

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Kildare County

Planning Register Reference Number: 16/282

An Bord Pleanála Reference Number: PL 09.247909

APPEAL by Conor and Karen Lyons of 11 Glen Easton Gardens, Leixlip, County Kildare and by others and by Killross Properties Limited care of Declan Brassil and Company Limited of Lincoln House, Phoenix Street, Smithfield, Dublin against the decision made on the 22nd day of December, 2016 by Kildare County Council to grant subject to conditions a permission to Killross Properties Limited in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: The provision of 195 number dwellings, comprising one number five bedroom two-storey detached house, 22 number four/five bedroom three-storey semi-detached houses, 39 number four bedroom two-storey semi-detached houses, one number four bedroom two-storey detached house, 126 number three bedroom two-storey semi-detached and terrace houses and six number two bedroom apartments in a two-storey building, together with 390 number ancillary car parking spaces (comprising 12 number on-street car parking spaces and 378 number on-curtilage car parking spaces), provision of a vehicular and pedestrian access to the site via a new junction onto Green Lane, landscaping, water supply and drainage infrastructure services including sustainable urban drainage measures incorporating sub-surface attenuation tanks in the northern part of the site and all associated site works, boundary treatment and landscape works.

A revised public notice was received by the planning authority on the 25th day of November, 2016 as follows:

Amendments to the site boundary, an increase in the overall number of dwelling units from 195 to 200 number units, comprised of 170 number house units and 30 number apartment units in two number three-storey blocks to the north and south-west of the site, a revised layout providing for primarily 1.5 to two-storey dwellings along the eastern boundary with Glen Easton, an increase in the number of ancillary car parking spaces from 390 number spaces to 430 number spaces (comprising 340 number spaces within the curtilage of house units, 18 number spaces associated with the childcare facility, and 58 number spaces associated with the two number apartment blocks), provision of a childcare facility to the south of the site, a revised vehicular access further to the west along Green Lane, the provision of pedestrian/cycle access to the site via Green Lane and the R449, relocation of the bus stop to the south of the site along Green Lane, revised areas of open space, revised drainage infrastructure services and all associated site works, boundary treatment and landscape works.

All at Easton (townland) off Green Lane, Leixlip, 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 to the location of the site within the boundary of the Collinstown Local Area Plan 2010, and on a site zoned for new residential development in the draft Leixlip Local Area Plan, 2017, to the nature, scale and design of the proposed development, the availability in the area of a wide range of social infrastructure, to the pattern of existing and permitted development in the area, and to the provisions of the Kildare County Development Plan 2017-2023, and 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 in March, 2013, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would not be prejudicial to public health or lead to a risk of flooding, 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.

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 November, 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. The proposed development shall be amended as follows:-
- (a) House number 118 and its associated two car parking spaces shall be omitted. The area thus released shall be laid out as public open space as a small pocket park.
 - (b) House number 139 shall be omitted. The area thus released may be used as additional public open space, or may be reserved for the construction of a small single storey house (with no attic accommodation), the eastern (rear) building line of which shall be not less than six metres from the paladin fence to be provided along the eastern site boundary. In the event that such a house is proposed, it shall be the subject of a separate application for planning permission.
 - (c) House number 135 (house type C2) shall be replaced by a handed version of type F2 (dormer semi-detached house), with the same rear building line as house number 136.
 - (d) The windows serving all bathrooms, en-suites, landings and walk-in wardrobes throughout the development, including such windows in the apartments, shall be permanently fitted and maintained with obscure glass.

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: In the interest of protecting the residential amenities of neighbouring properties.

3. Prior to commencement of development, the developer shall carry out a programme of archaeological test excavations to assess if any sub-surface archaeological remains will be impacted upon by the proposed development. As part of the pre-development testing the following shall be undertaken:
 - (a) The developer shall engage the services of a suitably qualified archaeologist (licensed under the National Monuments Acts 1930-1994) to carry out pre-development testing at the site. No sub-surface work shall be undertaken in the absence of the archaeologist and without his/her express consent.
 - (b) The archaeologist shall notify the National Monuments Service of the Department of the Arts, Heritage, Regional, Rural and Gaeltacht Affairs in writing at least four weeks prior to the commencement of site preparations. This will allow the archaeologist sufficient time to obtain a licence to carry out the work.
 - (c) The archaeologist shall carry out any relevant documentary research and shall excavate test trenches at locations chosen by the archaeologist, in agreement with the Department of the Arts, Heritage, Regional, Rural and Gaeltacht Affairs.
 - (d) Should archaeological material be found at pre-development testing stage, the developer shall be advised by the Department of the Arts, Heritage, Regional, Rural and Gaeltacht Affairs, with regards to any necessary mitigation action (for example, preservation in situ, or excavation) and shall facilitate the archaeologist in recording any material found.
 - (e) Having completed the work, the archaeologist shall submit a written report to the planning authority and to the National Monuments Service for consideration.
 - (f) Where archaeological material is shown to be present, preservation in situ, preservation by record (excavation) and/or monitoring may be required and the planning authority following consultation with the National Monuments Service, will advise the developer with regard to these matters.

- (g) No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent and no site preparation or construction work shall be carried out until after the archaeologist's report has been submitted and permission to proceed has been received in writing from the planning authority in consultation with the National Monuments Service.
- (h) A redesign of the scheme or part thereof may be necessary depending on the outcome of the pre-development testing. This may require a separate grant of planning permission.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

- 4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings, apartment buildings and crèche shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or slate grey in colour only (including ridge tiles).

Reason: In the interest of visual amenity.

