



An
Coimisiún
Pleanála

Inspector's Report ABP-323202-25

Development

Point of detail referral on the application of a condition for security or bond in relation to permission (An Bord Pleanála APB-316990-23) for the construction of 183 residential units and associated site works.

Location

Bellfield, Haggardstown, Dundalk, Co Louth. (www.bellfieldlrd.com)

Planning Authority

Louth County Council

Planning Authority Reg. Ref.

2364

An Bord Pleanála Reg Ref

ABP-316990-23

Applicant(s)

McParland Bros. Builders Ltd

Type of Application

LRD Permission

An Bord Pleanála Decision

Grant with Conditions

Type of Case

Section 34(5) Referral on a point of detail regarding Condition No 20

Referred by

McParland Bros. Builders Ltd

Date of Site Inspection

None

Inspector

Mary Crowley

Contents

1.0 Introduction	4
2.0 Site Location and Description	4
3.0 Proposed Development	4
4.0 Planning Authority Decision	5
5.0 An Bord Pleanála Decision	5
6.0 Relevant Legislation	7
6.1. Planning and Development Act 2000, as amended	7
7.0 Ministerial Guidance	8
7.1. Development Management Guidelines (2007)	8
7.2. Circular Letter PL 11/2013 (Provision of Security)	8
8.0 Policy Context	10
8.1. Development Plan	10
8.2. Natural Heritage Designations	11
8.3. EIA Screening	11
9.0 The Referral	11
9.1. Referrer's Case	11
9.2. Planning Authority Response	14
9.3. Correspondence between the Referrer and Louth County Council	16
10.0 Assessment	20
10.3. Condition No 21	20
10.4. Computation of Security	21
10.5. Phased Approach	22
10.6. Time Limitations	24

11.0	Recommendation	25
12.0	Reasons and Considerations.....	26
13.0	Condition 21 as determined:.....	26

1.0 Introduction

- 1.1. This point of detail referral is pursuant to provisions of Section 34(5) of the Planning and Development Act 2000 (as amended) in relation to a Condition of permission attached by the Board (now the Commission) under reference ABP-316990-23.
- 1.2. This case solely concerns a condition requiring security for the completion of development, namely Condition 20. Section 34 of the Planning and Development Act 2000 (as amended) is such that the scope of consideration for the Commission is confined to such matters only relating to this condition. Accordingly, the principle of the development or other planning matters are outside the scope of consideration here.
- 1.3. The former name 'An Bord Pleanála' or 'The Board' or 'ABP' is used throughout my report where pertaining to documentation pre-dating the statutory name changes to An Coimisiun Pleanála (ACP).

2.0 Site Location and Description

- 2.1. The appeal site with a stated area of 5.25 ha comprises a parcel of lands bordering existing residential uses (Bellfield Estate), a Church/graveyard to the west and a light industrial unit along its northern boundary all to the south of Dundalk Town Centre.

3.0 Proposed Development

- 3.1.1. The LRD application submitted to Louth County Council in 2023, as appealed to An Bord Pleanála and as permitted by the Board comprised as follows (as summarised):
 - 183 residential units comprising 64 no. residential dwellings (8412 sqm) and 119no. apartments / duplex units (10,348.04 sqm) across 6 no. blocks ranging in height up to 6 no. storeys;
 - Provision of a creche (335 sqm)
 - Car parking at surface level via a combination of in-curtilage parking for dwellings and via on-street parking for the creche, duplexes and apartment units;
 - Electric vehicle charge points

- Bicycle and bin storage facilities at surface level throughout the site
- Use of existing access from Dublin Road with associated upgrade works to the existing internal access road to facilitate vehicular, pedestrian and cycle access
- Internal access roads and footpaths and associated connections to the existing Bellfield residential estate
- Residential communal open space areas
- ESB substation;
- Internal site works and all ancillary site development / construction works.

