



An  
Bord  
Pleanála

**Board Direction**  
**BD-006338-20**  
**ABP-306504-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 05/05/2020 and following the holding of a limited agenda oral hearing a further meeting was held on 26/08/2020.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

## **REASONS AND CONSIDERATIONS**

In coming to its decision, the Board had regard to the following:

- (a) the policies and objectives set out in the Kildare County Development Plan 2017-2023,
- (b) the provisions of the Local Area Plan for Celbridge LAP 2017-2023 including the zoning of the site for residential development
- (c) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (d) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended
- (e) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (f) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018
- (g) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009

- (h) the pattern of existing and permitted development in the area, and the situation of the site adjoining the built-up area of Celbridge and within the footprint of the town
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a range of social, community and transport infrastructure,
- (k) Section 37(b)(2) of the Planning and Development Act 2000, as amended, whereby the Board is not precluded from granting permission for a development which materially contravenes a Development Plan;
- (l) the submissions and observations received, and
- (m) the report of the Chief Executive of Kildare County Council
- (n) the report and addendum report of the inspector

### **APPROPRIATE ASSESSMENT SCREENING**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the Screening for Appropriate Assessment submitted with the application, the Inspector's Report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **ENVIRONMENTAL IMPACT ASSESSMENT**

The Board completed, in compliance with s.172 of the Planning and Development Act 2000, an Environmental Impact Assessment of the proposed development, taking into account:

- The nature, scale and extent of the proposed development;
- The Environmental Impact Assessment Report and associated documentation submitted in support of the application, and clarification provided at the oral hearing held on the 29<sup>th</sup> July 2020;
- The submissions from the applicant, Planning Authority, the observers and the prescribed bodies in the course of the application; and
- The Planning Inspector's report and addendum report.

The Board considered that the Environmental Impact Assessment Report, supported by the documentation submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. The Board is satisfied that the information contained in the EIAR complies with the provisions of EU Directive 2014/52/EU amending Directive 2011/92/EU.

The Board generally agreed with the summary and examination, set out in the Inspector's reports, of the information contained in the Environmental Impact Assessment Report and associated documentation submitted by the applicant and submissions made in the course of the application, with the exception of Landscape & Visual Amenity, Traffic & Transportation, Biodiversity, water and wastewater. The Board is generally satisfied that the Inspector's reports set out how these were addressed in the assessment.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the EIAR and in the submissions made at the oral hearing, and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable. In doing so, the Board adopted the report and conclusions of the reporting inspector.

## Reasoned Conclusions on the Significant Effects

The Board considered that the main significant direct and indirect effects of the proposed development on the environment are, and will be mitigated as follows:

- **Population:** Significant direct positive effects with regard to population due to the increase in the housing stock and economic activity.
- **Landscape and Visual Amenity:** Potential direct negative effects on the landscape and visual amenity through the loss of mature hedgerow and a tree line. These effects will be mitigated by proposed mitigation measures outlined in Chapter 14–Landscape and Visual Assessment and Chapter 16-Summary of Mitigation Measures of the EIAR including the retention and augmentation of existing planting and replacement hedgerow planting.
- **Traffic and Transportation:** Potential negative effects on Traffic and Transportation arising from the additional traffic generated by the proposed development. These effects will be mitigated by proposed mitigation measures outlined in Chapter 11–Material Assets: Traffic & Transport and Chapter 16-Summary of Mitigation Measures of the EIAR and the attached planning conditions including traffic calming measures, independent road safety audits, revised access and road layout arrangements, a detailed construction management plan and construction traffic management plan.
- **Biodiversity:**  
Potential direct effects with regard to loss of Habitat and Green Infrastructure. To offset the loss of higher significance hedgerow and treelines it is proposed to create new, biodiversity planting within areas of public open space and along new routes and boundaries within the development. This planting will effectively create a new biodiversity corridor which will provide connectivity for the species which are currently recorded in this location. While this woodland will take time to mature it will ultimately compensate for the loss of hedgerows and green infrastructure arising from the development.

Potential indirect effects to species, including Bats, during construction and operational phases. Although site surveys for Biodiversity purposes were carried out in December 2018 and November 2019, which is not an optimal season for surveying habitats and breeding birds, a further survey (within the optimal season for general habitat survey) was carried out on June 30<sup>th</sup> 2020 (by Pádraic Fogarty- OPENFIELD Ecological Services). A Bat Assessment of the lands at Crodaun (by ecologist Brian Keely) was carried out on the 8<sup>th</sup> and 9<sup>th</sup> June 2020 which demonstrated that subject to condition the impact upon biodiversity and bats is acceptable. Therefore, these indirect effects to species, including bats, will be mitigated by proposed mitigation measures outlined in Chapter 6–Biodiversity of the EIAR, and the proposed mitigation measures outlined in the Bat Assessment report.

