



Planning and Development Acts 2000 to 2018

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 17/866

Appeal by James Gibbons of Kilcreene Road, Kilkenny against the decision made on the 18th day of December, 2018 by Kilkenny County Council to grant subject to conditions a permission to Chelmont Limited care of Dalton and O'Donnell Architects of Dalgan House, The Butterslip, Kilkenny in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of 14 number Type A four bedroom semi-detached houses, five number Type B three bedroom corner houses, six number Type C three bedroom end terrace houses, 23 number four bedroom terraced houses, three number two bedroom apartments and three number three bedroom duplex units with all associated site works, site entrance, boundary walls/railings and access roads at Drakelands Lower, Kilkenny. Revised public notices were received by the planning authority on the 21st day of November, 2018 as follows: The revised plans include significant alterations to the site layout to include a revised site boundary line, road layout and an increase in the overall number of houses by two units.

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 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 amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. 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 August, 2018 and on the 21st 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. (a) The proposed 15 number houses (consisting of the two number terraces of six number houses and the three number terraced houses) along the northern boundary and associated parking spaces shall be omitted, and shall be replaced with three duplex apartment blocks and associated parking spaces, similar to the duplex block included with the application. Each of the three duplex blocks shall have their front elevations facing south. The first duplex block shall be located where the three number terraced houses were proposed on the north-east corner of the site. The second duplex block shall be located west of this first block where one number of the terraces of six number houses were proposed, and centrally within the space thus vacated, but with a widened area of open space and a pedestrian footpath between the two blocks, and the third duplex block shall be located generally where one number of the terraces of six number houses were proposed to the west side along the northern boundary, but subject to the proviso that the western side of the duplex block shall be not less than 15 metres from the boundary with the adjoining bungalow dwelling, as measured at the centre point of its side boundary, with the resultant area thus released being increased by the provision of a larger area of public open space, together with a pedestrian footpath.
- (b) The pedestrian footpath between the first and second duplex blocks, and the pedestrian footpath to the west of the third duplex block, as set out above, shall continue to the site boundary with the proposed new Local Infrastructure Housing Activation Fund road, where there shall be pedestrian access points, permanently open, in each case three metres in width. Public lighting shall be provided for the full length of these pedestrian footpaths.

- (c) The provision of the duplex blocks, and associated open space and public footpaths, as provided for in this condition, shall be the subject of a separate planning permission, which shall also provide for appropriate measures to obviate any overlooking from the duplex blocks and associated terraces of the adjoining bungalow dwelling to the west of the site.

Reason: It is considered that the proposed housing layout of this area, comprising houses that back onto the adjoining public roads, would provide an unacceptable design response at this location, and that the provision of three duplex blocks would provide an appropriate double-sided design, which would be more in keeping with the location, and would also allow for an increase in overall residential density and a greater proportion of two bedroomed units overall.

- 3. The proposed development shall be amended as follows:-
 - (a) The pair of house type A units at the entrance to the development shall be replaced by a pair of house type C units.
 - (b) 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 two 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.

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 interest of providing appropriate passive surveillance of the open space at the entrance to the development, and in order to ensure the provision of durable boundary treatment in the interest of the residential amenity of future occupiers of the development

4. 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.

Reason: In the interests of pedestrian and traffic safety.

5. (a) The development, including all roads, footpaths, verges, public lighting, open spaces, foul sewerage, 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.
- (b) 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 residential dwellings in the development.

- (c) 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 proper 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.

6. Details of the materials, colours and textures of all the external finishes to the proposed buildings 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 the visual amenities of the area.

7. 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.

8. With the exception of the common areas within the proposed duplex block and the associated bin store (which shall be managed by an approved Owner's Management Company), the remainder of the development, including all roads, footpaths and open spaces, shall be maintained by the developer and shall be taken in charge by the planning authority.

Reason: In the interest of clarity and to comply with national policy on the management and maintenance of residential estates.

9. The site shall be landscaped in accordance with the landscaping drawings submitted with the application, other than as amended by other conditions of this permission. 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 interest of visual amenity.

10. The windows in the first floor gable of the House Type C dwelling adjoining the existing single-storey dwelling to the north-west of the site shall be fitted with obscure glazing which shall be permanently maintained.

Reason: In the interest of residential amenity.

11. 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 house.

Reason: In the interests of amenity and public safety.

12. 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.

13. Proposals for an estate/street name, house and 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.

14. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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.

15. 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.

16. 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.

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 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.

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 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.

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

Dated this day of 2019.