4.0 Planning Authority Decision

- 4.1.1. **Reg Ref 2364** - Louth County Council issued a notification of decision to grant permission subject to 18 no conditions. **Condition No 11** is relevant to this referral as follows:

The Development shall lodge with the Council a cash deposit of €603,900 (i.e. €3,300 per residential unit) (or as may be adjusted on the 1st January each year, based on the changes to the Wholesale Price Index for Building Construction, published by the Central Statistics Office) as security to ensure the satisfactory completion of the development or to enable the Council to undertake the necessary completion or reinstatement of the site, (including all necessary demolition and removal) if deemed necessary. The deposit or part thereof, will be refundable to the developer / applicant following the taking in charge of the development of the completion of the development up to taking in charge standards as approved by the Council. 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 of the development.*

5.0 An Bord Pleanála Decision

- 5.1.1. **ABP-316990-23** – In July 2023, following a third-party appeal against the notification of decision to grant permission issued by Louth County Council the Board granted

planning permission for said LRD subject to 21 no conditions. Conditions relevant to this Referral case are as follows:

2	<p>The Developer is required to phase the development as follows unless otherwise agreed in writing with the Planning Authority:</p> <ul style="list-style-type: none"> a) The apartment blocks and duplexes within the overall scheme shall be constructed prior to any houses, b) The crèche facility shall be constructed prior to the occupation of any residential unit on site. c) The public open space and associated play equipment including lighting shall be completed in full and all public areas landscaped as submitted and available for use prior to the occupation of any residential unit on site. <p>Reason: To ensure orderly development and a proper standard of construction and ensure residential facilities are in place prior to occupation</p>
20	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>

6.0 Relevant Legislation

6.1. Planning and Development Act 2000, as amended

Section 34(1) states:

Where -

(a) an application is made to a planning authority in accordance with permission regulations for permission for the development of land, and

(b) all requirements of the regulations are complied with,

Section 34(4) states:

Conditions under subsection (1) may, without prejudice to the generality of that subsection, include all or any of the following:

(g) conditions for requiring the giving and maintaining of adequate security for satisfactory completion of the proposed development

Section 34(5) states:

The conditions under subsection (1) may provide that points of detail relating to a grant of permission be agreed between the planning authority and the person carrying out the development and, accordingly—

(a) where for that purpose that person has submitted to the planning authority concerned such points of detail, then that authority shall, within 8 weeks of those points being so submitted, or such longer period as may be agreed between them in writing, either—

(i) reach agreement with that person on those points, or

(ii) where that authority and that person cannot so agree on those points, that authority may—

(I) advise that person accordingly in writing, or

(II) refer the matter to the Board for its determination,

and, where clause (I) applies, that person may, within 4 weeks of being so advised, refer the matter to the Board for its determination,

or

(b) where none of the events referred to in subparagraph (i) or in clause (I) or (II) of subparagraph (ii) occur within those 8 weeks or such longer period as may have been so agreed, then that authority shall be deemed to have agreed to the points of detail as so submitted

7.0 Ministerial Guidance

7.1. Development Management Guidelines (2007)

- 7.1.1. **Section 7.13** sets out types of conditions for residential development. Conditions requiring security for completion are included. In this regards it is stated:

It is essential that permissions for residential development are subject to a condition under which an acceptable security is provided by way of bond, cash deposit or otherwise so as to secure its satisfactory completion. The amount of the security, and the terms on which it is required to be given, should enable the planning authority, without cost to themselves, to complete the necessary services (including roads, footpaths, water mains, sewers, lighting and open space) to a satisfactory standard in the event of default by the developer. The condition should require that the lodgement of the security should be coupled with an agreement that would empower the planning authority to realise the amount of the security at an appropriate time and apply it to meet the cost of completing the specified works. Planning authorities should also ensure that the bond is of sufficient duration to allow them time to inspect the development after the expiration of permission and still call in the bond if necessary. A security condition could also provide for the recalculation of the amount specified in the condition by reference to the House Building Cost Index (or other appropriate Index) if the development to which the permission relates is not commenced within a specified period after the granting of the permission. The bond should be refunded on satisfactory completion of the development.

7.2. Circular Letter PL 11/2013 (Provision of Security)

- 7.2.1. The Department of Environment, Community and Local Government Circular issued a circular dated 20th June 2013 re the Provision of Security provided under section

34(g) of the Planning and Development Act 2000 - 2010 for the satisfactory completion of residential housing developments. Relevant sections are set out as follows:

Section 2 - Types of Securities

Practical experience indicates that planning securities can take a number of forms including a cash deposit, insurance bond or liquid asset. *It is a matter for the relevant local authority to decide what type of security to require as part of the terms of the planning permission from the list above.*

Section 7 - Computation of bonds for residential developments

There is a need for a degree of consistency by recommending a base calculation of the level of bond/security to be provided in respect of a typical dwelling. Allowing for an appropriate risk factor, a minimum provision of €7,000 per dwelling is therefore considered reasonable. Appendix 3 provides *Examples of Approaches to Computation of Bonds*

Section 5 Securities and Phased Development set out the following:

In the case of large housing schemes of say larger than 50 houses, it is normally appropriate to break the development down into distinct phases of the development so that areas of the development are not in an unfinished state for extended periods while the full development is being completed.

