



Planning and Development Acts 2000 to 2018

Planning Authority: Kildare County Council

Planning Register Reference Number: 17/1271

Appeal by Tameric Management Consultants Limited trading as Tameric Investments care of Brock McClure of 63 York Road, Dún Laoghaire, County Dublin against the decision made on the 15th day of August, 2018 by Kildare County Council to refuse permission for the proposed development.

Proposed Development: (a) Removal of former foundations, concrete slabs and associated debris on site and (b) the construction of a residential development (circa 1,914 square metres gross floor area overall) consisting of 15 number house units (seven by three bed units and eight by four bed units) of two to two and a half storeys in height (including velux/dormer/attic level gable windows), all ranging in size from circa 112.8 to 145 square metres gross floor area, in a mix of detached, semi-detached and terraced style units and each with an associated private garden area. The development shall also provide for 30 number car parking spaces, a new public open space area, a revised vehicular access arrangement from Rathbride Road, all landscaping works, site services and all site development works, as amended by the revised public notice received by the planning authority on the 19th day of July, 2018 as follows: (a) removal of former foundations, concrete slabs and associated debris on site and (b) the construction of a residential development

(circa 1,760 square metres gross floor area overall) consisting of 14 number house units in a revised site layout (eight by three bed units and six by four bed units) of two to two and a half storeys in height (including velux/dormer/attic level gable windows) in a mix of detached, semi-detached and terraced style units and each with an associated private garden area. The development shall also provide for a revised car parking proposal for 31 number spaces, a new increased public open space area of 765 square metres, a vehicular access arrangement from Rathbride Road, new vehicular and pedestrian access to the adjoining development permitted to the north east of the site under planning register reference number 17/1018, all landscaping works, site services and all site development works. Rathbride Road, Kildare, County Kildare. (The site is generally bounded by Rathbride Road (R415) to the west and mainly agricultural lands to the north, south and east).

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 zoning provisions of the current Development Plan which permits residential development, to the existing pattern of development in the vicinity and the planning history of adjoining lands, and having regard to the design, scale and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity, would be acceptable in terms of visual amenity, would not be prejudicial to public health nor be premature pending an overall road network for the area, 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 5th day of July, 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. No development shall take place under this permission until such time as the developer has obtained written confirmation from the planning authority (in consultation with Irish Water) that there is spare capacity in the 225 millimetres existing sewer at Curragh Finn estate to accommodate the foul sewage flows from the proposed development, and that the developer has demonstrated consent from the owners of this sewer, if not in the charge of the authority/Irish Water, to connect to this sewer.

Reason: In the interest of public health.

3. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the planning authority for such works, and shall comply in all cases with the provisions of the Design Manual for Urban Roads and Streets.
- (b) A minimum two metre wide concrete footpath and a one metre wide grass verge shall be provided along the entire site frontage, along the Rathbride Road (R415), as indicated on the Road and Watermain Layout plan Drawing Number P002 Revision A and the Proposed Road Improvement Works plan Drawing Number P013 received by the planning authority on the 5th day of July, 2018. The cost of the design and implementation of this footpath shall be borne solely by the developer.

- (c) The developer shall carry out footpath improvement works on the Rathbride Road, from the south-western boundary of the site to connect the development to the footpath at the existing railway bridge traffic lights, as shown on the Proposed Road Improvement Works plan Drawing Number P013 received by the planning authority on the 5th day of July, 2018. As part of this work, the position of the signal pole and the tie-in shall be modified by the developer to avoid mobility impaired pedestrians stepping onto the carriageway. The cost of the design and implementation of this footpath shall be borne solely by the developer.
- (d) Prior to the making available by the developer for occupation of any house within the development, the developer shall arrange for the transfer of land required for the completion of future permeability links to the planning authority. This includes the required link from the development to the adjoining site (planning register reference number 17/1018) on the eastern side of the site. Specifically, for the above, the land and setback necessary to connect: carriageway, footpaths, cycle paths and verges shall be transferred over to the planning authority.

Reason: In the interests of pedestrian and traffic safety, and to ensure permeability in accordance with national policy.

4. Prior to commencement of development, details of the materials, colours and textures of all the external finishes for the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority. All roofs shall be blue-black or slate-grey in colour only, including ridge tiles.

Reason: In the interest of visual amenity.

5. 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 by the developer for occupation of any house.

Reason: In the interests of amenity and public safety.

6. 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 overhead cables bounding or crossing the site shall be undergrounded at the developer's expense and to the detailed requirements of the relevant utility provider.

Reason: In the interests of visual and residential amenity.

7. 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. The developer shall agree the full details of foul sewerage and surface water provisions in writing with the planning authority prior to the commencement of development.

Reason: In the interest of public health.

8. Proposals for an estate/street name, and house 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 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

9. The site shall be landscaped in accordance with the landscaping drawings submitted with the application. The developer shall retain the services of a suitably qualified Landscape Architect throughout the duration of the site development works. The developer's Landscape Architect shall certify to the planning authority in writing his/her opinion on compliance of the completed landscape scheme with the approved landscape proposal within six months of substantial completion of the development hereby permitted.

Reason: In the interests of residential and visual amenity.

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. The areas of public 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 landscaping plan submitted. This work shall be completed before any of the dwellings are made available by the developer for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority. At the time of taking 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.

12. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

13. 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 interests of sustainable waste management.

14. 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.

15. The development shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority. The entire development shall be maintained by the developer until such time as it is taken in charge by the planning authority. No private management company shall be established to maintain the estate.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity, until taking in charge, and to comply with national policy in relation to the taking in charge of residential estates.

16. All rear gardens of houses shall be bounded with brick or concrete block walls, which shall be a minimum of 1.8 metres high, except where bounding public open spaces or roads, when the walls shall be 2 metres in height, rendered and capped, or by concrete post and concrete panel fences, 1.8 metres high. Concrete post and timber panel fences, or any other form of timber fencing, shall not be used for any rear garden boundaries.

Reason: In the interest of residential amenity and to ensure the use of durable boundary treatment.

17. 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 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.

18. 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 of embankment reinstatement and landscaping, roads, footpaths, watermains, drains, 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, and maintenance until taken in charge, 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 of the development, and its maintenance until taken in charge by the local authority.

19. 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.