- **Noise and Vibration and Air:** During the construction phase these effects will be short-term in nature and will be mitigated by measures outlined in Chapters 9 and 10 of the EIAR and the proposed mitigation measures outlined in Chapter 16 – Summary of Mitigation Measures.
- **Water:** Potential indirect effects on water during construction and operational phases which will be mitigated as outlined in Chapter 12-Material Assets-Site Services/Utilities and Chapter 16-Summary of Mitigation Measures of the EIAR through construction management and by the proposed surface water management and attenuation system with respect to stormwater runoff, the drainage of foul effluent to the public foul sewerage system, and flood mitigation measures which will be mitigated during construction. The Board noted that future sewer system upgrades are indicatively scheduled for completion in 2021, with advance options for Storm Water separation and Optimisation of pump stations in Celbridge should connections be sought pre-2021 and that Irish Water has issued a Statement of Design Acceptance for the development proposal.

The proposed development is not likely to have significant adverse effects on human health, land and soil, climate, micro-climate, material assets and archaeological, architectural and cultural heritage. Further it is not likely to increase the risk of natural disaster.

The EIAR has considered that the main significant direct and indirect effects of the proposed development on the environment would be primarily mitigated by environmental management measures, as appropriate.

The Board completed an Environmental Impact Assessment in relation to the proposed development and concluded that, subject to the implementation of the mitigation measures proposed as set out in the EIAR and in the submissions made at the oral hearing, and, subject to compliance with the conditions set out herein, the effects on the environment of the proposed development by itself and cumulatively with other development in the vicinity would be acceptable.

In deciding not to accept the inspectors reasoned conclusions in their entirety, the Board considered that the identified impacts would be avoided, managed and mitigated by the measures which form part of the proposed scheme and that the direct or indirect impacts in terms of Landscape & Visual Amenity, Traffic & Transportation, Biodiversity and Water and Wastewater have been adequately addressed. The Board considered that whilst an increase in utilisation of road junctions are predicted they will operate within acceptable peak hour operational performance, and that cycle parking provisions would encourage a modal split shift towards cycling for short to medium distance trips and would not have an adverse effect on traffic safety.

Furthermore, the Board did not agree that the development would be discordant by reference to the receiving Gateway location and location of the site adjacent to Castletown Demesne, and considered that the overall approach in terms of urban structure, architectural language and material finish was to a sufficiently high enough standard. The Board further considered that the EIAR and associated documentation submitted in support of the application and clarification provided at the oral hearing held on the 29<sup>th</sup> July 2020, together with the proposed mitigation measures, which include additional planting to integrate existing hedgerows thereby maintaining a

network of habitats. The Board considered, therefore, that the landscape, visual amenity and biodiversity issues raised have been adequately addressed.

The Board also considered that potential effects on water and wastewater during construction and operational phases will be adequately mitigated and that the development is not premature given that future sewer system upgrades are indicatively scheduled for completion in 2021, with advance options for Storm Water separation and Optimisation of pump stations in Celbridge should connections be sought pre-2021.

### **CONCLUSIONS ON PROPER PLANNING AND SUSTAINABLE DEVELOPMENT:**

The board considered that, subject to compliance with the conditions set out below, the proposed development would provide housing of an appropriate form and density at a suitable location; that it would achieve an acceptable standard of urban design and make a positive contribution to the character of the area and the town; that it would provide a proper standard of residential amenity for its occupants; that it would not seriously injure the residential or visual amenities of the area or of property in the vicinity; that it would have the benefit of adequate water supply and drainage and would not give rise to an undue risk of flooding; and that it would be acceptable in terms of safety and convenience of road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the provisions at section 12.2.4 of the Local Area Plan for Celbridge 2017-2023 restricting the density of residential development in the Crodaun Key Development Area in relation to density.

The Board considers that, having regard to the provisions of section 37(2) of the Planning and Development Act 2000, as amended, the grant of permission in

material contravention of the Local Area Plan would be justified for the following reasons and consideration.

In relation to section 37(2)(b) (i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016. The proposed development is of strategic importance to the development of Celbridge in line with national policies to provide for compact growth within the Dublin MASP, and in proximity to public transport.

In relation to section 37(2)(b) (ii) of the Planning and Development Act 2000 (as amended):

the Kildare County Development Plan 2017-2023 provides for a density range of 35-50 uph on 'Outer Suburban / Greenfield' sites in Large Towns. A large town is defined as a town with a population of over 5,000. The population of Celbridge at the 2016 Census was 20,288 persons. The estimated residential capacity specified for KDA 4 in Table 4.1 of the Celbridge local area plan 2017 is 25uph – 30uph. Therefore, there are conflicting statements in the LAP and the appropriate density (as provided for in the Kildare County Development Plan 2017-2023) should be 35-50 uph.



In relation to section 37(2)(b) (iii) of the Planning and Development Act 2000 (as amended):

Permission for the development should be granted having regard to guidelines under section 28 of the Act ,having particular regard to the advice contained at section 5.11 of the guidelines issued by the minister in 2009 on Sustainable Residential Development in Urban Areas that residential development on outer suburban greenfield sites should be at densities between 35 and 50 dwellings per hectare, with which the proposed development would comply..

