



Planning and Development Acts 2000 to 2020

Planning Authority: Kildare County Council

Planning Register Reference Number: 19/841

Appeal by Eoin and Candace Sweeny of 3 Devoy Glade, Johnstown, County Kildare and by Paul Foley of 2 Saint Johns Way North, Johnstown, Naas, County Kildare against the decision made on the 7th day of April, 2020 by Kildare County Council to grant subject to conditions a permission to Ardstone Homes Limited care of Declan Brassil and Company Limited of Lincoln house, Phoenix Street, Smithfield, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Demolition of an existing habitable dwelling on site (170 square metres); works within the curtilage of Johnstown Lodge (a protected structure - RPS Register Reference B19-20), including the blocking up of two number access gates along the rear garden boundary wall and the construction of 33 number residential dwellings comprising of 4 number one bed Maisonette units (Type M); 2 number two bed bungalow units (Type BU); 8 number two bed mid and end of terrace units (Type B); 10 number three bed, semi-detached mid and end of terrace units (Type C); 3 number three bed, end of terrace units (Type C1); 6 number four bed, end of terrace units (Type D). The proposed development also includes the provision of two number pedestrian entrances to a public open space area from the Johnstown

Main Street; the provision of a pedestrian/vehicular entrance from the L6035 serving the proposed dwellings with pedestrian paths along the L6035 road frontage of the development and the provision of a pedestrian crossing to the opposite side of the L6035 with associated path upgrade works to the west of the proposed site entrance. The development incorporates all ancillary internal access roads, parking, infrastructure, landscaping, boundary treatments and all associated site and development works on a site measuring approximately 1.36 hectare at Johnstown, Naas, County Kildare.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to:

- the sites location within Johnstown Village on lands primarily zoned Objective B (Existing Residential) under the provisions of the Kildare County Development Plan 2017-2023,
- to the edge of town centre location, the infill character of the site, and the pattern of existing development in the area,
- to the nature, scale and design of the proposed development,
- to the provisions of the development plan with regard to settlement, and in particular the Core Strategy which identifies capacity for additional development within the designated village settlements of which Johnstown is one,
- to the provisions of the Guidelines on ‘Sustainable Residential Development in Urban Areas (Cities, Towns & Villages)’, issued by the Department of the Environment, Heritage and Local Government in May 2009, and
- to the provisions of the Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area including protected structures in the vicinity of the site and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 12th day of December, 2019 and the 12th day of March 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.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes and boundary treatments to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Proposals for an estate/street name, 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 estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

4. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 12th day of December, 2019, as amended by the further details submitted to the planning authority on the 12th day of March, 2020. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

5. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are completed to the satisfaction of the planning authority in consultation with the Parks and Landscape Services Department, and in accordance with the permitted landscape proposals.

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

6. Prior to the commencement of development, the following landscape and arboricultural items shall be complied with and requested details submitted for the written agreement of the planning authority:
- (a) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees, with the exception of trees identified for removal on the submitted drawings and in the Arborist's Report, as submitted to the planning authority on the 12th day of December, 2019, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected.
 - (b) The detailed alignment of the proposed paths through the northern open space area that ensures the alignment is outside of the tree protection zone of all the trees proposed for retention in this area.
 - (c) Details of the design and construction methodology for paths in the northern open space area.
 - (d) Details of the proposed railings bounding the northern open space area.
 - (e) No works shall take place on site until a Construction Management Plan specifying measures to be taken for the protection and retention of the trees, together with proposals to prevent compaction of the ground over the roots of the trees, has been submitted to, and been agreed in writing with, the planning authority. Any excavation within the tree protection areas shall be carried out using non-mechanised hand tools only.

Reason: To ensure that the trees are not damaged or otherwise adversely affected by building operations.

7. 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.

Reason: In the interests of amenity and public safety.

8. 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.

9. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

Reason: In the interest of public health.

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

Reason: In the interest of public health.

11. (a) The roads and traffic arrangements serving the site, including the pedestrian crossings of the L-6035 shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.
- (d) The materials used, including tactile paving, in any roads/footpaths provided by the applicant shall comply with the detailed standards of the planning authority for such road works.
- (e) Prior to the commencement of development, the developer shall submit a revision to the Existing Footpaths and Proposed Site Across (L-6034) Plan drawing number 190006-9001 submitted to the planning authority on the 12th day of December, 2019, indicating a two metre wide reinforced concrete footpath to the western side of the site entrance within the red line of the application site and the relocation of the pedestrian crossing to a location to the west of the entrance.

Reason: In the interests of traffic and pedestrian safety.

12. 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 be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act, 2000, as amended, and of the housing strategy in the development plan of the area.

13. 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 -
 - (a) prior to the commencement of development, provide for the establishment of a buffer zone of an extent to be agree with the planning authority in around the proposed open space area in the vicinity of the church and graveyard site. This area shall be fenced off from the rest of the site and no ground disturbance shall occur within this area and it shall not be used as a site compound or for the storage of any equipment or materials,

- (b) known archaeological features discovered during the course of test excavations in March 2018 shall be the subject of archaeological excavation. Features to be excavated are identified in the Archaeological Assessment report submitted with the planning application of archaeological test excavations as being in areas Archaeological Area 1, Archaeological Area 3 and the part of Archaeological Area 2 that is not to be preserved in situ in the buffer zone,
- (d) full excavation shall only proceed once the full extent of archaeological features has been established by the removal of topsoil under archaeological supervision,
- (e) if human remains are found in close proximity to the existing graveyard, they should not be excavated in advance of notification to and the agreement of the Department of Culture, Heritage and the Gaeltacht,
- (f) 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,
- (g) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (h) 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.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

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.

14. The construction of the development shall be managed in accordance with a detailed 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 noise management measures, site operational hours and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

15. A detailed Construction Traffic Management Plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, signage, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of public safety and residential amenity.

16. The mitigation measures contained in the Acoustic Design Statement received by the planning authority on the 12th day of December, 2019 shall be incorporated into the design. Details of these mitigation measures, including their location on the elevation of all units, shall be submitted for the written agreement of the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

18. 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 of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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

Dated this day of 2020.