



---

**Planning and Development Acts 2000 to 2019**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 18/1166**

**Appeal** by Joe Conway of School Road, Rathcoffey, County Kildare against the decision made on the 17<sup>th</sup> day of June, 2019 by Kildare County Council to grant subject to conditions a permission to Ardlea Construction Limited care of Fitzgibbon McGinley Architects Limited of First Floor, Unit W1G, Ladytown Business Park, Naas, County Kildare in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of 49 number dwellings as follows: one number Type A1, two storey and part single storey detached, four bedroom dwelling; one number Type A2, two storey and part single storey detached, four bedroom dwelling; 30 number Type B1, two storey and part single storey semi-detached, four bedroom dwellings; four number Type B2, two storey and part single storey semi-detached, four bedroom dwellings; four number Type C, two storey and part single storey semi-detached, three bedroom dwellings; six number Type D, two storey and part single storey terraced, three bedroom dwellings; three number Type E, two storey terraced, two bedroom dwellings; the provision of solar photovoltaic panels (PV) on the roofs of the dwellings, provision of a new site entrance on the R403 Road (Allenwood Road), provision of a new road to the west of the proposed dwellings, all associated siteworks, boundary treatments and landscaping

works to include the culverting of the existing watercourse/stream to the north, north east and eastern boundaries of the site, the provision of a landscaped linear park to the east and north east of the site to include a pedestrian entrance at the south east corner of the site (adjacent to the R403 Road), the provision of a Traffic Calming Gateway and associated siteworks on the R403 Road to the west of the site on lands owned by Kildare County Council together with the provision of an underground foul pumping station and all associated works to the north of the site, all at Downings North, Prosperous 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 residential zoning and open space zoning of the bulk of the site in the Kildare County Development Plan 2017-2023, to the character, scale, layout and design of the proposed development and to the established character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or other amenities of the area, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and 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 27<sup>th</sup> day of March, 2019 and the 22<sup>nd</sup> day of May 2019, 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) This permission is for 49 number houses only. Each house shall be used as a single dwelling unit and shall not be separated or sub-divided in any way.

- (b) Details of the proposed boundary treatment for houses numbers 40, 41, 42, and 43 shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of clarity and in the interest of visual amenity.

- 3. 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.

4. (a) The landscaping scheme shown on drawing number 00 Rev 4 (Landscape Design Plan), as submitted to the planning authority on the 22<sup>nd</sup> day of May, 2019 shall be carried out no later than the first planting season after the first occupation of the first unit.
- (b) On the open space to the north of the site, the proposed '1.2 metres high weldmesh fence to the edge of the existing watercourse' shall be replaced with a 1.2 metre high steel bow top railing, the railing shall be galvanised and powder coated black in colour. The railing shall incorporate a lockable double leaf vehicular access maintenance gate (bow top, steel, galvanised, powder coated and black in colour).
- (c) The railing to the front of the site shall be 1.2 metres high steel bow top, galvanised and powder coated black in colour.

- (d) 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, 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 interests of residential and visual amenity.

- 5. (a) Prior to the commencement of development, a method statement detailing how trees to the south of the site adjacent to the R403 Road and along the north, north-western and eastern boundaries will be protected and retained shall be submitted to, and agreed in writing with, the planning authority.
- (b) All trees and hedgerows within and on the boundaries of the site shall be retained and maintained, with the exception of the following:
  - (i) specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development, and
  - (ii) the trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, following the submission of a qualified tree surgeon's report, and which shall be replaced with agreed specimens.

Retained trees and hedgerows shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

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

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

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

7. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

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

8. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

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

9. Construction and demolition waste shall be managed in accordance with a construction and demolition waste 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.

**Reason:** In the interest of sustainable waste management.

10. 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.

11. 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.

12. 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.



13. Proposals for an estate name, 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. 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 interest of urban legibility.

14. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply 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 sustainable transportation.

15. 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.

16. Prior to the commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:
- (a) design of the link road and shared pedestrian/cycle track serving the development as required to Objective PR 8 of the Prosperous Small Town as set out in Volume 2 of the Kildare County Development Plan 2017-2023,
  - (b) design for signalised pedestrian crossing on the R403 Road fronting the site,
  - (c) design of the final layout for the domestic entrance off the R403 Road at the eastern end of the site frontage, and
  - (d) the provision of advanced warning signage for the proposed pedestrian crossing on the R403 Road.

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

17. 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.

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

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.

---

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

**Dated this            day of            2020.**