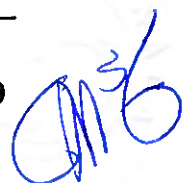


22. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.


23. 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.



24. 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.


Chris McGarry

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

Dated this 18th day of December 2024.