



An
Bord
Pleanála

Inspector's Addendum Report ABP-305811-19

Development	Construction of 52 dwellings with all associated landscaping and site works and connection to existing services, and construction of a creche with all associated works.
Location	Coolbane, Castleconnell, Co. Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	19/518
Applicant(s)	Torca Developments Ltd
Type of Application	Permission
Planning Authority Decision	Grant, subject to 33 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Eoin Brocert
Observer(s)	None
Date of Site Inspection	12 th March 2020
Inspector	Hugh D. Morrison

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1.0 Introduction

- 1.1. On 27th May 2020, the Board decided both to defer making a decision on this application/appeal and to issue a Section 132 Notice to the applicant regarding the following:

Having regard to the Box 5.1 of the Justification Test set out in The Planning System and Flood Management Guidelines, 2009, the applicant is required to demonstrate that the proposed development would comply with this Test.

Specifically,

- Detailed plans for the majority of the lands in Site 3A required in order to demonstrate the adequacy of the regrading of these lands, as part of their landscaping for public open space, to provide compensatory flood water storage space. Likewise, the compatibility of such regrading with the future use of these lands as public open space, which is capable of being used in a manner consistent with public safety, should be demonstrated.*
- As Site 1 would be reliant upon the existing surface water drainage system, which is unattenuated, the additional flows generated would exacerbate the flooding of the Stradbally East Stream and, therefore, an opportunity to minimise flood risk would be missed by keeping the existing and proposed systems separate. The applicant is required to demonstrate that the proposed development will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk.*
- Detailed plans of the proposed emergency escape road are required in order to demonstrate the compatibility of this road with the retention of attractive mature deciduous trees along its route, and hence their amenity value to the Castle Rock Housing Estate.*

- 1.2. The applicant replied to this Notice on 8th July 2020. The Planning Authority and the appellant were notified of the further information received and the latter responded.

2.0 The applicant's further information

- 2.1. The applicant responds to each of the three points raised as follows:

- Detailed landscaping plans of Site 03A have been submitted. The proposed footpaths would be provided at grade or similar to ensure no loss of the Site's

capacity to store flood waters. Likewise, proposed planting would increase this capacity.

The issue of public safety has been addressed by means of a Flood Management Plan (FMP). Amongst other measures, this Plan would rely on fencing around Site 03A and the locking of gates set within this fencing during flood events.

- The applicant has reviewed the surface water management system for the site. Specifically, in Site 1, driveway storage would be utilised, and, in Sites 2 and 3, storage within the road sub-base structure would be utilised. All of these utilities would be installed with invert levels above the highest recorded flood level plus a 0.3m freeboard. Green field run-off flows for 1 in 30 and 1 in 100-year flood events have been calculated for each site. While these flows would be less than 5 litres per second (l/s) for Sites 1 and 2 and greater than 5 l/s for Site 3, their discharge would be set at 5 l/s in order to safeguard against blockages.
- Attention is drawn to an autotrack exercise, which shows that the lane would be capable of accommodating a fire tender without damage to tree trunks. A Tree Protection Management Plan would be prepared and branches lower than 4m in height would be identified. During the construction phase, the subgrade strength of this lane would be tested and a Geocell with gravel would be laid over it.

2.2. In light of the above points, the applicant has commented on the proposal's compliance with Box 5.1 of the Justification Test (JT) as follows:

- The western portion of Site 3A is liable to flooding from the River Shannon. The highest flood level recorded was 22.9m OD. By contrast the proposed roads and buildings would be + 1.3m higher at 24.2m OD and above.
- Under the proposal, the existing flood plain would be retained and laid out as an area of public open space (POS). Changes in levels would be minimal and so flood storage capacity would be virtually unchanged, a negligible 1cm increase is predicted. (Figure 4-3 of the FRA is re-presented). Items 2(i) and (ii) of the JT would be met.

- The proposed Flood Management Plan would introduce for the first-time measures to promote public safety within Site 3A. Item 2(iii) of the JT would be met.

