

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

**Kildare County**

**Planning Register Reference Number: 15/1174**

An Bord Pleanála Reference Number: PL 09.247347

**APPEAL** by Martin Gosling and others care of 5 The Walk, Moyglare Hall, Maynooth, County Kildare and by Ann Nicholls of 48 The Walk, Moyglare Hall, Maynooth, County Kildare against the decision made on the 16<sup>th</sup> day of September, 2016 by Kildare County Council to grant subject to conditions a permission to Mycete Homes Limited care of Collins Maher Martin Architects of Dodder Park Road, Rathfarnham, Dublin in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Development consisting of the construction of four number two-storey, two-bedroom, terraced houses and one number building consisting of one number local shop (66.66 square metres) at ground floor level and one number one-bedroom apartment with terrace at first floor level, together with associated site works at The Walk, Moyglare Hall, Maria villa, Manoah, County Kildare.

## **DECISION**

**GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **REASONS AND CONSIDERATIONS**

Having regard, inter alia, to:

- (a) the provisions of the Kildare County Development Plan 2011 - 2017,
- (b) the provisions of the Manoah Local Area Plan 2013 - 2019 in which the lands are zoned 'B' (Existing Residential) for which the objective is to "protect and improve residential amenity; to provide for appropriate infill residential development and to provide for new and improved ancillary services",
- (c) the design, nature and extent of the proposed development,
- (d) the planning history of the site including the parent permission for development wherein a mix of apartments/retail units were permitted on the subject lands (planning register reference number 02/2491, An Bord Pleanála reference number PL 09.206437) and to the more recent Board decision in respect of these lands (planning register reference number 14/73, An Bord Pleanála Reference PL 09.243724);
- (e) the pattern of development in the area,
- (f) the documentation and submissions on file, and
- (g) the report of the planning inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would deliver an acceptable standard of residential amenity for future occupants, would be acceptable in terms of traffic safety and convenience and further considered that the existing and proposed development would be served by adequate private and public open space provision. 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, principally on grounds that the proposed development would seriously injure the visual and residential amenities, the Board was satisfied, having regard to the planning history of the site, the planning policy provisions pertaining to the site as set out in the current development plan for the area and the design and layout of the proposal, that the proposed development would be acceptable in terms of impacts on visual and residential amenity and would be acceptable from a traffic and pedestrian safety viewpoint.

### **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 23<sup>rd</sup> day of August, 2016, 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. (1) This grant of permission specifically excludes the provision of a take away facility for the consumption of food off the premises within the retail unit. The unit shall be used as a 'shop' as defined in the Planning and Development Regulations 2001, as amended, and,
  - (2) The hours of opening of the retail unit shall be between 0700 and 2200 hours.

**Reason:** In the interest of residential amenity and to ensure the impact of the proposed development on the locality is not greater than that outlined in the submission documents.

3. Advertising for the commercial units shall be restricted to a single fascia sign, of good quality signwriting, or of individual metal-finish, or other acceptable finish lettering. No other advertisement shall be permitted on any unity or on the overall site without the benefit of a separate planning permission.

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

4. The external finishes shall be in accordance with the details submitted to the planning authority on the 23<sup>rd</sup> day of August, 2016. Orange or red colour roofing or materials other than tiles or slates shall not be used.

**Reason:** In the interest of visual amenity and orderly development.

5. The landscaping as proposed in the Landscaping Layout, (Drawing number FI-15/2-01) and submitted to the planning authority on the 23<sup>rd</sup> day of August, 2016 shall be completed prior to the first occupation of any dwelling authorised by this grant of permission.

**Reason:** In order to screen the development within a reasonable period of time, in the interest of visual and residential amenity.

6. Facilities for the handling, the storage and the collection of refuse and recyclables (three spaces) shall be provided for in each residential unit and the retail space. Details of the handling and storage space for bins (three number) associated with Units 25 and 26 shall be submitted for the written agreement of the planning authority prior to commencement of development.

**Reason:** To protect the rural character of the area.

7. 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.

8. 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.

9. 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 interest of public safety and residential amenity.

10. 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.

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**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2017.**