Conditions in such cases should be worked out in consultation with the developer as part of the determination of the application and should state requirements relating to the completion of specific roads, public lighting, open spaces or other public infrastructure before development on a subsequent phase or phases may commence. Such practice is normal and appropriate.

Similarly, the amount of security lodged with a local authority can follow the phased approach to development providing, sequentially, for:

- a) the lodgement of a security, followed by*
- b) commencement of development of a specific phase, followed by*

- c) *completion of that phase to a standard agreeable to the local authority and then followed by*
- d) *release of the security for that phase and either lodgement of a new security for a further phase or a roll-over of the security for the previous phase to a further phase of development.*

It is very important in the situations described above that as part of the relevant planning permission, there is clarity between the planning authority and the developer as to the mechanism, including information required, e.g. CCTV surveys, deflection/core sample tests for road surfaces etc and timescales, for the signing off of specific phases in order for securities to be released or rolled over. This signing off procedure should be in line with the taking in charge policy of the relevant local authority.

The amount of money provided by a given security for subsequent phases of development may reduce in comparison for the amount of money provided for the initial phase or phases of a development given the typical front loading of infrastructural provision within housing developments and the fact that as a development proceeds satisfactorily, the risk of infrastructural deficiencies and the cost of making these good may recede.

8.0 Policy Context

8.1. Development Plan

- 8.1.1. The operative plan for the area at the time of Boards decision was the **Louth County Development Plan 2021 - 2027** (as varied) and remains the operative plan at this time.
- 8.1.2. **Section 14.3.4.2 Bonds** of the Development Plan states that *to secure the satisfactory completion of development on a site which has been granted planning permission, the Council will require the giving of a cash bond to ensure the completion of the development to the satisfaction of the Council. This is covered under Section 34(4)(g) of the Planning and Development Act 2000 (as amended). This bond may be requisitioned in part or in full where the development has not been satisfactorily completed and used by the Council to ensure the satisfactory completion of the*

development. This cash bond shall not be released until the estate is taken in charge. The value of the cash bond will be reviewed during the lifetime of the Plan and each year thereafter each year in accordance with the Wholesale Price Index for the Construction Industry.

8.2. Natural Heritage Designations

- 8.2.1. The appeal site is not located in or immediately adjacent to a European Site. The Board completed an Appropriate Assessment in relation to the appeal case where it was concluded that the proposed development either by itself or in combination with other plans or projects would not adversely affect the integrity of the Dundalk Bay SAC & Dundalk Bay SPA or any other European site, in view of the site's Conservation Objectives.

8.3. EIA Screening

- 8.3.1. The Board completed an Environmental Impact Assessment Screening Report of the proposed development and considered that the EIA Screening Report submitted by the applicant, which contains the information set out in Schedule 7A of the Planning and Development Regulations 2001, as amended, identified and described adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment. There was no requirement for an EIAR.

9.0 The Referral

9.1. Referrer's Case

- 9.1.1. A Point of Detail referral under Section 34(5) of the Planning and Development Act (as amended) has been lodged with the Commission from Catherine Allison & Co Solicitors on behalf of the developer McParland Bros Builders Limited (Referrer). The referral relates to a dispute between the referrer and Louth County Council (LCC) in relation to Condition No 20 (Security Bond) of ABP-316990-23.
- 9.1.2. Submitted that the issues to be decided in this referral are
- a) The amount of security due for the development and

- b) The manner in which it is to be paid, including whether it is to be paid with reference to phases

9.1.3. The referral may be summarised as follows:

- Two conditions are relevant to this Referral: Condition No 2 (phasing) and Condition No 20 (Bond). The full wording of these conditions is set out in Section 3.0 of this report above.
- In January 2024 the Developer sought a variation to the phasing as set out in Condition No 2 of ABP-316990-23 as follows. LCC accepted the proposed variation.

Phase 1	
Total Area	24715 sqm
Open Space	4755 sqm (19.2%)
Creche	
31 No Apartments	Block J – Units 153 - 183
28 No Duplex Apartments	Block E – units 137 – 144 Block F – units 129 – 136 Block G - units 117 – 128
24 No Houses	Units 1 – 15, 56 and 145 - 152
Construction of associated development roads and services	
Phase 2	
Total Area	
Open Space	
54 No Apartments	
6 No Duplex Apartments	
40 No Houses	
Construction of part of new Local Distributor Road	
Construction of associated development roads and services	

- The Council refers to a unilateral “Bond Policy” and to an amount referred to in Condition No 11 of the LCC decision Reg Ref 2364. There is no agreement as to the amount of €603,900 referred to in Condition No 11 of the LCC decision or to

any amount. Condition No 11 has no effect on the Boards permission. Condition No 20 of ABP-316990-23 is the relevant condition in this case.

