

An  
Bord  
Pleanála

**Board Direction**  
**BD-011346-22**  
**ABP-313276-22**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 28/09/2022.

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**

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

- (a) The policy and objectives set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midlands Regional Assembly,
- (b) The policies and objectives set out in the Kildare County Development Plan 2017-2023 as amended by Variation No. 1 (June, 2020),
- (c) The policies and objectives set out in the Naas Local Area Plan 2021-2027,
- (d) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (e) 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 2013, as amended, the

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009

- (f) The Guidelines for Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (g) The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in December 2020,
- (h) Architectural Heritage Protection – Guidelines for Planning Authorities, issued by the Department of Arts, Heritage and the Gaeltacht in October 2011,
- (i) The Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (j) The nature, scale and design of the proposed development,
- (k) The availability in the area of a range of social, community and transport infrastructure,
- (l) The pattern of existing and permitted development in the area,
- (m) The planning history of the site and within the area,
- (n) The submissions and observations received,
- (o) The report of the Chief Executive of Kildare County Council, and
- (p) The 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, and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway

considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment Screening documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and 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 and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment**

The Board completed an environmental impact assessment screening of the proposed development and considered the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Having regard to:

- a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) The location of the site on lands governed by zoning objective C: New Residential, and zoning objective A: Town Centre,
- c) The existing use on the site and pattern of development in surrounding area,
- d) The planning history relating to the site,
- e) The availability of mains water and wastewater services to serve the proposed development,
- f) The location of the development outside of any sensitive location specified in article 299(C)(1)(a)(v)(I) of the Planning and Development Regulations 2001 (as amended),
- g) The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003),



- h) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- i) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Waste Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

### **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, as well as in terms of parking provision and layout, and traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

### **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 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 Ecological (Biodiversity) Appraisal submitted with this application, 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. Prior to commencement of any works on site, revised details shall be submitted with regard to the following:

- (a) Revised plans and particulars in relation to the western boundary, which shall comprise an existing hedgerow to be retained, supplemental native planting along the hedgerow boundary, and three pedestrian connections up to the boundary with Arconagh estate. The location and design of the pedestrian connections to Arconagh estate shall be agreed in writing with the planning authority prior to the commencement of development.
- (b) The developer shall agree in writing with Kildare County Council the detailed design and construction of Street 1 as shown on the Proposed Site Layout Plan (19024DEV-MCO-00-ZZ-DR-A-0505) and its connection to the roundabout on John Devoy Road, which shall include provision for a more cycle friendly connection from the site entrance linking to the existing cycle paths to the northeast and southwest along John Devoy Road and include provision for the extension of the cyclepaths to the entrance of the development, subject to agreement with Kildare County Council.
- (c) The 2m high block wall to the rear of dwelling no. 160 shall be extended westwards to extend along the entire rear boundary of existing dwelling no. 8 Devoy Terrace.

- (d) The proposed unit type A3 on plot no. 129-130 shall be revised to provide additional fenestration on the gable elevation to enable adequate overlooking of the adjoining open space.
- (e) The proposed unit type C2 on plot no. 202-203 shall be revised to provide additional fenestration on the gable elevation to enable adequate overlooking of the adjoining pathway along the eastern boundary.
- (f) Full details of privacy screens between balconies of the apartments.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the relevant planning authority prior to commencement of development. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of proper planning and sustainable development and to safeguard the amenities of the area.

- 4. No additional development shall take place above roof parapet level of the apartment buildings, 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, and to allow the planning authority to assess the impact of any such development through the planning process.

- 5. A revised comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:

- (a) Revised plans and particulars detailing the location, design and finishes of one pedestrian connection only to Arconagh estate,



one pedestrian connection point to the east (neighbouring the MERITS building), and one pedestrian connection point to the north to St. Patrick's Terrace.

- (b) Revised plans and particulars in relation to the layout and design of the western boundary and supplemental native hedgerow planting. Details in relation to how existing trees and hedgerows to the west are to be maintained shall be agreed on site with the planning authority, in the presence of the site ecologist. Details in relation to a construction methodology, specifications, plan and section drawings, shall be submitted for the written agreement of the planning authority prior to the commencement of development.
- (c) Revised plans and particulars in relation to the boundary treatment to the swale in the southeast corner of the development.
- (d) Details in relation to layout and design of play facilities and equipment across the scheme;
- (e) Details and specifications in relation to the north-south linear route along the eastern boundary and proposed central open space to the east of site, including details in relation to ground levels, paving, planting, and seating areas;
- (f) Details in relation to the interface of site services and trees/hedgerows to be retained;
- (g) Details in relation to public furniture/benches;
- (h) Proposed locations of trees at appropriate intervals and other landscape planting in the development, including details of the size, species and location of all vegetation, including biodiversity enhancement measures and details in relation to the source of wildflower seeds;
- (i) All planting shall be adequately protected from damage until established and maintained thereafter. Any plants which die,

are removed or become seriously damaged or diseased in the first 5 years of planting, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme;

- (j) Any clearance of vegetation from the development site shall only be carried out in the period between the 1st of September and the end of February i.e. outside the main bird breeding season.