3.0 The appellant's response

- As Site 3A is in Zones A and B for flooding and as the proposal would entail the provision of highly vulnerable development, this site is not suitable for this development.
- The gates and fences now proposed would require planning permission in their own right.
- The proposed use of the lane by emergency vehicles has not addressed the presence of a concrete bollard within this lane.
- The lane is not under the applicant's control and yet works are proposed to it without the requisite consents of landowners.
- The trees along the lane support bat boxes, which were placed there on foot of earlier permissions. No bat survey accompanies the current proposal.
- Use of the Greater Dublin Strategic Drainage Study outside of Dublin is questioned.
- The Flood Management Plan (FMP) is critiqued. That it is needed in the first place is an indication that the site is unsuitable.
- The FMP refers to an Estate Management Agency that remains unidentified. Likewise, contacts in Limerick City and County Council remain unidentified and its integration with a similar plan for Greater Castleconnell is not demonstrated.
- The applicant's engagement with the JT is critiqued. Thus, the resort to a site in Zones A and B is questioned.
- The reference to the Castleconnell Flood Relief Scheme in Figure B.6 of the FMP is premature as this Scheme has yet to be finalised and implemented.
- The sewer layout plans show the extension of infrastructure from Site 1 outside the application site.

- Recent photographs of flooding are included in the appellant's response.

4.0 Assessment

- 4.1. I have reviewed the applicant's further information and the appellant's response. In light of these submissions, I consider that it is appropriate for me to revisit my discussion of flood risk and infrastructure that I set out under the third heading of my original report and, in particular, to re-run the Box 5.1 Justification Test (JT) of the Planning System and Flood Risk Management (PSFRM) Guidelines.
- 4.2. Essentially, Items 1 and 2(iv) of the JT were met by the original proposal. Items 2(i), (ii), and (iii) gave rise to concern and prompted the Board's three points of the request for further information (RFI).
- 4.3. Item 2(i) states, "The development will not increase flood risk elsewhere and, if practicable, will reduce overall flood risk."
- 4.4. The first point of the RFI reflected my assessment that, whereas the applicant's modelling of the impact of the proposal on flooding was reassuring, the proposal itself would entail some loss of flood storage volume from particularly Site 3A. Thus, Figures 4-2 and 4-3 of Appendix B to the applicant's Flood Risk Assessment (FRA) show that under AEP 1% and 0.1% flood events a difference of less than 1cm in flood levels would result from the proposal. They also show the lands that would benefit from the raising of levels, as a result either directly or indirectly of the loss of flood storage volume.
- 4.5. The applicant has responded to the first point by stating that the existing levels of the area proposed for POS in Site 3A would be maintained, so as to retain its role as a flood plain. In so doing, it appears to be resolving an earlier tension between Section 4.6 of the FRA and Section 4.2 of Appendix B. The former Section states that "The proposed layout of the development should be optimised at detailed design to result in a negligible overall impact on the existing flood storage on-site. The landscaped areas within the sites should be re-graded to maintain existing flood storage." The latter Section states that "There is no scope to offer compensatory storage at this location." The applicant, in favouring the latter position, draws attention to the negligible increase of less than 1cm in flood depth over the extensive areas depicted in Figures 4-2 and 4-3.

- 4.6. Item 2(i) refers to the need to not increase flood risk and, if practicable, to reduce such risk. Under the proposal a negligible increase only in flood risk would arise.
- 4.7. Item 2(ii) states, "The development proposal includes measures to minimise flood risk to people, property, and the economy as far as reasonably possible."
- 4.8. The second point of the RFI draws attention to the absence of attenuation from the surface water drainage system proposed for Site 1 and to the separation of the proposed surface drainage system proposed for Site 2, which would be attenuated, from the existing surface water drainage system for Castle Rock housing estate, which is not attenuated.
- 4.9. The applicant has responded to this point by specifying driveway storage for the house plots comprised in Site 1 in conjunction with a by-pass petrol interceptor and a hydro-brake, which would discharge surface water into the existing surface water drainage system at 5 l/s. (In Sites 2 and 3, hydro-pave road attenuation is now specified).
- 4.10. The appellant draws attention to the routing of sewers outside the application site. However, such routing is within lands denoted as being under the applicant's control.
- 4.11. Item 2(iii) states "The development proposed includes measures to ensure that residual risks to the area and/or development can be managed to an acceptable level as regards the adequacy of existing flood protection measures or the design, implementation and funding of any flood risk management measures and provisions for emergency services access."
- 4.12. The first and third points of the RFI raise matters of safety. The former point refers to the use of the proposed POS in a manner consistent with public safety and the latter point refers to the proposed emergency access route and its compatibility with the amenity objective of tree protection along its length.
- 4.13. The applicant has responded to the first point by submitting a Flood Management Plan (FMP) for Site 3A. POS would be provided in this Site and its perimeter would be fenced and gated. The FMP addresses the need to close public access to this POS during flood events that would be likely to result in its flooding. It outlines various management roles and responsibilities pursuant to this objective.