- In essence LCC is seeking a cash bond payment in line with the *LCC Bond Policy for developments of 101 plus units where the bond must be paid for the first 100 units plus 50% of the Bond for remaining units up front on receipt of invoice and prior to commencement of development. Plus, a payment plan of monthly payments with the balance of the bond for the full planning permission to be cleared within a 12-month period.*
- This calculates as €466,950 ((100 x €3,300 = €330,000) + (83 x €1,650 = €136,950)) with the remaining balance of €136,950 which can be subject to an agreed payment plan. Total cash bond due is €603,900.
- There is no reference to bond payment in any “phasing” correspondence with LCC. Condition No 20 of the Board decision states that the Bond shall be payable prior to commencement of work on site.
- The Developer on the other hand sought to pay the cash Bond in line with the agreed Phasing of the development and not the entire development.
- In July 2025 the Developer sought to pay €302,000 for Phase 1. The developer has made a part payment for Phase 1 in the amount of €100,000 with the remaining €200,000 to be paid out of the first 10 houses when sold over the next few months. However, the Developer now rescinds this offer and has referred the matter to the Coimisiun for determination.
- The Developer has made a reasonable gesture of good faith and paid €100,000 as security even though the quantum of the full amount is not agreed. The Councils approach to this dispute has been unreasonable:
 - a) LCC has rejected every offer made by the Developer with respect to the quantum of the remaining balance of security and payment phasing
 - b) LCC insists on referring to a condition of an annulled decision to grant permission as a basis for calculating the quantum of the security (Condition No 11 of Reg Ref 2364 refers) and
 - c) LCC insists on referring to a unilateral “Bond Policy”. The Cash Bond has not been agreed, and the developer does not agree with the Councils “Bond

Policy”. Noted that the LCC Bond Policy is dated 15th November 2023 and that permission was granted on 31st July 2023.

- Submitted that a Bond in the amount of €457,000 is appropriate in the circumstances and with €100,000 already paid to LCC leaving a balance due of €357,000. Bond to be phased proportionate to the number of residential units to be built at €2,500 per residential unit.
- Further suggested that the Council repay each phase of the security within 14 days of the Councils taking in charge of that phases roads, footpaths, watermains, drains, public opens pace and other services required in connection with the development.
- Repayment is to be made in addition to reasonable interest in the amount of 10% per annum having regard to the interest charged by the Developers lenders in respect of the security.

9.1.4. The referral was accompanied by a copy of correspondence between the Developer and the Planning Authority pertaining to Condition No 20. Similarly, the Planning Authority also provided a copy of correspondence between the Planning Authority and the Developer in relation to Condition No 20. For ease of reference I have compiled a summary of this correspondence and is presented in Section 9.3 of this report below.

9.1.5. The referral was also accompanied by the following:

- LCC Notification of Decision to Grant Planning Permission
- ABP Decision to Grant Planning Permission
- Copy of Councils Bond Policy

9.2. Planning Authority Response

9.2.1. A copy of the Referral was circulated on 22nd August 2025. A response was received on 27th August 2025 and may be summarised as follows:

- Agreement was not reached between the developer and the Planning Authority in respect of payments of the Bond (Condition No 20).
- Louth County Council has a Bonds Policy which is applied to all Bond queries.
- Condition No 20 states that *“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 “

- No agreement has been reached and is not referred to the Coimisiun to adjudicate.
- Bond amount of €603,900 has been invoiced for 183 unites and only €100,000 has been paid.

9.2.2. The following is also noted from an email dated 19th August 2024 from LCC to ACP and submitted with the response:

Date the matter was first referred to Louth County Council	Letter - 2 nd July 2025 Email with letter attached - 7 th July 2025
Confirm that the point of detail was dealt with by Louth County Council under the provision of Section 34(5)(a) of the Act (as amended) which came into effect on 17 th December 2024	Yes
Date Louth County Council advised the developer that an agreement could not be reached on the Point of Detail as provided for in Section 34(5)(a)(ii)(I) of the Act (as amended).	15 th July 2025

9.2.3. As set out in Section 9.1.4 above the referral was accompanied by a copy of correspondence between the Developer and the Planning Authority pertaining to Condition No 20. Similarly, the Planning Authority also provided a copy of correspondence between the Planning Authority and the Developer in relation to Condition No 20. For ease of reference, I have compiled a summary of this correspondence and is presented in Section 9.3 of this report below.

