



The submissions on this file and the Inspector's report were considered at a Board meeting held on 25/04/2024.

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

Reasons and Considerations

Having regard to the provisions of the Kildare County Development Plan 2023-2029, the land use zoning objective pertaining to the application site, to the existing pattern of development in the vicinity of the site and the design and layout of the proposed development that took due cognisance of that existing pattern of development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of properties in the vicinity, would not adversely impact on local ecology, would not be detrimental to the character and amenity of the area, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board agree with the Inspector's concerns in relation to potential impacts on '26-29 The Court' but considered that this could be addressed by way of condition (see condition no. 3 hereunder) and a refusal was unwarranted. The Board disagreed with the Inspector's assessment in relation to '1-4 The View' and considered that the location and design of the proposed dwelling to the south of this existing apartment block did take account and due regard of the location of the existing windows to habitable rooms in this block. (In relation to matters raised by the Inspector in relation to potential impacts on badgers, the Board noted that the Inspector did not recommend refusal in relation to this matter, furthermore, the Board noted that there was no evidence submitted by any party or observer to the appeal that there were any badger setts on the application site and the Board was satisfied with the mitigation measures in relation ecological protection as contained within the 'Ecological Impact Assessment' received by the planning authority on the 18th day of November 2022.)

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 8th day of June 2023 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. The site layout plan, including the car parking provision, shall be as indicated on the drg. titled 'Proposed Site Layout Plan' (Layout ID P-02) received by the planning authority on the 18th day of November 2022 except as may otherwise be required in order to comply with the following condition.

Reason: In the interests of clarity, pedestrian and traffic safety.

3. The dwelling (type HT-A1) immediately to the south of the existing apartment block '26-29 The Court' shall be located on site as indicated on drg. titled 'Proposed Site Layout Plan' (Layout ID P-02) received by the planning authority on the 18th day of November 2022 (and not as indicated on the amended plans and particulars received by the planning authority on the 8th day of June 2023).

Reason: To protect the aspect from the existing south-facing windows to the habitable rooms in the adjacent residential development '26-29 The Court'.

4. The 3 no. dwellings proposed at the eastern end of the application site, to the south of the existing apartment block '1-3 The Avenue' shall be omitted. (This area shall be maintained as open space unless permission is granted at some future stage for development at this location.)

Reason: It is considered that the amenity value of the private open space provision for these dwellings would be significantly compromised by reason of overlooking from the existing windows in the apartment block '1-3 The Avenue', given, *inter alia*, the limited separation distance between the existing apartment block and the private open spaces to the proposed dwellings, and

the specific configuration/siting of the 3 proposed dwellings relative to the said existing apartment block.

5. 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.

Reason: In the interest of visual amenity.

6. Water supply and drainage arrangements, including the 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. The developer shall enter into water and wastewater connection agreements with Uisce Éireann, prior to commencement of development.

Reason: In the interest of public health.

8. Subject to condition no. 2 above, the internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

9. A minimum of 10% of all communal car parking spaces should 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 has 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.

10. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes, 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.

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. 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.

Reason: In the interest of urban legibility.

13. 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.

14. 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,
- (b) location of areas for construction site offices and staff facilities,
- (c) details of site security fencing and hoardings,

- (d) details of on-site car parking facilities for site workers during construction,
- (e) details of 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,
- (f) measures to obviate queuing of construction traffic on the adjoining road network,
- (g) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (h) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (i) details of appropriate mitigation measures for noise, dust and vibration, and the location and frequency of monitoring of such levels,
- (j) 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.
- (k) means to ensure that surface water run-off is controlled such that no silt or other pollutants/contaminants enter local surface water sewers or drains,
- (l) a record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority,
- (m) measure to fully remediate the site in accordance with a Construction Stage Invasive Plant Species Management plan, in advance of the commencement of construction activities.

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

15. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how

the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

16. 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 own-door unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts such houses 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.

17. 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.

18. 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.

19. 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



Tom Rabbette

Date: 26/04/2024