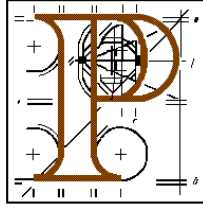


# An Bord Pleanála



## Inspector's Report

**PL.93.245483.**

**DEVELOPMENT:-**

Change of house types (previously approved residential development 05/60 and PL.31.216423) and associated site works at the Knockboy, Dunmore Road, Waterford.

**PLANNING APPLICATION**

**Planning Authority:** Waterford City and County Council

**Planning Authority Reg. No:** 15/272.

**Applicant:** J and B Neville Construction Limited.

**Application Type:** Permission

**Planning Authority Decision:** Permission with conditions.

**APPEAL**

**Appellant:** James O'Sullivan.

**Type of Appeal:** Third Party.

**Observers:** None.

**DATE OF SITE INSPECTION:** 23<sup>rd</sup> October 2015.

**Inspector:** **Derek Daly.**

## **1.0 SITE LOCATION AND DESCRIPTION.**

The appeal site is located in the residential area of Knockboy off the Dunmore Road in the southeastern suburbs of Waterford city. The site was formerly in agricultural use and is bound to the west and north by recently constructed residential development and by open lands to the east and south. Access to the site is from the road network serving these residential areas off the Knockboy Road and a residential road serving the Village a residential area.

The site forms part of a larger residential development which was granted planning permission and on submitted drawings outlines 4 phases of development. The current proposal is phase 2 of the development with phase 1 to the west under construction and phases 3 and 4 to the south and east indicated as future development.

The area of site relating to the proposed development is stated as 1.168 hectares.

## **2.0 PROPOSED DEVELOPMENT.**

The proposed development as submitted to the planning authority on the 15<sup>th</sup> of May 2015 was for

- The change of house types previously approved by permission granted for a residential development under P.A. Ref. 05/60 and PL.31.216423.
- The changes provide for the replacement of 4 no. three storied duplex blocks, 8 no. two storey mid terraced units and 18 no. semi-detached units with 14 no. two storey three bedroomed semi-detached units (type A) and 14 no. four bedroomed detached units (type D).
- The development will reduce the number of residential units by 30.
- The development is predominantly located in a cul de sac with 24 units in the cul de sac. The cul de sac is off a service road which will have 4 units fronting this road. The service road will provide access to future phases 3 and 4 of the overall development.
- The dwelling units are of a modern design and construction with a maximum height to roof ridge level of approximately 7.9 metres.
- All units have front and rear gardens and provision for parking on site.
- There is a landscaped area running down the centre of the cul de sac road with all 24 units facing onto the landscaped area.
- The change of house type it is indicated is to reflect current market demands.
- Revised drainage layouts to accommodate changes but the layout is broadly in line with previously permitted development.
- Associated site works.

A further information response was submitted to the planning authority on the 29<sup>th</sup> of July 2015. The response refers to the construction of the access road; the provision of the wetland area which was part of the parent permission;

details relating to boundaries and payment of development contributions and the construction of cycle paths and pedestrian links. It is intended to commence construction following completion of phase 1 in December 2015 with a view to completing this aspect of the development in September 2016.

Revised public notices were received by the planning authority on the 4<sup>th</sup> of August 2015.

### **3.0 PLANNING HISTORY.**

The site and area has a planning history.

P.A. Ref. 05/500060 / ABP Ref. PL.31.216423.

Permission granted for a residential development of 89 houses comprising 20 two storey detached dwellings, and 69 semi-detached/terraced houses; 64 apartments in 8 three storied duplex units; a crèche and associated works. In granting permission on the 18/09/2006, the Board in

- Condition no. 2 omitted house units numbers 125 and 126 and numbers 137-144 inclusive (8 units) and the road and hammerhead at this location as set out on drawing number 0429-04A received by the planning authority on the 14th day of October, 2005 from the development and that this area shall be incorporated into the open space area so as to provide a buffer between the development and the wetland area.
- Condition no.4 required that water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- Condition no. 8 required a right turn lane be constructed on the Knockboy Road to accommodate the additional traffic associated with this development. Details of this junction shall be submitted to and agreed with the planning authority prior to commencement of development. The condition also required that this junction be completed prior to first occupation of the houses within this development.

The life of this permission was subsequently extended to 17/09/2016.

P.A. Ref. 05/500161.

Permission granted for a residential development of 94 houses comprising 8 two storey detached dwellings, and 86 semi-detached/terraced houses and associated works.

P.A. Ref. 11/500027.

Permission granted for a change of house types in previously permitted development granted under P.A. Ref. 05/500161.

P.A. Ref. 12/500070.