- 4.14. The appellant has critiqued this FMP. He considers that its preparation is an admission of the unsuitability of the site and he expresses concern over its incompleteness. He also considers that the proposed fences and gates would require to be the subject of a separate planning permission.
- 4.15. While the proposed POS would lie within Zones A and B, Table 3.1 of the PSFRM Guidelines indicates that amenity open space is deemed to be water-compatible development and so it would in principle be a suitable land use. The FMP should be the subject of a condition to ensure that it is updated prior to the commencement of use of the POS. Insofar as the proposed fences and gates would constitute hard landscaping, I consider that the description of the current proposal incorporates these works.
- 4.16. The applicant has responded to the third point by drawing attention to an autotrack depiction of a fire tender utilising the proposed emergency access route. It has outlined how, under a Tree Management Protection Plan, any low-lying branches would be identified, and the surface of the existing lane would be provided with a Geocell and gravel in order to protect route systems.
- 4.17. The appellant has critiqued the emergency access route. He questions whether the applicant has the necessary consents to use the lane and he draws attention to a concrete bollard and bat boxes in the trees.
- 4.18. Again, the submitted plans show the lane as being under the applicant's control. Presumably, the concrete bollard could be replaced with a demountable one and the risk of disturbance to bats would be negligible, as the upgrade in the lane would only be for use in an emergency when the normal access to Castle Rock housing estate would be unavailable.
- 4.19. In light of my assessment, I conclude that the proposal would pass the outstanding Items 2(i), (ii), and (iii) of the JT. The proposal, as expanded by the applicant's further information, would effectively not increase flood risk elsewhere, flood risk minimisation would demonstrably occur, and public safety would be satisfactorily addressed.

5.0 Recommendation

5.1. That permission be granted.

6.0 Reasons and Considerations

Having regard to the Sustainable Residential Development in Urban Areas Guidelines, the Childcare Facilities Guidelines, the Design Manual for Urban Roads and Streets, the Planning System and Flood Risk Management Guidelines, the Limerick County Development Plan 2010 – 2016, the Castleconnell Local Area Plan 2013 – 2019, and the planning history of the site, the Board considers that, subject to conditions, the proposal would meet the zoning objectives for the site and, given the constraints upon this site, its net residential density would be acceptable. The proposal would afford a satisfactory standard of amenity to future residents and the provision of a creche and public open space would enhance the amenities of the overall Castle Rock housing estate. Flood risk would be mitigated by the design of the proposal. Traffic generated by the proposal would be capable of being handled satisfactorily on the existing estate roads, subject to the findings of a Road Safety Audit of the spine road. Parking provision would comply with Development Plan standards. The proposal would be capable of being undertaken in a manner compatible with the ecological interest of the site. The proposal would thus accord with the proper planning and sustainable development of the area.

The Board having considered the Screening Report for Appropriate Assessment, the Natura Impact Assessment, and all other relevant submissions carried out both an appropriate assessment screening exercise and an appropriate assessment in relation to the potential effects of the proposed development on designated European Sites, namely, the Lower River Shannon Special Area of Conservation (site code number 002165), in view of the site's Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment.