9.2.4. The response was accompanied by the following:

- Summary of correspondence between developer and Planning Authority

9.3. Correspondence between the Referrer and Louth County Council

Date	Summary
26 th January 2024	<ul style="list-style-type: none"> Letter from Developer to LCC seeking a variation to the Phasing as set out in ABP Condition No 2(a) that required the apartment blocks and duplexes within the overall scheme to be constructed prior to any houses unless otherwise agreed in writing with the Planning Authority. The developer sought a variation whereby the construction of the houses, apartments and duplexes ran simultaneously.
31 st January 2024	<ul style="list-style-type: none"> Letter from LCC to Developer accepting the variation to the proposed phasing.
8 th March 2024	<ul style="list-style-type: none"> Letter from Developer to LCC seeking pro rata Bond payment in line with the agreed phasing for the scheme.
21 st March 2024	<ul style="list-style-type: none"> Letter from LCC to Developer setting out the LCC <i>Bond Policy for developments of 101 plus units is that the bond must be paid for the first 100 units plus 50% of the Bond for remaining units up front on receipt of invoice and prior to commencement of development. Plus, a payment plan of monthly payments with the balance of the bond for the full planning permission to be cleared within a 12-month period.</i>
22 nd March 2024	<ul style="list-style-type: none"> Letter from the Developer to LCC proposing €100,000 on commencement of the first half of the Bond for Phase 1 and the balance of the first half within 12 months of commencement.
5 th April 2024	<ul style="list-style-type: none"> Letter form LCC stating that the developers bond payment proposal of 22nd March 2024 is unacceptable. LCC Bond Policy quoted as above.

9 th April 2024	<ul style="list-style-type: none"> Letter from the Developer to LCC stating that as the phasing (2 Phases) has been agreed with LCC it is not feasible or financially viable to pay a cash bond for 101 units and 50% for the remainder. Phase 1 includes 31 apartments proposed to satisfy Part V and S247 Units to an approved Housing Body.
23 rd May 2024	<ul style="list-style-type: none"> LCC email to the developer seeking update on Bond invoices issued for 52 no units
17 th June 2024	<ul style="list-style-type: none"> LCC email to the developer seeking update on Bond invoices issued for 52 no units
18 th June 2024	<ul style="list-style-type: none"> Developer email to LCC stating that they are awaiting a Bond insurance quote.
7 th August 2024	<ul style="list-style-type: none"> LCC email to the developer dated seeking update on the insurance bond.
5 th September 2024	<ul style="list-style-type: none"> LCC email to the developer dated seeking update on the insurance bond.
16 th September 2024	<ul style="list-style-type: none"> LCC email to the developer dated seeking update on the insurance bond.
15 th October 2024	<ul style="list-style-type: none"> LCC email to the developer dated seeking update on the insurance bond.
22 nd October 2024	<ul style="list-style-type: none"> LCC letter to the developer noting that the Bond sum of €273,000 remains unpaid and is to be paid by return. Failure to pay could result in legal proceedings.
13 th November 2024	<ul style="list-style-type: none"> LCC email to the developer dated seeking update on the insurance bond.
18 th November 2024	<ul style="list-style-type: none"> Developer email to LCC stating that they are working with their broker and it is taking longer than expected.
20 th December 2024	<ul style="list-style-type: none"> LCC letter to the developer advising that legal proceedings for outstanding Bond payment in the amount of €603,900

	(€466,950 due now with a payment plan to clear the remaining balance of €136,950 within 12 months or alternatively an insurance bond for the full amount of €603,900) are to commence.
5 th February 2025	<ul style="list-style-type: none"> ▪ LCC email to the developer advising that Financial Compliance cannot issue until the Bond is in place.
11 th February 2025	<ul style="list-style-type: none"> ▪ LCC email to the developer advising that Financial Compliance cannot issue until the Bond is in place.
20 th February 2025	<ul style="list-style-type: none"> ▪ Developer letter to LCC noting that it was agreed to process in two phases and therefore the bond is only due for Phase 1 only in the amount of €273,900. The developer is arranging the insurance policy and has been met with cumbersome requirements of insurers and has gone back to the market for tender. As gesture of good faith, the developer has made a part payment for Phase 1 in the amount of €100,000.
25 th February 2025	<ul style="list-style-type: none"> ▪ LCC letter to the developer stating that the Bond is now due and that the proposed phasing does not relate to the financial conditions of the permission. Commencement of this development was received in April 2024, and the Bond was due for payment since May 2024.
No date	<ul style="list-style-type: none"> ▪ LCC letter to the developer setting out Bond payment policy.
9 th April 2025	<ul style="list-style-type: none"> ▪ LCC letter to the developer advising that as no payment has been received the matter is being referred to the LCC solicitors with instructions to institute proceeding for the recovery of all sums due
16 th April 2025	<ul style="list-style-type: none"> ▪ Developer letter to LCC stating that the position of LCC is incorrect and that LCC records are to be corrected.