**Reason:** In the interest of amenity, ecology and sustainable development, to provide for the conservation of species of fauna protected under the Habitats Directive (92/43/EEC) and the Wildlife Acts (1976 to 2018) and to provide for the conservation of bat species afforded a regime of strict protection under the Habitats Directive (92/43/EEC).

- 6. a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees and hedgerows which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.



(c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s) proposed to be retained, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained on the site, unless by prior agreement with a specialist arborist.

**Reason:** To protect trees, hedgerows and planting during the construction period in the interest of visual amenity.

7. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

8. Details of the materials, colours and textures of all the external finishes to the proposed buildings and detailed public realm finishes, including pavement finishes and bicycle stands, shall be submitted to, and agreed in writing with, the relevant planning authority prior to commencement of development.

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

9. Details of the proposed signage to the childcare facility to be submitted prior to occupation for the written agreement of the planning authority. The proposed childcare facility shall be provided and retained as part of the development with access provided to both residents of the development and the wider community on a first come first served basis.

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

10. All plant including extract ventilation systems and refrigerator condenser units shall be sited in a manner so as not to cause nuisance at sensitive locations due to odour or noise. All mechanical plant and ventilation inlets and outlets shall be sound insulated and/or fitted with sound attenuators to ensure that noise levels do not pose a nuisance at noise sensitive locations.

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

11. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the relevant planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

12. 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/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any house.

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

13. 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.

14. (a) Details of the bicycle parking space location, layout, access, storage arrangement for bicycles, marking demarcation, and security provisions for bicycle spaces shall be submitted for the

written agreement of the planning authority prior to commencement of development.

- (b) Electric charging facilities shall be provided for bicycle parking and proposals shall be submitted to and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, and in the interest of orderly development and to provide for and future proof the development as would facilitate the use of electric bicycles.

15. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, vehicular entrances and undercroft car park shall be in accordance with the detailed construction standards of the relevant planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination. In this regard the following shall be submitted for the written agreement of the relevant planning authority prior to the commencement of development:

- (a) A minimum of two of the on-street car parking spaces shall be reserved as car club spaces, the location of which shall be submitted for the written agreement of the planning authority prior to the commencement of development.
- (b) Prior to the occupation of the development, a Car and Cycle Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the planning authority. This plan shall provide for the permanent retention of the designated residential parking spaces and shall indicate how these and other spaces within the development shall be assigned, segregated by use and how the car park shall be continually managed.



- (c) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, with the exception of the car share spaces, unless the subject of a separate grant of planning permission.

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

16. A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points have not been submitted with the application, in accordance with the above noted requirements, such proposals 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.

17. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development the developer shall submit to the relevant planning authority for written agreement a Stage 2 – Detailed Design Stage Stormwater Audit. Upon completion of the development, a Stage 3 Completion Stage Stormwater Audit to demonstrate that Sustainable Urban Drainage Systems measures have been installed, are working as designed, and that there has been no misconnections or damage to stormwater drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health and surface water management.

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

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

19. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees and hedgerows on site to be retained and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any trees and hedgerows on the site or the replacement of any such trees and hedgerows which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

20. 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 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.

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

21. 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 for the Preparation of Resource and Waste management Plan for Construction and Demolition Projects", published by the EPA in 2021. 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.

22. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

23. Site development and building works shall be carried out only between the hours of 0700 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.

24. Prior to the commencement of any house or duplex unit 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 duplex units permitted, to first occupation by individual purchasers, ie 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.

25. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. 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.

26. 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.

27. 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 reinstatement of public roads which may be damaged by the transport of materials to the site, 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.

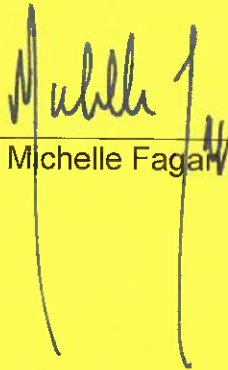
**Reason:** To ensure the satisfactory completion of the development.

28. 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**



Michelle Fagan

**Date:** 07/10/2022



