



An
Bord
Pleanála

Board Order

PL 09.249038

Planning and Development Acts 2000 to 2017

Planning Authority: Kildare County Council

Planning Register Reference Number: 16/658

Appeal by Cowlara Limited care of Stephen Ward Town Planning and Development Consultants Limited of Jocelyn House, Jocelyn Street, Dundalk, County Louth against the decision made on the 14th day of July, 2017 by Kildare County to refuse permission for the proposed development.

Proposed Development: A mixed-use development comprising a total of 220 number dwelling houses, a single storey crèche facility (307 square metres gross floor area) and a 120 number bedroom nursing home facility two storeys in height (7,117 square metres gross floor area). The proposed dwelling houses are in terraced, semi-detached and detached format and range in height from one to two and a half storeys. Specified dwellings have the option for dormer windows in roof slopes to facilitate the option to convert the attic space of these dwellings to habitable accommodation. The proposed development also provides for the construction of a section of a new link road (circa 647 metres) along the western part of the site incorporating a new signalised junction off Standhouse Road in accordance with SRO 5 of the Newbridge Local Area Plan 2013-2019. A new vehicular access serving the proposed nursing home is also proposed off Standhouse Road. It is also proposed to provide a new vehicular access off Ballymany Road (R445) to the south. A new pumping station is proposed in the north-western part of site. The proposed development will also provide for all site

development works including alterations to ground levels and the removal and/or re-use of existing stockpiled material on site, the construction of crib (retaining) walls, the rerouting and undergrounding of overhead cables, internal access road, car parkin, footpaths, cycle paths, open space, public lighting, landscaping, two number electricity sub-stations, services and boundary treatments, all on site at Ballymany, Newbridge, County Kildare. The application site is bounded to the north by Standhouse Road and the rear of dwellings fronting that road, to the south by Ballymany Road (R445) and the rear/side of dwellings fronting that road; to the east by the Keadean Hotel, the gardens of houses in the Elms housing development and a playing field and to the west by farmland. The application is for planning permission for a period of 10 years. (As amended by the revised public notice received by An Bord Pleanála on the 14th day of February, 2018 as follows: replacement of the original submitted detached and semi-detached dwellings with apartments/duplex dwellings. The revisions result in an increase in the overall number of dwellings from 220 number to 280 number).

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

In coming to its decision the Board had regard to the following;

- the Sustainable Residential Development in Urban Areas (Cities, Town and Villages) Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in May, 2009,
- to the provisions of the Kildare County Development Plan 2017-2023,
- the layout and increased density details in the revised plans and particulars submitted to An Bord Pleanála on the 11th day of February, 2018 under section 137 notice, and
- the report of the Inspector,

the Board considered that the proposed development as revised in Solution 2 of section 137 response would represent an acceptable density given its proximity to both the scenic landscape of the Curragh and to the town centre of Newbridge and represents an acceptable balance between the competing objectives as outlined in the Kildare Development Plan and would, subject to compliance with the conditions as set out below, be in accordance with the Ministerial Guidelines. 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 considered that the revised Solution 2 submitted in response to the section 137 request substantially addresses the concerns of the Inspector with regard to an appropriate level of density on this serviceable site adjacent to the town of Newbridge.

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 in response to the section 137 notice submitted to An Bord Pleanála on the 11th day of January, 2018, 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. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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.

4. 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.

5. Proposals for an estate/street name, 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.

6. 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. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
- (i) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species,
 - (ii) details of screen planting which shall not include cupressocyparis x leylandii,
 - (iii) details of roadside/street planting which shall not include prunus species, and
 - (iv) hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.

- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
- (c) A timescale for implementation including details of phasing.

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. 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 interests of public safety and residential amenity.

- 8. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
 - (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site,
and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 9. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the planning authority's Residential Site Development Standards document issued by the Department of the Environment and Local Government in November, 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

10. 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 residential amenities of property in the vicinity.

11. 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.

12. 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.

13. 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.