22 nd May 2025	<ul style="list-style-type: none"> ▪ LCC letter to the developer stating that Bond payment of €366,950 is still due and a payment plan for the balance of €136,950.
19 th June 2025	<ul style="list-style-type: none"> ▪ LCC registered letter to the developer seeking immediate payment within 14 days.
2 nd July 2025	<ul style="list-style-type: none"> ▪ Developer letter to LCC reiterating that the development is in two phases as agreed, and the bond should only be payable on Phase 1. Ten houses are complete, and the developer will pay €202,000 when these sold (contracts are signed but awaiting ESB connection). Council to confirm consent to this and agreement that the second half of the Bond will be payable in connection with phase two on serving commencement Notice for Phase 2. Council to asked to confirm the following: <ul style="list-style-type: none"> 1) Consent that one half of the full bond is due for Phase 1 (€302,000 approx.) 2) One half of the full bond is due for Phase “ on service of Commencement Notice re Phase 2 (€302,000 approx.) 3) €100,000 paid. Remaining €200,000 to be paid out of the first 10 houses when sold over the next few months. <p>The Council is not at risk in relation to Phase 2 and the associated Bond as nothing will commence until Phase 1 is complete which is likely to take another 2 years. Highly likely that Phase 1 may be ready to take in charge before Phase 2 commences.</p>
7 th July 2025	<ul style="list-style-type: none"> ▪ Developer email to LCC putting the Council on notice that if no agreement is reached the developer intends to refer the matter to An Coimisiun Pleanála for determination.

15 th July 2025	<ul style="list-style-type: none"> ▪ LCC letter to the developer. Copy of Councils Bond Policy attached. The phasing was agreed with LCC. However, there is no reference to bond payments in any “phasing” correspondence with LCC and the decision to grant required the full bond be paid. As the bond condition applies to the planning permission and not the phasing of the planning permission the full sum is due. This calculates as €466,950 ((100 x €3,300 = €330,000) + (83 x €1,650 = €136,950)) with the remaining balance of €136,950 which can be subject to an agreed payment plan. Concluded that if this is not to the developer’s satisfaction, they may wish to refer the matter to An Coimisiun Pleanála for determination.
----------------------------	---

10.0 Assessment

10.1. This assessment relates to the determination of the amount and form of security to be provided as required by way of Condition 20 in the Board’s Order granting permission for development in the case of An Bord Pleanála ABP-316990-23.

10.2. Having regard to the information presented by the parties to the Referral, I consider the key issues relating to the assessment of the Referral can be considered under the following general headings.

- Condition No 20
- Computation of Security
- Phased Approach
- Time Limitations
- Other Matters

10.3. Condition No 20

10.3.1. Condition No 20 (Security Bond) of the Boards decision required that the developer lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the satisfactory completion and maintenance of the

development until taken in charge prior to commencement of development. The form and amount of the security was to be agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination. The full wording of this condition is set out in Section 5.0 of this report above.

10.3.2. It is noted from correspondence on the file that commencement of this development was received in April 2024 and that the security bond was due for payment in May 2024. Despite the requirement that the bond be paid prior to commencement of work on site the matter of bond payment has not been agreed and is now before the Coimisiun for determination.

10.3.3. Louth County Council have sought security in the form of Cash Bond. The requirement for a cash bond only aligns with the Circular Letter PL 11/2013, the LCC Development Levy – Bond Policy and Section 14.3.4.2 Bonds of the Louth County Development Plan 2021 – 2027 (as varied). No issues arise in this regard and all parties to the referral accept the requirement to pay a cash bond.

10.4. Computation of Security

10.4.1. While there is no issue with the payment of a cash bond the Developer states that no agreement has been reached as to the amount to be paid and that reference to a condition of an annulled decision to grant permission (Reg Ref 2364 refers) as the basis for calculating the quantum of security is unacceptable.

