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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 18417**

**Appeal** by Glan Development Limited care of Simon Clear and Associates of 3 Terenure Road West, Terenure, Dublin against the decision made on the 7<sup>th</sup> day of December, 2018 by Kildare County Council to grant subject to conditions a permission to the said Glan Developments Limited in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Permission for the extension of the previously completed development at Brownstown Manor (planning register reference numbers 05/1133, and 11/260), and will consist of the construction of 46 number dwellinghouses, one vehicular link from Brownstown Manor, provision for pedestrian link at Curragh Downs, provision for potential pedestrian link to the Kildare Road, new boundary treatments to the north, east, and west boundaries, provision for removal of boundary fence with existing open space at Curragh Downs and all associated and ancillary site development works. Breakdown of dwelling types: 31 number house type A (two-storey, three bedrooms, 110.6 square metres – or, with an option to convert the attic, two and a half storey, four bedroom, 144.5 square metres), four number house type B (two-storey, four bedrooms, 133.3 square metres), three number House Type C (two-storey, two bedrooms, 92.5 square metres), two number House Type D (two storey, four bedrooms, 131.2 square metres), three

number House Type E (two-storey, four bedroom, 126 square metres), two number House Type F (one-storey, one bedroom, 55 square metres) and one number House Type F1 (one-storey, one bedroom, 59 square metres), total number of dwellings 46, at this infill site to the north of Brownstown Manor, Brownstown, Curragh, 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 condition(s) 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 development boundary of the rural settlement of Brownstown and to the compliance with the development standards set out in the Kildare County Development Plan 2017-2023, 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 the amenities of property in the vicinity, would comply with the provisions of the Development Plan 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 to the planning authority on the 12<sup>th</sup> day of November 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. The permitted development provides for 45 number units only as detailed on site layout plan drawing number 98.122.FI202 submitted to the planning authority on the 12<sup>th</sup> day of November, 2018.

**Reason:** In the interest of clarity.

3. (1) Prior to the making available by the developer for first occupation of 23 number dwellings within the scheme, details showing compliance with the category of local demand as outlined at policy VRS 3 Volume 2 of the Kildare County Development Plan 2017-2023 shall be submitted to, and agreed in writing with, the planning authority.  
  
(2) Prior to the making available by the developer for occupation of each unit, the developer shall obtain a certificate of compliance for each of the units from a qualified and indemnified Architect/Engineer/Solicitor to indicate how the dwelling complies with such category. The person issuing such certificate shall take full responsibility for ensuring compliance.

- (3) The planning authority shall consent to any sale of the property by a lending institution in exercise of its powers as mortgagee and likewise consent to any sale by any person deriving title from the lending institution. Approval to the sale of the property in any other circumstances will be considered on its merits by Kildare County Council.

**Reason:** To ensure that the proposed development complies with the provisions of the Kildare County Development Plan 2017-2023 regarding development of villages and in the interest of the proper planning and sustainable development of the area.

4. 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. All pitched roofs of houses shall be slate-grey or blue-black in colour, including ridge tiles.

**Reason:** In the interest of visual amenity.

5. The developer shall comply with the requirements of the planning authority with respect to off-site parking, site entrance details, signage, and road markings, details of which shall be ascertained and submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of traffic safety.

6. 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 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 place names for new residential areas.

7. Prior to commencement of development, a revised site layout plan showing compliance with the following requirements shall be submitted to, and agreed in writing with, the planning authority:
  - (a) details of proposed pedestrian/cycle connection to the north of the site as detailed on site layout plan drawing number 98.122.PD202 received by the planning authority on the 13<sup>th</sup> day of April, 2018, and
  - (b) details of proposed pedestrian/cycle connection to the open space within Curragh Downs.

**Reason:** In the interest of traffic and pedestrian safety.

8. The developer shall carry out a detailed stage 2 and 3 Road Safety Audit (RSA) by an independent approved and certified auditor, for the proposed development and surrounding area. The RSA shall include the proposed new routes from the development to the L3007. The Developer shall submit to the planning authority a copy of the RSA stage 3 report and shall complete all of the remedial measures identified in the RSA Stage 3, prior to occupancy of the residential units. The Developer shall be liable for all costs associated with these works.

**Reason:** In the interest of traffic safety.

9. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

10. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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 site and to secure the preservation and protection of any remains that may exist within the site.

- 11. 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 interest of public safety and residential amenity.

- 12. Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:

- (a) a hard landscaping plan, and other site boundary details including the finishes, and
- (b) a soft landscaping plan incorporating native/indigenous species.

**Reason:** In the interest of visual amenity.

13. 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, or by concrete post and concrete panel fences, 1.8 metres high. The proposed boundary treatment, using concrete post and timber panel fences, or any other form of timber fencing, shall not be used for any rear garden boundaries.

**Reason:** To ensure the provision of durable boundary treatment in the interest of the residential amenity of future occupiers of the development.

14. 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 where the rear garden length of such houses, as measured from the rear building line of the houses to the rear boundary line of the plots, is less than 11 metres, 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.

15. (1) The internal road network serving the proposed development, including turning bays, junctions, sight distances, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets.



- (2) To facilitate connectivity and permeability, the finished surface of all roads and footpaths that are shown as future possible access shall meet up to site boundaries without the provision of a grass verge or ransom strip.

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

16. (1) The development, including all roads, footpaths, verges, public lighting, open spaces, surface water drains and attenuation provisions, and all other services, as permitted under this order, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.
- (2) The areas of open space shown on submitted drawings 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. The open space areas shall be laid out and landscaped prior to the making available by the developer for occupation of any of the houses in the development.
- (3) All of the areas of public open space, as shown on the submitted drawings, shall be maintained by the developer until such time as the development is 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 the interest of order development, the timely provision of open spaces and in order to comply with national policy in relation to the maintenance and management of residential estates.

17. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of all visitor spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** in the interest of sustainable transportation.

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 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.

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 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.

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

**Dated this            day of            2019.**