- 5. Noise mitigation measures, including glazing specifications and ventilation systems, for all houses and for both apartment blocks, to mitigate against noise arising from the adjoining R449 road, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such measures shall ensure that the standards set out in BS8233:2014 are adhered to in relation to such residential units. The agreed measures shall be implemented prior to the making available for occupation of all such residential units.

Reason: In the interest of the residential amenities of the future occupants of the subject development.

6. The landscaping scheme shown on drawing number 1362/300/Rev. 4, as submitted to the planning authority on the 8th day of November, 2016, shall be carried out within the first planting season following substantial completion of external construction works, or, in the event of phasing of the development, before substantial completion of external works within the relevant phase.

In addition to the proposals in the submitted scheme, the following shall be carried out:

- (a) Measures to ensure the retention of the existing hedgerow where appropriate and additional screen planting to the entire eastern boundary of the site to adequately screen the proposed development from the existing dwellings to the east,
- (b) Additional appropriate tree planting to front gardens throughout the scheme,
- (c) Measures to ensure screening at the bases of the existing electricity pylons,
- (d) Screen planting along the rear boundary of site 185 and to the public open space to the south east of apartment Block B, and
- (e) Modifications and additional planting to take account of the modifications to the development set out in condition number 2 of this order.

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 interests of residential and visual amenity.

7. Except where the paladin fences are to be provided along the eastern site boundary, as indicated on the landscape plan (drawing number 1362/300/Rev. 4, submitted to the planning authority on the 8th day of November, 2016), all rear gardens shall be bounded with 1.8 metre high concrete block walls, which shall be capped and rendered on both sides. The proposed concrete post and timber fences along the sides of rear gardens shall not be erected and shall be replaced by the 1.8 metre high walls. The paladin fences shall be colour coated throughout (including uprights) in a dark green colour.

Reason: in the interest of visual amenity, and in order to ensure the provision of durable boundary treatment in the interest of residential amenity.

8. The areas of open space shown on the lodged plans, together with the additional open space required under condition 2 of this order, shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 8th day of November, 2016, and as required by the conditions of this permission. All of this work shall be completed before any of the dwellings are made available for occupation, or, in the event of phasing of the development, before any of the dwellings within the relevant phase are made available for occupation. These open space areas shall be maintained as public open space by the developer until taken in charge by the local authority. When the estate is taken in charge, the open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

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

9. Details of signage for the crèche shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Apart from such agreed signage, and notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no further advertisement signs (including any signs installed to be visible through windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the proposed crèche building or within its curtilage, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and orderly development and to permit the planning authority to assess any such development through the statutory planning process.

10. The development may be carried out as a single development or it may be phased. If phased, the phasing shall be carried out in accordance with the phasing indicated in the plans submitted to the planning authority on the 8th day of November, 2016. The crèche shall be constructed and completed, and be available for use, prior to the commencement of phase 3, or the completion of 100 residential units, whichever is the sooner.

Reason: In the interest of proper development and to ensure the timely provision of the crèche facility, in accordance with national policy in this regard.

11. (a) Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.
- (b) All foul sewage and soiled water shall be discharged to the public foul sewer.
- (c) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system and the maintenance of petrol/oil interceptors shall comply with the requirements of the planning authority.

Reason: In the interest of public health.

12. (a) 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 with the provisions of the Design Manual for Urban Roads and Streets. The development shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) Footpaths shall be a minimum of two metres in width throughout the proposed development.

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

13. (a) Provision shall be made for two cycleway and pedestrian links from the development to the R449. Details of such provision, including construction and demarcation, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. These links shall be carried out and completed prior to the making available for occupation of house numbers 50 – 64, in the case of the link to the west of these houses, and prior to the making available for occupation of house numbers 158 – 167, in the case of the link to the west of these houses.
- (b) Provision shall be made for a pedestrian and cycle link from the development to the adjoining housing estate road/footpath in Glen Easton Woods, which shall be so designed as not to permit vehicular access through the link. Prior to commencement of development, details of this pedestrian and cycle link, including footpath and cycle path design, kerbing, tactile paving, landscaping, lighting and entrance wall and railing details, shall be submitted to, and agreed in writing with, the planning authority. Gates shall not be provided at this location. The link shall be carried out and completed, and made available for use, prior to the making available for occupation of any of the units in apartment Block B.

Reason: In the interests of sustainable transportation, pedestrian permeability and residential amenity.

14. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, and lighting along the full extent of the pedestrian/cycle links specified in condition number 13 of this order, 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, or, in the event that the development is phased, prior to the making available for occupation of the first house in each phase.

Reason: In the interests of amenity and public safety.

15. 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. All existing over ground cables bounding or crossing the site, including powerlines up to and including 38kV, shall be relocated underground as part of the site development works, at the developer's expense.

Reason: In the interests of visual and residential amenity.

16. With the exception of the common areas of the two apartment blocks, their associated car parking areas and bin stores, the remainder of the development, including all roads, cycle paths, footpaths (including the pedestrian/cycle links referred to in condition number 13 of this order), and all open spaces, shall be maintained by the developer until such time as the development is taken in charge by the planning authority. No private management company shall be established to maintain the estate, but may be established for the apartments and their common areas.

Reason: In the interest of ensuring that the development is carried out to appropriate standards, and to comply with national policy in relation to the taking in charge of housing estates.

17. Proposals for an estate name, street names, and house/apartment 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/apartment 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.

18. (a) 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, construction traffic arrangements (which shall take account of peak traffic flows, including those associated with local schools), construction compounds (which shall not be at the locations of proposed open space areas) and off-site disposal of construction/demolition waste.
- (b) Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 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 the interests of public safety and residential amenity.

19. 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 on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. 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.

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 and within each house plot 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.

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

21. 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 96(4) and 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 97(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 for the area.

22. 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.

23. 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 the 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.

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

Dated this day of 2017.