10.4.2. The Developer is referring to Condition No 11 of the notification of decision to grant permission issued by LCC (Reg Ref 2364 refers) that was later granted permission by the Board on appeal (ABP-316990-23). Condition No 11 required the lodgement of a cash deposit in the amount of €603,900 (i.e. €3,300 per residential unit) as security to ensure the satisfactory completion of the development. It is this figure that LCC are using in their determination of the cash bond required under Condition No 20 of the Boards decision and that is quoted in their correspondence with the Developer. I note from correspondence on the file that the Developer submitted that a Bond in the amount of €457,000 (183 x €2500) was appropriate in this case.

10.4.3. I have considered the information submitted and note that there is no reference to the origin of the cash bond amount in any of the reports or correspondence on file. Further

no details in relation to the cash bond per residential unit is referenced in the Development Plan (Volume 1) or in the LCC Development Levy – Bond Policy. I therefore consider the figure set out in Condition No 11 of Reg Ref 2364 as applied by LCC in the notification of decision to grant to be an acceptable reference for the calculation of the cash bond.

10.4.4. While it is not part of this Referral to determine the LCC cash bond deposit per unit, I am satisfied with reference to the Circular Letter PL 11/2013 that €3,300 per residential unit is a reasonable and acceptable cash bond per residential unit for this development at this time. Therefore, the total cash deposit bond required to be lodged in this case is €603,900 (i.e. €3,300 per residential unit x 183 units).

10.5. Phased Approach

10.5.1. The central impediment in this case is the requirement by LCC for a cash bond payment for the entire development in line with the LCC Development Levy – Bond Policy while the developer requests a phasing of the cash bond payment in line with the agreed phasing plan for the development. Both positions are summarised as follows:

Louth County Council	<ul style="list-style-type: none"> ▪ Cash Bond amount of €603,900 has been invoiced for the permitted 183 units ▪ The LCC <i>Bond Policy for developments of 101 plus units is that the bond must be paid for the first 100 units plus 50% of the Bond for remaining units up front on receipt of invoice and prior to commencement of development. Plus, a payment plan of monthly payments with the balance of the bond for the full planning permission to be cleared within a 12-month period.</i> ▪ This calculates as €466,950 ((100 x €3,300 = €330,000) + (83 x €1,650 = €136,950)) with the remaining balance of €136,950 to be paid within 12
----------------------	--

	<p>months which can be subject to an agreed payment plan.</p> <ul style="list-style-type: none"> ▪ As the developer has made a bond payment in the amount of €100,000 a further Bond payment of €366,950 is still due with a payment plan for the balance of €136,950 ▪ The bond condition applies to the planning permission and not the phasing of the planning permission.
Developer	<ul style="list-style-type: none"> ▪ Submitted that as the phasing (2 Phases) has been agreed with LCC it is not feasible or financially viable to pay a cash bond for 101 units and 50% for the remainder. Therefore, the bond due for Phase 1 only is €273,900 (83 units x €3300). ▪ The developer has made a part payment for Phase 1 in the amount of €100,000 with the remaining €202,000 to be paid out of the first 10 houses when sold over the next few months (contracts are signed but awaiting ESB connection).

10.5.2. Condition No 2 of the Boards decision (ABP-316990-23) set out set out the phasing for the scheme unless it was *otherwise agreed in writing with the Planning Authority*. In January 2024 the Developer sought a variation to Condition No 2 (Phasing Plan) that was agreed in writing with LCC whereby 83 units were to be constructed in Phase 1 and 100 units to be constructed in Phase 2. As documented above a Cash Bond in the amount of €603,900 is due for the entre development of 183 units. While the phasing of a cash deposit bond is not referenced in either the LCC Development Levy – Bond Policy or the Development Plan (Volume 1) I note that Circular Letter PL 11/2013 (Provision of Security) issue by the Department of Environment, Community and Local Government Circular in June 2013 states that *the amount of security lodged with a local authority can follow the **phased approach** to development providing, sequentially, for:*

- a) *the lodgement of a security, followed by*
- b) *commencement of development of a specific phase, followed by*
- c) *completion of that phase to a standard agreeable to the local authority and then followed by*
- d) *release of the security for that phase and either lodgement of a new security for a further phase or a roll-over of the security for the previous phase to a further phase of development.*

The Circular further states that *it is very important in the situations described above that as part of the relevant planning permission, there is clarity between the planning authority and the developer as to the mechanism, including information required, e.g. cctv surveys, deflection/core sample tests for road surfaces etc and **timescales, for the signing off of specific phases in order for securities to be released or rolled over.** This signing off procedure should be in line with the taking in charge policy of the relevant local authority.* (emphasis added).