Permission granted for a change of house types in previously permitted development granted under P.A. Ref. 05/500161.

P.A. Ref. 14/500053.

Permission granted for a change of house types in previously permitted development granted under P.A. Ref. 05/500060/ABP Ref.PL31.216423. The change of house type related replacing the duplex units 1-24 with 6 two storey semi-detached houses and 4 two storey detached houses

#### **4.0 PLANNING AUTHORITY REPORTS.**

The water services report dated the 4<sup>th</sup> of June 2015 requires agreement in relation to surface water measures to serve the development.

The planning report of 24<sup>th</sup> of June 2015 refers to current zoning; to the planning history; to provisions of the city development plan in particular that the site is located within an area zoned for residential use. Reference is made to the parent permission and that aspects of the proposal as submitted are inappropriate in relation to compliance with the parent permission. There is also concern indicated in relation to whether the development can be completed with the duration of the planning permission of the parent permission. An AA Screening was also carried out. Further information was recommended in relation to these matters.

The roads and transportation report of the 6<sup>th</sup> of August 2015 indicates no objections to the further information submitted.

The planning report of 19<sup>th</sup> of August 2015 refers to the further information submitted and recommends permission be granted.

#### **5.0 PLANNING AUTHORITY'S DECISION.**

The Planning Authority decided to grant planning permission for the development subject to 22 conditions. Apart from the standard conditions the following are of note,

- Condition no.1 requires compliance with the conditions of PL.31.216423 as deemed appropriate.
- Condition no. 2 indicates that the permission will expire on the 17/09/2016 simultaneous with the duration of the permission of PL.31.216423.
- Condition no. 3 relates to a financial contribution.
- Condition no. 4 relates to payment of a bond.
- Condition no. 5 relates to Part V.

- Condition no. 8 refers to surface water drainage and attenuation measures.
- Condition no. 19 refers to rainwater harvesting systems to be incorporated into the design of the individual houses.

## **6.0 APPEAL SUBMISSIONS.**

### **6.1 THIRD PARTY APPEAL.**

The appellant in the grounds of appeal states,

- The primary concern relates to surface water as surface water will have adverse effects in his lands located down gradient from the proposed development.
- The drains serving the development discharge to a network of streams which pass through his lands.
- With increased development the level of surface water discharged has increased considerably.
- The streams are currently well over capacity and together with high tides and rain the streams burst their banks and cause flooding.
- The surface water infrastructure is inadequate and the flooding affects lands which produces high quality crops affecting his livelihood.
- Attenuation measures may serve to reduce the flow rate but ultimately it flows into the streams.
- The upgrading of the surface water drainage infrastructure to a degree that it does not rely on attenuation measures would be the optimal solution.
- This concern has been overlooked in the assessment of the application.
- Reference is made to the Knockboy Local Area Plan 2003 and the current city plan which call for alleviation of the flood risk areas and these objectives have not been achieved in relation to the Knockboy area.
- It is not considered that this development should not proceed until an adequate infrastructure for surface water drainage is provided.

## **7.0 RESPONSES TO APPEAL.**

### **7.1 PLANNING AUTHORITY RESPONSE.**

The planning authority in a response dated the 12<sup>th</sup> of October 2015 indicates,

- The application is for a change of house type of housing units previously permitted under ABP Ref. PL.31.216423 which established the principle of residential development on the lands.
- Condition no. of the planning authority's decision makes specific reference to ABP Ref. PL.31.216423 and that the duration of the permission is linked to the expiry of ABP Ref. PL.31.216423.

- Condition nos. 7 and 8 refer to infrastructure and in particular surface water measures are adequate to cater for the development.
- The development is acceptable in principle.
- The appellant in making the appeal will most likely result in the developer not being in a position to implement the development over the remaining lifespan of the permission.
- In relation to flooding the appellant has been the subject of enforcement in relation to carrying out unauthorised works to repair, reinforce and extend earthen levees and the widening and deepening of drainage ditches along the southern bank of the River Suir which protect his lands from flooding.
- These lands have been reclaimed over time having formerly consisted of a salt marsh designated as a SAC and these made up lands have been protected by a system of unauthorised levees and drainage ditches.
- Reference is made to P.A. Ref. 05/500207 in relation to failing to obtain permission for the construction of the levees and raising of the lands.
- These lands formed part of the intertidal zone of the River Suir.
- The enforcement notice remains in place details of which are submitted.

## **7.2 FIRST PARTY RESPONSE.**

The applicant in a response dated the 9<sup>th</sup> of September 2015 to the grounds of appeal indicates,

- The application is for a change of house type.
- Phase 1 of the development is nearing completion and was not appealed.
- Works to provide storm water attenuation for the overall development has been agreed with the local authority based on the original approval and will commence in the near future.

