

An
Bord
Pleanála

Board Direction
BD-018523-24
ABP-318813-24

The submissions on this file and the Inspector's report were considered at a Board meeting held on 18/12/2024.

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 planning history of the site, including an extant permission; its partially developed nature and the availability of adequate services; its relationship with, and connections to, the adjoining residential development to the south; and the incorporation of potential housing yields from lands previously zoned under the Ferrybank-Belview Local Area Plan 2017 into higher level growth targets set out in the Kilkenny City and County Development Plan 2021-2027 and the Regional Spatial & Economic Strategy for the Southern Region; the Board considered that the development of the site for residential purposes would be consistent with the proper planning and sustainable development of the area.

Having regard to the provisions of the Kilkenny City and County Development Plan 2021-2027; the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage (January 2024); Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage (July 2023); and Delivering Homes, Sustaining Communities and the accompanying Best Practice Guidelines -

Quality Housing for Sustainable Communities, issued by the Department of the Environment, Heritage and Local Government in 2007; the pattern and character of development in the area; and the design and scale of the proposed development; the Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable quantum and quality of residential development at this peripheral location, would not seriously injure the amenities of surrounding properties or detract from the character or visual amenity of the area, would be adequately served by existing and proposed infrastructure, and would be acceptable in terms of traffic safety and convenience.

The Board considered that the proposed development would be compliant with the Kilkenny City and County Development Plan 2021-2027, with the exception of the proposed quantity of public open space, which would fall marginally short of the requirements of section 13.20.3 of the Plan. However, the Board did not consider that this would materially contravene the Development Plan and concluded that the quantity of public open space would be acceptable having regard to Policy and Objective 5.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 14th day of November 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, 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. The proposed development shall be amended as follows:
 - (a) Privacy screening / planting (at least 1.5 metres in width) shall be provided around the private amenity spaces of the ground floor duplex units.
 - (b) Privacy screening (at least 1.8 metres high) shall be provided on the southern side of the first-floor balcony space for Duplex Unit F4'h'.
 - (c) The first-floor balcony spaces shall otherwise be bounded by obscured glazing.
 - (d) The separation distance between the side of House no. 22 and No. 16 Mayfield Road shall be at least 2.3 metres.

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: To protect the residential amenities of existing and future residents.

3. The hydro-brake associated with the existing on-site attenuation system shall be upgraded in accordance with details to be submitted to, and agreed in writing with, the planning authority prior to commencement of development. No unit within the proposed development shall be occupied until the agreed works have been completed to the satisfaction of the planning authority.

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

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

Reason: In the interest of visual amenity.

5. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the 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.

6. 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, and shall comply, in all respects, with the standards set out in Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. Details of same shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

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

7. Precise details of the proposed pedestrian connections to Rockshire Road shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

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

8. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future 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 transport.

9. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of existing trees to be retained in accordance with the Tree and Hedgerow Survey. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity, public safety, and nature conservation.

10. 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.

11. 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 and surface water management.

12. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

13. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Proposals

shall include details of existing trees to be retained, play facilities, and boundary treatments.

Reason: In the interest of residential and visual amenity.

14. 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 unit shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of the 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.

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 site offices at all times.

Reason: In the interest of sustainable waste management.

16. The construction of the development shall be managed in accordance with a Construction 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 compound(s) including area(s) 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 the course of 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) Provision of parking for existing properties during the construction period;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority of the site and materials compound(s) including area(s) identified for the storage of construction refuse;

Reason: In the interest of amenities, public health and safety, and environmental protection.

17. 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 amenities of property in the vicinity.

18. All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company. 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.

19. Add Standard Part 5 condition

20. (a) Prior to the commencement of 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, that restricts all relevant residential units 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.

- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two

years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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. 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.

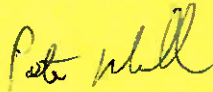
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

22. 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 in disagreeing with the Inspector considered that it was required by law to add a Part V condition as a result of Section 94(4)(c) (ii) which provide any land **which is not zoned for residential use, or for a mixture of residential and other uses, but in respect of which permission for the development of houses is granted**, shall be reserved under this Part for the provision of housing for the purposes of one or more of subparagraphs (i), (ii) and (iii) of paragraph (a).

Board Member



Peter Mullan

Date: 18/12/2024