In deciding not to accept the Inspector's first reason for refusal the Board considered that, subject to the conditions attached, the proposal would be acceptable in terms of design and layout and would not be seriously injurious to residential amenity of future occupants, and would not be contrary to Policy HD1 and Objective HDO 2 of the Kildare County Development Plan 2017-2023 or the Urban Design Manual Best Practice Guidelines (DEHLG, 2009).

In deciding not to accept the Inspector's second reason for refusal the Board considered that, subject to the conditions attached, the proposed development does integrate with existing hedgerows to retain connectivity through the site for biodiversity, as well as joining up with other hedgerows and green spaces beyond the development site boundary, and is in compliance with Article 10 of the Habitats Directive.

In deciding not to accept the Inspector's third reason for refusal the Board considered that, subject to the conditions attached, the proposed development is not premature and that existing deficiencies in the wastewater sewerage network in the area will be addressed by future upgrades which are indicatively scheduled for completion in 2021, with advance options for Storm Water separation and Optimisation of pump stations in Celbridge should connections be sought pre-2021.

In deciding not to accept the Inspector's fourth reason for refusal the Board considered that, subject to the conditions attached, the proposed development would not endanger public safety by reason of a traffic hazard or conflicts between road users.

## **Conditions**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application and to the oral hearing, 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, or as otherwise stipulated by conditions hereunder, and the proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Environmental Impact Assessment Report submitted with this application as set out in Chapter 16 of the EIAR 'Summary of Mitigation Measures', and as detailed in the Bat Assessment Report 'A Bat Assessment of the Lands at Crodaun, Celbridge, Co. Kildare Proposed For Development and Implications for Resident and Local Bat Fauna' submitted at the Oral Hearing shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.

3. A suitably qualified Ecological Clerk of Works (ECoW) shall be appointed by the developer to oversee the site set-up and construction of the proposed development and the Ecological Clerk of Works shall be present on-site during construction works. The Ecological Clerk of Works shall ensure the implementation of all mitigation measures proposed in the Environmental Impact Assessment Report and subsequent reports submitted to the Oral Hearing. Prior to commencement of

development, the name and contact details of said person shall be submitted to the planning authority. Upon completion of works, an audit report of the site works shall be prepared by the appointed Ecological Clerk of Works and submitted to the planning authority to be kept on record.

**Reason:** In the interest of nature conservation.

4. The proposed development shall be amended as follows:

(a) The 12 number car parking spaces opposite unit nos. 003, 004 and 005 shall be omitted and the area replaced with quality landscaped public open space.

(b) Rear garden access gates for residential amenity are to be provided to each of the units of both T2 blocks (i.e. units 177 to 183 and 001 to 007).

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

5. Prior to the commencement of development, the developer shall submit details of the streets within the development that demonstrate compliance with the specifications of the Design Manual for Urban Roads and Streets in relation to the width of carriageways and footpaths and the corner radii at junctions, for the written agreement of the planning authority:

**Reason:** To ensure that the streets in the authorised development facilitate safe movement by sustainable transport modes in accordance with the applicable standards set out in the Design Manual for Urban Roads and Streets and the National Cycle Manual

6. The materials, colours and finishes of the authorised buildings, the treatment of boundaries within the development and the landscaping of the site shall generally be in accordance with the details submitted with the application, unless the prior written agreement of the planning authority is obtained to minor departures from those details.

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

7. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of residential and visual amenity.

8. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

9. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. 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.

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

10. 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 signs, and numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority.

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

11. 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.

12. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan. This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted. This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

13. The management and maintenance of the proposed apartment buildings and their associated land, as set out on the 'Taking-in -Charge' plan submitted with the application, shall be the responsibility of a legally constituted management company. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

14. 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.

15. The development shall be carried out on a phased basis, in accordance with a phasing scheme, including the development of the crèche building in Phase 1 and those associated works which accompany same, that shall be agreed in writing with the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services in the interests of public health for the benefit of the occupants of the proposed dwellings.

16. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

17. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of electric vehicle charging points/stations at a later date. Proposals to achieve this shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

18. The construction of the development shall be managed in accordance with a Construction and Environmental 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:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and on-site car parking facilities for site workers during the course of construction and the prohibition of parking on neighbouring residential streets;

(b) 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; measures to obviate queuing of construction traffic on the

adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(d) 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.

A record of daily checks that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

**Reason:** In the interests of amenities, public health and safety.

19. Site development and building works shall be carried out only between 0700 to 1900 hours Mondays to Saturdays inclusive, 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.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

20. 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.

**Reason:** In the interest of sustainable waste management.

21. 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) 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,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (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.

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.

22. 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.

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

23. Prior to commencement of development, the developer 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.

24. 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.

**Board Member**

**Date:** 27/08/2020

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Stephen Bohan