10.5.3. Having regard to Circular Letter PL 11/2013 (Provision of Security) I am satisfied that the *amount of security lodged with a local authority can follow the agreed phased approach to development whereby the Developer lodges a cash bond in the amount of €273,900 (83 units x €3300) (less €100,00 as this is already paid) for Phase 1 with the remainder of €330,000 (100 units x €3300) to be lodged prior to commencement of Phase 2 with all subject to clarity between the planning authority and the developer as to the mechanism and timescales, for the signing off of specific phases in order for securities to be released or rolled over in line with the taking in charge policy of LCC.*

10.6. Time Limitations

10.6.1. Section 34(5) of the Planning and Development Act 2000 as amended, states that where the authority, Louth County Council in this case, has not reached agreement with the developer on a point of detail relating to a grant of permission, namely the cash bond in this case, within 8 weeks the authority may either advise the developer accordingly in writing, or refer the matter to the Board for its determination. Where this does not occur within 8 weeks or a longer period as may be agreed, then that authority shall be deemed to have agreed to the points of detail as submitted. The full wording of this section of the Act is set out in Section 6.1 of this report above.

10.6.2. I refer to Section 9.3 of this report above where a summary of the correspondence between both parties that was made available with this case by both parties has been summarised. While I note there has been lengthy communication between the parties on the matter of bond payment between March 2024 and July 2025 I am satisfied that no issues arise in relation to time limits as set out in Section 34(5) of the Planning and Development Act 2000 as amended and that the Coimisiun can determine the case accordingly.

10.7. Other Matters

10.7.1. I note the Developers request that the Council repay each phase of the security within 14 days of the Councils taking in charge of that phase and that repayment is to be made in addition to reasonable interest in the amount of 10% per annum having regard to the interest charged by the Developers lenders in respect of the security.

10.7.2. In line with Circular Letter PL 11/2013 (Provision of Security) the planning authority and the developer shall agree as to the mechanism, including information required, e.g. CCTV surveys, deflection/core sample tests for road surfaces etc and timescales, for the signing off of specific phases in order for securities to be released or rolled over. This signing off procedure shall be in line with the taking in charge policy of Louth County Council.

11.0 Recommendation

11.1. It is my recommendation that the Commission determines that the amount of cash bond security of €603,900 (i.e. €3,300 per residential unit x 183 units) for the entire development is reasonable in respect of the permission granted (ABP-316990-23) whereby a cash bond in the amount of €273,900 (83 units x €3300) is to be lodged for Phase 1 with the remainder of €330,000 (100 units x €3300) to be lodged prior to commencement of Phase 2 all subject to clarity between the planning authority and the developer as to the mechanism and timescales, for the signing off of specific phases in order for securities to be released or rolled over in line with the taking in charge policy of LCC.

12.0 Reasons and Considerations

12.1. The Commission had regard to:

- a) Section 34(5) of the Planning and development Act 2000 as amended,
- b) the nature and extent of works covered by Condition 20
- c) the Development Management Guidelines for Planning Authorities, published by the Department of the Environment, Heritage and Local Government (2007 and 2020) and
- d) Circular Letter PL 11/2013 (Department of Environment, Community and Local Government) dated 20th June 2023 re Provision of Security provided under section 34(g) of the Planning and Development Act 2000 - 2010 for the satisfactory completion of residential housing developments.

13.0 Condition 20 as determined:

The developer shall lodge with the planning authority a cash deposit in the amount of €603,900 (six hundred and three thousand and nine hundred euro) (i.e. €3,300 per residential unit x 183 units) for the entire development 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 completion or maintenance of any part of the development. The security to be lodged shall be phased as follows -

- a) A cash sum in the amount of €273,900 (83 units x €3300) (less €100,000 already paid to Louth County Council) shall be lodged for Phase 1 with the remainder, in the amount of €330,000 (three hundred and thirty thousand euro) (100 units x €3300) to be lodged prior to commencement of Phase 2 all subject to clarity between the planning authority and the developer as to the mechanism, including information required, e.g. CCTV surveys, deflection/core sample tests for road surfaces etc and timescales, for the signing off of specific phases in order for securities to be released or rolled over. This signing off

procedure shall be in line with the taking in charge policy of Louth County Council.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Mary Crowley

Senior Planning Inspector

4th November 2025