



Planning and Development Acts 2000 to 2018

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 17/658

Appeal by the Lower Kilmacow Residents Association care of Margaret Crowley of Pill Road, Kilmacow, County Kilkenny against the decision made on the 8th day of June, 2018 by Kilkenny County Council to grant subject to conditions a permission to Pinnacle Cross Limited care of Fewer Harrington and Partners of Studio 14, The Atrium, Maritana Gate, Canada Street, Waterford in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of three number existing out buildings and erection of 11 number dwellings consisting of three number two-storey three bed end-terraced dwellings, four number two-storey two bed mid-terraced dwellings, two number two-storey three bed semi-detached dwellings, one number two-storey four bed end-terraced dwelling, and one number two-storey three bed detached dwelling; two-storey apartment block with four number two bedroom units at ground floor level and four number one bedroom units at first floor level, together with proposed vehicular and pedestrian entrance, road works and boundary treatments, landscaping, car parking, drainage connections and all associated site development works at

Lower Kilmacow, Kilmacow, County Kilkenny. The proposed development was revised by further public notices received by the planning authority on the 16th day of May, 2018.

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 provisions of the Kilkenny County Development Plan 2014-2020, to the pattern of development in the area, to the nature, scale, design, mix of tenure and density, and to the location of the site within the settlement boundary of Kilmacow Lower, the Board considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety (being within the 50 km/h speed zone), would not seriously injure the residential or visual amenities of the area or the character or distinctiveness of the village. 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 concurred with the planning authority and considered that the revised access point was acceptable in terms of pedestrian and traffic safety, and further considered that the layout and setting would not detract from the character, setting or distinctiveness of the village of Kilmacow Lower and represented an appropriate density for the village setting. The Board was satisfied that sufficient land was set aside for future commercial use and considered that the proposed development did not constitute an over concentration of a single use within the overall landholding.

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 to the planning authority on the 8th day of May, 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. This permission hereby authorises the development of eight houses and eight apartments (16 residential units in total) only, as per the revised drawings submitted to the planning authority on the 8th day of May, 2018.

Reason: In the interest of clarity.

3. 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. Roof colour shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the adjoining residential area.

Reason: In the interest of visual amenity.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping and boundary treatment, 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 and 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,

(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.

- 5. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

6. 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.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, 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 dwelling.

Reason: In the interests of amenity and public safety.

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 an estate 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 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.

10. 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 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.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

12. (a) The developer shall provide and install a Driver Feedback sign to alert road-users of their approach speed to the village travelling from the south on the L3401. The specification, power mechanism and location of this sign shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (b) The proposed hedge at the rear of the footpath along road L3401 shall be omitted so as to mitigate against the risk that the visibility envelope would be obstructed in the future. The sod and stone wall within the visibility splay shall not exceed 0.5 metres in height and shall use existing stone available on site. No tree or shrub planting is permitted within the visibility splays. The developer shall ensure that visibility splays remain unobstructed. Details of the location and setting out of the front road boundary wall shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (c) The developer shall ensure that the proposed footpath along the L3401 is set-back sufficiently to ensure a carriageway width of six metres along the roadside boundary of the proposed development.
- (d) Footpath and road construction specifications shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (e) Tactile paving at pedestrian crossing points shall be in accordance with the Pedestrian Crossing Specification and Guidance, issued by the National Roads Authority in April, 2011.

- (f) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a proposal to eliminate the risk of children entering onto the public road whilst playing in the proposed outdoor play and kick-about area.
- (g) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a revised energy efficient public lighting design layout. The revised layout shall include lighting columns re-positioned to the rear of the footpath along L3401. The proposal put forward shall demonstrate that the public road and internal infrastructure within the development is illuminated to the required standard and shall include low lighting to rear access path for the housing block. The design calculations and lux value spread data shall be provided in support of the detailed submission.
- (h) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a revised surface water drainage proposal, which caters for surface water discharge along L3401 in front of the new footpath.
- (i) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority details of SLOW road markings to be erected at two agreed locations along the L3401 road on the southern approach to the village, with one positioned, on a red anti-skid background, at the 50km/h speed limit signs.
- (j) All road markings and signage associated with the development shall be in accordance with the Traffic Signs Manual, issued by the Department of Transport in 2010.

- (k) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a Roads Maintenance Plan that includes for street sweeping/cleaning in order to prevent muck/debris or any other materials interfering with the safe operation of the public road.
- (l) The developer shall ensure that adequate staff parking and service delivery areas are provided within the confines of the site during the construction phase of the project so as to eliminate the risk of works associated parking along the public road network.
- (m) All works associated with the provision of the proposed entrance shall be completed in full to the satisfaction of the planning authority prior to the commencement of works on site.
- (n) Directly following the completion of the works, the developer shall undertake a Stage 3 Road Safety Audit. The recommendations of this audit shall be submitted to the planning authority for written agreement. The cost to implement any agreed recommendations shall be borne by the developer.
- (o) All works on the public road will be subject to a Road Opening licence.

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

13. 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.

14. 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.

15. 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.

16. 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.

Paul Hyde

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

Dated this day of 2018.