



An
Bord
Pleanála

Inspector's Report

ABP-318510-23

Development

Amendments to permitted application.
Construction of 70 residential units
and all associated site works. The
planning application is accompanied
by an Environmental Impact
Assessment Report and Natura
Impact Statement.

Location

Drumacon, Cornamaddy, Athlone, Co.
Westmeath.

Planning Authority

Westmeath County Council

Planning Authority Reg. Ref.

22577

Applicants

Marina Quarter Ltd.

Type of Application

Permission

Planning Authority Decision

Grant Permission

Type of Appeal

Third Party

Appellants

Stand with Badgers.

DM Leavy

Inspector

Dolores McCague

1.1. Introduction

1.1.1. This report has been prepared in response to Bord Direction -BD-016495-24 of the 6th June 2024, that an addendum report be prepared by the Inspector to address the following:

- a) Further assessment regarding the standing of the Athlone Town Plan 2014-2020 and zoning of the site, given the issues raised on appeal relating to Section 11 of the Planning and Development Act.
- b) As the proposal comprises an amendment to the parent permission (ABP PL25.244826 and WMCC Reg 14/7103) which has been extended until August 2025, outline the legislative provisions (s) which would facilitate the subject development for which permission is sought.
- c) Further consideration of the EIAR submitted with the application, having particular regard to cumulative effects and major accidents, in addition to any other relevant matters not already outlined in the report.
- d) Further consideration of the Natura Impact Statement submitted with the application, having particular regard to in-combination effects and any other relevant matters not already outlined in the report.

1.1.2. This report is prepared further to my previous report and the appendices attached thereto, in particular Appendix 2 Appropriate Assessment and Appendix 3 Environmental Impact Assessment and should be read in conjunction with those documents.

2.0 Further Assessment

2.1. Item a.

Further assessment regarding the standing of the Athlone Town Plan 2014-2020 and zoning of the site, given the issues raised on appeal relating to Section 11 of the Planning and Development Act.

2.1.1. A question as to the standing of the Athlone Town Plan 2014-2020, has been raised in the appeal. The appellant's legal advisor supports his view that the Plan has

expired with reference to the outcome of court cases stated to be of relevance (2022 JR 819, which Board concession refers to an expired Local Area Plan, not a Town Development Plan; and 2023 JR 822, which Board concession refers to non-compliance with an objective of a Development Plan).

- 2.1.2. Per section 11 C (a) of the Planning and Development Act, the zonings in the Athlone Town Plan 2014-2020 still apply, being that of a dissolved body, not reviewed or replaced.
- 2.1.3. This matter was addressed in section 7.5 of my report.
- 2.1.4. The site currently enjoys a permission for a lower density residential development. The application is to amend a permitted development in order to increase the density of residential development to be carried out on the site.
- 2.1.5. In my opinion an increase in density is desirable in this case and would be in accordance with the proper planning and sustainable development of the area because the site is close to the town centre and adjoins other recently constructed residential development, and residential development currently under construction or planned. This area is a logical extension of the built-up area of Athlone and has been zoned for residential development for many years. In such a location, current policy guidance recommends higher density than the existing permission achieves. That the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) applies only to zoned land is noted; the reasons for advocating higher densities in suitable locations apply to the subject site.
- 2.1.6. In my opinion given the circumstances of this case, it would not be reasonable for the Board to refuse permission for the amendments to the permitted development involving increased density.

2.2. Item b.

As the proposal comprises an amendment to the parent permission (ABP PL25.244826 and WMCC Reg 14/7103) which has been extended until August 2025, outline the legislative provisions (s) which would facilitate the subject development for which permission is sought.

2.2.1. The current permission expires in 2025. The amendments to the existing permission sought by the applicant include that the subject permission should have a duration of 5 years.

2.2.2. Section 40 of the Planning and Development, Act as amended, refers:

Limit of duration of permission.

40.—(1) Subject to *subsection (2)*, a permission granted under this Part or Part XXI, shall on the expiration of the appropriate period (but without prejudice to the validity of anything done pursuant thereto prior to the expiration of that period) cease to have effect as regards—

(a) in case the development to which the permission relates is not commenced during that period, the entire development, and

(b) in case the development is commenced during that period, so much of the development as is not completed within that period.

2.2.3. The planning authority's decision, in Condition 1, includes that the permission expires in line with the parent permission, 31st August 2025.

2.2.4. This matter was addressed in section 7.9 of my report.

2.2.5. I have reconsidered this matter. While it may be open to the Board to permit the amendment sought, in the particular circumstances of this case, I consider it reasonable to require the development to stay within the boundaries of the existing permission therefore I wish to add the following to my previous assessment:

To be inserted at the end of paragraph 7.9.2:

Should the Board be minded to grant permission, notwithstanding the in-built delays to implementing the permission, which have been noted, the period for its implementation should be as set out in the Planning Authority's decision, i.e. in line with the parent permission: 31st August 2025.

2.2.6. Condition 1 should be amended to read as follows:

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 15th June 2023 and 1st September 2023 and in accordance with conditions of the parent permission ABP

Ref. PL25.244826 PA Reg Reg 14/7103, 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. This permission shall have a duration for implementation which coincides with the parent permission (31st August 2025).

Reason: In the interest of clarity.

2.3. Item c

Further consideration of the EIAR submitted with the application, having particular regard to cumulative effects and major accidents, in addition to any other relevant matters not already outlined in the report.

- 2.3.1. The matter of major accidents was addressed in Appendix 3 to my report, at paragraph 2.1.3.
- 2.3.2. There is no 'establishment' ie. COMAH (Control of Major Accident Hazards) site located in the vicinity of the site. Although not stated in the EIAR, it can be inferred from the description of the site and the description of the proposed development contained in the EIAR, that the applicants understand this to be the case.
- 2.3.3. As stated in Appendix 3 to my report, having regard to the nature of the proposed development and the receiving environment, the likelihood of a major accident or disaster impacting the proposed development or arising as a result of the proposed development can be discounted.
- 2.3.4. Regarding 'cumulative effects' it should be noted that in addition to Appendix 3 to the Inspector's report (EIA), issues which require detailed consideration are addressed in the body of the report. Notwithstanding the foregoing, I consider that further clarity should be given in relation to cumulative effects by adding a sentence under the heading 'Assessment and Mitigation Measures' within each cell where that heading arises, as follows: 'In the absence of mitigation these potential impacts could occur as cumulative impacts with other adjoining developments, which are currently being

carried out or are permitted in the vicinity'. This being the case for all the identified impacts.

2.3.5. Detailed consideration is given to cumulative effects on 'Badgers' and 'Bats' in section 7.8 of the Inspector's report. No amendment to that section is required.

2.3.6. There are no other relevant matters not already outlined in the report.

2.4. Item d.

Further consideration of the Natura Impact Statement submitted with the application, having particular regard to in-combination effects and any other relevant matters not already outlined in the report.

2.4.1. The matter of in-combination effects was addressed in Appendix 2 to the Inspector's report (Appropriate Assessment), at paragraph 3.1.3 where it is pointed out that the impacts identified could occur in-combination with other developments in the area. The identified mitigation measures will ensure that effects from this project will not arise, and therefore that there will not be any in-combination effects, following mitigation.

Planning Inspector

24th June 2024