## **8.0 POLICY.**

### **8.1 WATERFORD COUNTY DEVELOPMENT PLAN.**

The current Development Plan is the Waterford City Development Plan 2013-2019.

Chapter 11 relates to environmental management and there are section relating the provision of infrastructure in relation to water services including surface water drainage with policies in relation to the provision of infrastructure and policies in relation to best management and practice. There are also provisions in relation to flood risk and management.

Chapter 12 relates to zoning policy and objectives. The site is located within an area zoned as undeveloped residential development phase 1.

Section 12.1 outlines details in relation to the development of housing lands in the city including undeveloped residential lands.

Chapter 13 relates to development management and section 13.1 sets out standards in residential development on a range of matters including density, design and various qualitative standards.

## **9.0 ASSESSMENT.**

- 9.1 In relation to the current appeal the development as submitted to the planning authority on the 15<sup>th</sup> of May 2015 was for change of house types previously approved by permission granted for a residential development under ABP. Ref. PL.31.216423.

The current proposal forms part of a larger development which is being constructed in 4 phases. The current proposal is phase 2 and phase 1 is currently under construction.

The grounds of appeal largely relates to the issue of flooding of the appellant's lands which are downstream of the streams and water channels servicing this development on which he grows crops and it is considered that this development should not proceed until an adequate infrastructure for surface water drainage is provided.

In responses to the appeal it is indicated that the application relates to a change of house type of a permitted development granted planning under ABP Ref. PL.31.216423, that the principle of the development is established and the conditions of the decision to grant planning permission make specific reference to ABP Ref. PL.31.216423 and that the duration of the permission is linked to the expiry of ABP Ref. PL.31.216423.

- 9.2 In relation to the development it is located within an area zoned as undeveloped residential development in the current city development plan and the development is therefore I consider acceptable in principle.

In relation to the actual proposal it is limited in nature to a modification/revision of an existing planning permission and limited to a change of house type. The application is largely arising from a change in market demand determining the change of house type. The number of houses proposed is reduced from what was originally permitted.

If the current application is not permitted it would not preclude development occurring on the site or in the part of the PL.31.216423 permission relating to this proposal. The issues relating to surface water drainage and all aspects of infrastructure remain within the terms and conditions of PL.31.216423.

In relation to the change of house types proposed, I would have no objection. The development provides for satisfactory provision of open space public and private and would be consistent with the pattern of residential development in the vicinity and area.

## **10.0 CONCLUSION AND RECOMMENDATION.**

Having regard to the foregoing, I recommend that permission be granted for this development for the reasons and considerations set out below.

### **REASONS AND CONSIDERATIONS.**

Having regard to the nature of the development as proposed; the planning history of the site and the existing zoning provisions of the Waterford City Development Plan 2013-2019, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously the amenities of the area or of property in the vicinity; would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. 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 in accordance with the plans and particulars lodged with the application and received by the planning authority on the 15<sup>th</sup> of May 2015 and as amended by the further information submitted on the 29<sup>th</sup> of July 2015 the 4<sup>th</sup> of August 2015, except as may otherwise be required in order to comply with the following conditions.

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

2. The development as permitted in this grant of planning permission relates to the change of house type submitted on the 15<sup>th</sup> of May 2015. In all other respects the development shall comply with the conditions stated in PL.31.216423 and this grant of planning permission shall expire on the 17/09/2016 simultaneously with the expiry of PL.31.216423.

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

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. The roof shall be finished in slate and shall be blue-black in colour.

**Reason:** In the interest of visual amenity.



4. The site shall be landscaped in accordance with an overall scheme of landscaping, details of which shall be submitted to the planning authority for written agreement, and such agreement obtained within three months of the date of this order. The scheme shall also include a timescale for its implementation.

**Reason:** In the interest of visual amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of orderly development.

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 interests of visual and residential amenity.

7. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

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

8. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works.

**Reason:** In the interest of amenities and public safety.

9. Prior to commencement of development, proposals for a name and numbering scheme and associated signage shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development.

10. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

11. 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 social and affordable housing in accordance with the requirements of section 96 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 (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board 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.

12. 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 the Board for determination.

**Reason:** To ensure the satisfactory completion of the development.

13. 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. The contribution shall be paid prior to the commencement of development or in such phased payments the planning authority may facilitate. 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 the Board to determine the proper application of the Scheme.

**Reason:** It is a requirement 48 of the Planning and Development Act 2000 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.

14. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development

Act 2000 in respect of road improvements on the Williamstown Road. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

15. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act 2000 in respect of works to the wetland area. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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**Derek Daly**

**Senior Planning Inspector.**

**11<sup>th</sup> December 2015.**