

An
Bord
Pleanála

Board Direction
BD-010850-22
ABP-310219-21

The submissions on this file and the Inspector's report were considered at a Board meeting held on 08/06/2022.

The Board decided to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the nature and scale of the proposed residential development, within the village of Ballitore and on a site with a 'New Residential' zoning objective, it is considered that, the proposal would be in accordance with the Kildare County Development Plan 2017-2023, and subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of pedestrian and traffic safety and would constitute an appropriate form of development on these zoned lands. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment – Stage 1 (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 Inspector's Report, and the 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 other than the River Barrow and River Nore Special Area of Conservation (Site Code 002162) where the proposed development has the potential to have a significant effect in view of the conservation objectives for these sites and for which Appropriate Assessment is, therefore, required.

Appropriate Assessment Stage 2

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development on the River Barrow and River Nore Special Area of Conservation (Site Code 002162) in view of the site's conservation objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives using the best available scientific knowledge in the field.

In completing the assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European site.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European site, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European site in view of the site's conservation objectives. This

conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 10th March 2020, as amended by the further plans and particulars submitted on the 9th March 2021, 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. Prior to the commencement of any development on site, the development shall be amended as follows and shall be agreed in writing with the Local Authority:
 - The existing stone rubble wall fronting onto Fuller's Court Road shall be retained and repaired. Where interventions are necessary, the proposals should be accompanied with a detailed method statement for the repair of the stone rubble wall with the cement and mortar to be removed and replaced with a non-cementitious traditional lime mortar. The works shall be carried out under the professional supervision of an architect or expert with specialised conservation expertise.

Reason: In the interest of protecting the architectural heritage and integrity of the adjoining Architectural Conservation Area and to reduce the impact on the character and setting of the adjoining protected structures.

3. House numbers 1 and 2 shall be omitted and any proposed development of this portion of the site for houses shall be the subject of a separate application for planning permission.

Reason: It is considered that the proposed design and position of these houses as set out in the application documentation is unsatisfactory.

4. The developer shall ensure that all construction methods and environmental mitigation measures set out in the Natura Impact Statement are implemented in full, save as may be required by conditions set out below.

Reason: In the interest of protection of the environment.

5. Prior to the commencement of development, the developer shall submit, for the written agreement of the Planning Authority, a Japanese Knotweed Invasive Species Management Plan which shall include measures for the eradication of the Invasive Species and timeframes for same. Construction shall not commence until the Japanese Knotweed has been eradicated from the site to the satisfaction of the Planning Authority. The developer shall consult with the Inland Fisheries Ireland and the Heritage Officer and/or the Parks Department of Kildare County Council, prior to the preparation of the Plan.

Reason: To prevent the spread of Japanese Knotweed.

6. 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.

7. Prior to commencement of development, the developer shall enter into water/wastewater connection agreement/s with Irish Water.

Reason: In the interest of public health.

8. All planting/landscaping required to comply with the specification of the landscaping scheme submitted to the planning authority on the 9th day of March 2021 shall be

maintained, and if any tree or plant dies or is otherwise lost within a period of five years, it shall be replaced by a plant of the same species, variety and size within the planting season following such loss.

Reason: In the interest of visual amenity.

9. The areas shown as public open space on the lodged plans shall be reserved for such use. The public open space shall be completed and fully landscaped before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.

Reason: In the interest of the amenities of the occupants of the proposed housing.

10. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

Reason: In the interest of visual amenity.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.

Reason: In the interest of amenity and public safety.

12. 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. All existing over ground cables crossing or bounding the site shall be relocated underground as part of the site development works, at the developer's expense.

Reason: In the interests of visual and residential amenity.

13. Proposals for the development name and house numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior

to commencement of development. Thereafter, signs and numbers, shall be provided in accordance with the agreed scheme. 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.

14. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with all relevant provisions of DMURS for such works.

Reason: In the interests of amenity and of pedestrian and traffic safety.

15. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points. Details of how it is proposed to comply 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 sustainable transportation.

16. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including, noise management measures and off-site disposal of construction/demolition waste.

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

17. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal

of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

18. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

19. 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 within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

20. Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

21. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

22. 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 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.

23. 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 of roads, footpaths, watermains, drains, 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 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.

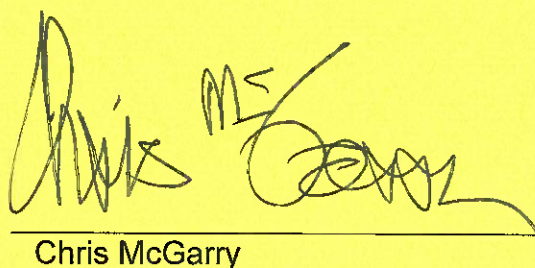
Reason: To ensure the satisfactory completion of the development.

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.

Note: The Board noted recommended condition no. 2 of the Inspector which sought design changes to house numbers 1 and 2 by reference to repositioning on site and also to a change to the roof profile and pitch. These recommended conditions reflect those set out by the planning authority in its decision. While the Board did not disagree with the principle of these changes, it was concluded there is uncertainty as to the precise consequence of these, in terms of site position and final visual form and design. Given the location of these proposed houses adjoining a protected structure and an Architectural Conservation Area, it was determined that the detail submitted with the application is unsatisfactory and that the imposed condition would leave uncertainty as to the final form and design of these houses, which would perform an important visual role along the street frontage at this location. In this regard it was determined that these houses should be omitted from the permission. However, the siting of two fully designed houses at this portion of the site is considered by the Board to be appropriate in principle and subject to the full scrutiny of a separate planning permission.

Board Member



Chris McGarry

Date: 08/06/2022