

An
Bord
Pleanála

Board Direction
BD-019777-25
ABP-321774-25

The submissions on this file and the Inspector's report were considered at a Board meeting held on 22/05/2025.

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 location of the site with the settlement boundary of Kilbrittain, the nature and scale of the proposed development, the provisions of the Cork County Development Plan 2022-2028, it is considered that, subject to compliance with conditions below, the proposed development would provide a high-quality residential development that would integrate with the existing village; would not give rise to a traffic hazard, would not seriously injure the character of the area or the amenities of property in the vicinity, would not adversely impact on existing community amenities, and would provide an adequate standard of residential amenity to future occupiers.

The Board was of the view that the development of housing at the scale proposed here, is supported by the provisions of national policy, as set out in the Revised National Planning Framework (April, 2025), and as set out in the Sustainable Residential Development and Compact Settlements - Guidelines for Planning Authorities (Jan 2024), and is in line with Regional Policy as set out in the Regional Spatial & Economic Strategy for the Southern Region 2020-2032. The Board was of the view that the proposed development of 19 no. units within the settlement

boundary of Kilbriain, was also in line with the general provisions of the Cork County Development Plan 2022-2028, in relation to the delivery of housing within a village context, and is in line with the overall quantum of development allowed for within the village of Kilbriain, as expressed in Objective DB-01 of Volume 5 of the Plan.

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 received by the planning authority on the 9th day of September 2024 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. All works shall be implemented in accordance with mitigation measures specified in the Revised Natura Impact Statement received by the Planning Authority on the 9th day of September 2024 and as updated by conditions of planning herein.

Reason: To ensure there will be no adverse effects on the integrity of any Natura 2000 site.

3. Prior to the commencement of development details of boundary treatments shall be submitted to, for agreement in writing with, the Planning Authority.

Reason: In the interests of residential amenity.

4. The following requirements shall be complied with.

- (a) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, and kerbs shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).
- (b) The site layout for the proposed development shall be amended in the following respects: the cul de sac road serving properties 1-4 is at an 8.3% grade, which exceeds maximum gradient of 5% (1 in 20) recommended in both the DMURS & 'Recommendations for Site Development Works for Housing Areas' documents. The applicant should reduce the floor level of house no. 4 by 600mm and adjust the floor levels of House 1,2 & 3 accordingly to comply with the recommendation - and, before any development commences, or, at the discretion of the Planning Authority, within such further period or periods of time as it may nominate in writing, revised drawings, at a scale of 1:500 making provision for the above requirements shall be submitted to and agreed with the Planning Authority.
- (c) The developer shall submit as required by the Planning Authority, accurate record drawings to scale 1/500 of roads, footpaths, foul and storm sewers including depths and locations of manholes, and locations of house services; watermains including locations of valves, hydrants and other fittings; public lighting and open space areas.
- (d) The developer shall be responsible for the maintenance of all roads, footpaths, open spaces and other services until taken in charge by the Council at its discretion.
- (e) The recommendations of the Stage I Road Safety Audit shall be incorporated into the design of the development. The developer shall submit to the Planning Authority a Stage III Road safety Audit on the completion of the development and shall undertake to rectify any concerns raised therein.
- (f) The road between the junction of properties 5 and 12 shall extend to the boundaries of the adjoining lands to the north to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the

Planning and Development Regulations 2001, as amended. These areas shall be shown in a drawing which 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 and in the interest of permeability and proper planning and sustainable development.

5. 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 detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed with the planning authority and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

6. The landscaping scheme, as submitted to the planning authority on the 9th day of September 2024 shall be carried out within the first planting season following substantial completion of external construction works.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

7. Prior to the commencement of development activity, protective fencing in accordance with BS 5837, shall be installed to protect all trees identified to be retained. The fencing shall be installed in such a manner as to provide

protection to the critical root zone of trees to be protected and it shall be retained on site until all construction works are completed. No soil, spoil, construction material or waste will be stored or tipped within the fenced off area and no construction plant or vehicles will be parked within the spread of trees/hedgerows identified to be retained. The fencing shall be retained until such time as works are completed.

Reason: To protect biodiversity.

8. Trees identified for removal in the tree survey shall be marked prior to the commencement of works. Treatment of Rhododendron shall be undertaken prior to the removal of other trees. Only those outlined in the Arboricultural Tree Survey, as submitted to the planning authority on the 9th day of September 2024, shall be felled.

Reason: To ensure the protection of trees.

9. Japanese Knotweed and Rhododendron shall be treated in accordance with the Invasive Species Management Plan as submitted to the Planning Authority 9th Day of September 2024.

Reason: To control the risk of spread of invasive alien species from this site.

10. All works shall be implemented in accordance with mitigation measures specified in the Bat Survey received by the Planning Authority on the 9th day of September 2024.

Reason: To minimise disturbance to bats.

11. 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. Such lighting shall be provided prior to the making available for occupation of any residential unit. The lighting

scheme shall be designed in accordance the recommendations of the Bat Survey as submitted to the Planning Authority on 9th Day of September 2024.

Reason: In the interest of amenity and public safety and to minimise disturbance to bats.

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.

Reason: In the interests of visual amenity.

13. 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 and to ensure an appropriate high standard of development.

14. Proposals for an estate/street name, 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 dwelling numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

15. Prior to the commencement of development, the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a

service connection(s) to the public water supply and/or wastewater collection network.

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

16. 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 and surface water management.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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.

18. 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:

- (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/access for existing adjoining 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;

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

19. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

20. (a) 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 prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

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

21. (a) 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), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant 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.

(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 specified house 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.

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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for 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 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.

24. The developer shall pay a financial contribution of €40,000 (forty thousand euro) to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of a footpath on the L-6105, which benefits the proposed development. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

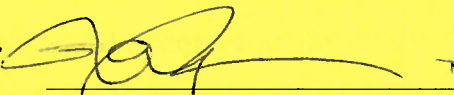
Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

25. 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:


Emer Maughan

Date: 30/05/2025

Notes:

1. The Board considered the view of the inspector that a material contravention would occur of Section 4.9.2 of Volume One of the Cork County Development Plan 2022-2028, which states that in order to ensure some diversity in design and to encourage the delivery of units it is recommended that the size of any residential scheme should not normally be over 50% of the overall scale of development within the plan period, given that the proposed development is for 19 units in a single scheme where the objective of DB-01 is to provide up to 20 additional units during the plan period. In its considerations, the Board agreed with the Inspector that the proposed development was supported by national policy and the general provisions of the Cork County Development Plan 2022-2028 as outlined in the Reasons and Considerations above and agreed with the Inspector's recommendation to grant permission. In diverging from the views of the Inspector in relation to the issue of a material contravention of section 4.9.2, the Board determined that this section is not contained within a specific objective in the development plan, it is a recommendation that the size should not normally be permitted rather than an explicit objective. The Board also considered that the overall number of units proposed does not exceed the housing provision for Kilbrittan, and the

proposed development provides for diversity in design. In view of the foregoing, the Board is satisfied that no material contravention occurs in this instance. The Board also had regard to the planning authorities view, as outlined in the primary planner's report dated 21st March 2024 (page 41) that consideration could be given to a greater number of dwellings under section 4.9.2 where all other issues are resolved.

2. Section 34(13) of the Planning and Development Act, 2000, as amended states that *'a person shall not be entitled solely by reason of a permission under this section to carry out any development'*.