



Planning and Development Acts 2000 to 2018

Planning Authority: Kildare County Council

Planning Register Reference Number: 17/393.

Appeal by Jim Rainsford care of Derek Whyte of Great Connell, Newbridge, County Kildare against the decision made on the 4th day of January, 2018 by Kildare County Council to refuse permission for the proposed development.

Proposed Development: Permission to develop the village centre site surrounding the “Athgarvan Inn” in three separate phases as follows:

Phase 1: The construction of a detached two-storey building addressing the Newbridge/Kilcullen Road, consisting of five number commercial units at ground floor level (restaurant, doctor’s surgery, turf accountant, chemist and office unit) with the construction of three number two bedroom apartments at first floor level. Construction of a public realm area joining the “Athgarvan Inn”, parallel parking and selected planting areas and public lighting along the Newbridge/Kilcullen Road.

Phase 2: The construction of six number terraced two-storey three bedroom houses addressing the Two Mile House Road, construction of the continuation of the public footpath along the length of the site boundary with parallel parking, landscaped areas and public lighting.

Phase 3: The construction of six number age friendly (step down) single storey houses in two blocks as follows: Block 1 is a terraced block of four number houses and Block 2 is a semi-detached block of two number houses (each house consists of a two-bedroom unit). All three phases are subject to an overall site masterplan incorporating communal car parking, public open space and landscaping in conjunction with the “Athgarvan Inn” public house. All development to connect to public watermain and foul sewer (on a phased basis), upgrading of existing vehicular entrance to the “Athgarvan Inn” (on the Newbridge/Kilcullen Road) to serve the overall development, permission to construct a new pedestrian entrance onto the Two Mile House Road and all associated site works, as revised by further public notices received by the planning authority on the 1st day of December, 2017 consisting of revised plans for Phase 2: The construction of six number terraced two-storey three bedroom houses addressing the Two Mile House Road, construction of the continuation of the public footpath along the length of the site boundary with parallel parking, landscaped areas and public lighting. All at Athgarvan, 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 on town centre zoned lands in the Kildare County Development Plan 2017-2023, and having regard to the design and layout of the proposed development, as amended at further information stage, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity 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 10th day of November, 2017, 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) Car spaces numbers 21 – 24 shall be omitted and shall be replaced by a dedicated bus stop/pull-in, with widened footpaths in the remainder of the area thus vacated. Four additional car parking spaces, to replace spaces numbers 21 – 24, shall be provided in the area shown on drawing number JR/APP-002, as submitted to An Bord Pleanála on the 31st day of January, 2018.
 - (b) Car spaces numbers 38 to 48 inclusive shall be reserved for use exclusively for the proposed six number “age-friendly” housing units, and markings to reflect this restriction shall be provided on these spaces.

- (c) Additional internal storage shall be provided for the terraced three-bedroom houses, but not in the form of a separate room where the floor area of that room exceeds six square metres.
- (d) All rear gardens shall be bounded by concrete block walls, rendered and capped on both sides and capped, or by concrete post and concrete panel fences. The proposed boundary treatment type 1, consisting of timber panel and concrete post fences, shall not be used.

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 interests of traffic safety, residential amenity and to ensure the provision of durable boundary treatment.

- 3. Details of the materials, colours and textures of all the external finishes to the proposed units shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black or slate-grey throughout, including ridge tiles.

Reason: In the interest of visual amenity.

4. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are completed to the satisfaction of the planning authority.

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

5. The proposed restaurant shall not be used for the sale of hot food for consumption off the premises (that is, a takeaway use).

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

6. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the main open space and along the pedestrian access to Two Mile House Road, 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 by the developer for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

7. 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.

8. 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.

Reason: In the interest of public health.

9. Proposals for a naming and numbering scheme for the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house/unit numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

10. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed houses without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of private open space is provided for the benefit of the occupants of the proposed dwellings, and to allow the planning authority to assess the implications of any such development on residential amenity through the statutory planning process.

11. With the exception of the existing public house and Bed and Breakfast, the retail units and the car parking spaces reserved for these uses, as shown on submitted drawings, all of the remainder of the development hereby permitted, including all roads, footpaths, open spaces and public lighting, shall be carried out in accordance with the standards and requirements of the planning authority for taking in charge. The development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by a private management company.

Reason: In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.

12. The areas of open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, 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 and 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.

13. (a) The roads and traffic arrangements serving the site (including traffic signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (b) The materials used in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such works.
- (c) The extension of the footpath along the north side of the L2032 carriageway and along the east side of the R416 carriageway shall be a minimum of two metres in width and shall be constructed and implemented prior to the making available by the developer for occupation of any part of the development.

Reason: In the interests of pedestrian and traffic safety.

14. A plan containing details of 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 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.

15. 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.

16. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interests of public safety and residential amenity.

17. Signage on the proposed retail, restaurant and commercial units shall be restricted to individual lettering affixed or painted onto the shopfront fascias, without backlighting or floodlighting. Details of such signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

18. Notwithstanding the provisions of the Planning and Development Regulations, 2001, or any statutory provision amending or replacing them, no advertisement signs (including any signs installed to be visible through the windows), advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on any of the buildings hereby permitted or within the curtilage of the site, other than the signage agreed under condition number 17 of this Order, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity and to allow the planning authority to assess the impact of any further advertising signs on the area through the statutory planning process.

19. 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 for the area.

20. 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 of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning 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 determined by An Bord Pleanála.

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

21. 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.

Philip Jones

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

Dated this day of 2019.