



Planning and Development Acts 2000 to 2020

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 19/731

Appeal by Dunkitt Properties Limited care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny against the decision made on the 28th day of November, 2019 by Kilkenny County Council to refuse a permission for the proposed development.

Proposed Development: The construction of four number one bedroom single storey dwelling houses, 15 number two bedroom two-storey dwelling houses, six number three bedroom two-storey dwelling houses, proposed entrance and access road and all associated ancillary site works and associated public service connections and upgrades, all at a site situated at Dangan, Kilmacow, County Kilkenny.

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 and density of the proposed development, to the location of the site within the settlement boundary, and in proximity to the village centre of Kilmacow, it is considered that, subject to compliance with conditions set out below, the proposed development would be acceptable in terms of pedestrian and traffic safety (being within the 50 kilometres per hour speed zone), would not seriously injure the residential or visual amenities of the area or property in the vicinity, 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.

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 received by An Bord Pleanála on the 31st day of December, 2019 and 11th day of March, 2020, 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 layout of the proposed development shall be in accordance with Drawing No. RFI-01 dated 27.02.20 submitted to An Bord Pleanála on 11th day of March, 2020, except as except as may otherwise be required in order to comply with the following conditions.

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. (a) One of the proposed parking spaces for House Number 18 and one of the proposed parking spaces for House Number 21 on Drawing No. RFI-01 dated 27.02.20, received by An Bord Pleanála on the 11th day of March, 2020, shall be omitted and shall instead form an area of open space with a tree planted in each space.
- (b) The three parking spaces located to the west of House Number 17 on Drawing No. RFI-01 dated 27.02.20, received by An Bord Pleanála on the 11th day of March, 2020 shall be omitted and the area developed as public realm.
- (c) The proposed vehicle turning area located to the west of House Number 1 on Drawing No RFI-01 dated 27.02.20, received by An Bord Pleanála on the 11th day of March, 2020 shall be omitted and the area incorporated into the garden area of House Number 1.
- (d) The carparking spaces in front of House Nos 1-16 shall be designed so that no vehicles shall overhang the footpath.

Revised drawings illustrating these amendments shall be submitted to and agreed with the planning authority prior to the commencement of development.

Reason: In the interest of residential amenity and to avoid creating areas with limited passive surveillance.

5. 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) Details of additional planting to the front of each dwelling, in the vicinity of carparking spaces, and bin storage areas.
 - (c) Specifications for mounding, levelling, cultivation, and other operations associated with plant and grass establishment.
 - (d) Details and specifications of play equipment to be provided within the central amenity area.
 - (e) 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.

6. 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.

7. 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.

8. The applicant or developer shall enter into water and/or wastewater connection agreements with Irish Water prior to commencement of development.

Reason: In the interest of public health.

9. 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.

10. (a) 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.
- (b) To facilitate connectivity and permeability, the finished surface of the footpath fronting House Numbers 17 to 21 on Drawing No RFI-01 dated 27.02.20, received by An Bord Pleanála on the 11th day of March. 2020 shall meet up directly with the southern site boundary without the provision of a grass verge or ransom strip.

Reason: In the interests of pedestrian and traffic safety.

11. (a) No tree or shrub planting is permitted within the visibility splays at the proposed entrance. The developer shall ensure that visibility splays remain unobstructed. Details of the location and setting out of the front boundary wall shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The developer shall ensure that the proposed footpath along the entrance road to the development is set-back sufficiently to ensure a carriageway width of six metres along the roadside boundary of the entrance to the proposed development.
- (c) Footpath and road construction specifications shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (d) 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.
- (e) 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 L3403 in front of the new footpath.
- (f) 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 L3403 road on the approach to the site.

- (g) 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 2019.
- (h) 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.
- (i) 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.
- (j) All works associated with the provision of the proposed entrance and footpaths shall be completed in full to the satisfaction of the planning authority prior to the commencement of works on site.
- (k) All works on the public road will be subject to a Road Opening licence.

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

12. Prior to commencement of development, the following shall be submitted to, and agreed in writing with, the planning authority:
- (a) a detailed design for the proposed traffic calming ramp across Dangan Road as detailed on Drawing No.190104-DBFL-XX-XX-DR-C-1000 Revision P02 received by An Bord Pleanála on the 11th day of March, 2020. The design shall include for the crossing of pedestrians,
 - (b) details of the design, implementation, costing, and phasing of these works. The cost of the design and implementation of these works shall be at the developer's expense, and
 - (c) the agreed new area of footpath either side of the proposed new entrance and connecting to the pedestrian crossing shall be constructed and implemented prior to the occupation of the development.

Reason: In the interest of pedestrian and traffic safety.

13. The developer shall implement all recommendations contained within the Stage 1/2 Road Safety Audit received by An Bord Pleanála on the 11th day of March, 2020.

Reason: In the interest of traffic safety.

14. The developer shall carry out a detailed Stage 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 works to the public road. 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.

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. 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.

17. Public lighting shall be provided in accordance with a scheme, which shall include lighting along traffic calming measures, designated pedestrian crossing points, and 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.

18. 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 signs, and house 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 place names for new residential areas.

19. 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.

20. 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.

21. (a) 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.
- (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 houses 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 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.

22. 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.

23. 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.

24. 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.

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

Dated this day of 2020