In completing the Appropriate Assessment, the Board considered, in particular, the following:

- (i) The likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (ii) The mitigation measures which are included as part of the current proposal, and
- (iii) The Conservation Objectives for the European Sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector’s report in respect of the potential effects of the proposed development on the aforementioned European Sites, having regard to the Sites’ Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the Sites’ Conservation Objectives.

7.0 Conditions

1.	<p>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 6th day of September 2019 and by the further plans and particulars received by An Bord Pleanála on the 8th day of July 2020, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of any development.</p> <p>Reason: To ensure the timely provision of services, including the creche, for the benefit of the occupants of the proposed dwellings.</p>

3.	<p>Prior to the commencement of the development, Stage 1 and Stage 2 Road Safety Audits of the spine road to the Castle Rock Housing Estate shall be undertaken. Any recommendations arising for traffic calming shall be implemented prior to the first occupation of the permitted dwelling houses or the commencement of use of the creche, whichever is the sooner.</p> <p>Reason: In the interest of road safety.</p>
4.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the Planning Authority for such road works.</p> <p>Reason: In the interest of amenity and of traffic and pedestrian safety.</p>
6.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interests of amenity and public safety.</p>
7.	<p>Proposals for street names, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all street signs, and house numbers, shall be provided in accordance with the agreed scheme.</p> <p>Reason: In the interest of urban legibility.</p>
8.	<p>Prior to the commencement of development, details of the play equipment proposed for the children's playgrounds and of street furniture proposed for the public open space shall be submitted to and agreed in writing with the Planning Authority.</p>

	Reason: In the interest of amenity.
9.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to An Bord Pleanala on the 8th day of July 2020. This work shall be completed before any of the dwelling houses are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
10.	<p>Prior to the commencement of use of the public open space, the submitted Flood Management Plan shall be completed and updated, as appropriate, and resubmitted to the Planning Authority for its written agreement.</p> <p>Reason: In the interest of public safety.</p>
11.	<p>(a) Prior to the commencement of development, a Tree Protection Management Plan for the route of the proposed emergency means of access shall be submitted to and agreed in writing with the Planning Authority.</p> <p>(b) Prior to the commencement of development, detailed plans of the proposed emergency means of access and a timetable for its construction shall be submitted to and agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of visual amenity and public safety.</p>
12.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may</p>

	<p>be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>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.</p>
13.	<p>Site development and building works shall be carried out only between the hours of 0800 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
14.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:</p> <ul style="list-style-type: none"> (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse; (b) Location of areas for construction site offices and staff facilities; (c) Details of site security fencing and hoardings; (d) Details of on-site car parking facilities for site workers during the course of construction; (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; (f) Measures to obviate queuing of construction traffic on the adjoining road network;

	<p>(g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;</p> <p>(h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;</p> <p>(i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;</p> <p>(j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;</p> <p>(k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.</p> <p>A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.</p> <p>Reason: In the interest of amenities, public health and safety.</p>
15.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p>
16.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p>Reason: In the interest of public health.</p>
17.	<p>Surface water drainage arrangements shall comply with the requirements of the Planning Authority for such works and services.</p>

	<p>Reason: In order to minimise flood risk.</p>
18.	<p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p> <p>(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,</p> <p>(b) Employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>(c) Provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p>Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p>
19.	<p>Prior to the commencement of development, a bat survey of the site shall be undertaken and measures for the protection of bats shall be identified. This survey and these measures shall be submitted to and agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of wildlife protection.</p>
20.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion, and maintenance until taken in charge by the local authority, of roads, sewers, watermains, drains, car parks, open spaces 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</p>

	<p>completion or maintenance of any part of the development. The security to be lodged shall be as follows -</p> <p>(a) An approved insurance company bond in the sum of € 234,000 (two hundred and thirty-four thousand euro), or</p> <p>(b) A cash sum of € 234,000 (two hundred and thirty-four thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or</p> <p>(c) Such other security as may be accepted in writing by the planning authority.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
21.	<p>The developer shall pay to the planning authority a financial contribution of €138,634 (one hundred and thirty-eight thousand, six-hundred and thirty-four euro) 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. The application of any indexation required by this condition 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.</p> <p>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.</p>

Hugh D. Morrison
Planning Inspector

20th November 2020