



Planning and Development Acts 2000 to 2019

Planning Authority: Kildare County Council

Planning Register Reference Number: 19/48

Appeal by Joe Conway of School Road, Rathcoffey, County Kildare against the decision made on the 19th day of December, 2019 by Kildare County Council to grant subject to conditions a permission to John Fadden care of Brian Connolly Associates of The Studio, Wood's Way, Clane, County Kildare in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of 42 dwellings as follows: five number one and half storey detached dwellings, 30 number two-storey semi-detached dwellings, two number semi-detached bungalows, one number detached bungalow, four number apartments in a two-storey block, foul sewer pumping station, car-parking and all associated site works. As amended by the further public notices received by the planning authority on the 1st day of October, 2019 consisting of an amended site location entrance, revisions to the internal site layout, reduction in the number of dwellings from 42 to 41 and revised house designs as follows: five number one and half storey detached dwellings, 20 number two-storey semi-detached dwellings, eight number semi-detached bungalows, four number maisonettes in a two-storey block, four number apartments in a two-storey block. As amended by the further

public notices received by the planning authority on the 26th day of November, 2019 consisting of: revisions to the internal site layout, reduction in the number of dwellings from 42 to 40 and revised house designs as follows: five number one and a half storey detached dwellings, 24 number two-storey semi-detached dwellings, two number semi-detached bungalows, one number detached bungalow, four number maisonettes in a two-storey block, four number apartments in a two-storey block, 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 provisions of the Kildare County Development Plan 2017-2023 - including the Prosperous Small Town Plan, to relevant National and Regional Guidelines, to the zoning of the site for residential and open space/amenity purposes, to the location of the site in an established urban area within walking distance of Prosperous town centre, to the pattern of development in the vicinity and to the nature, form, scale, density and design 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, visual or environmental amenities of the area, would be acceptable in terms of pedestrian and traffic safety and would constitute an appropriate form of development at this location. 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 24th day of September 2019 and further modified by clarification of further information received on the 20th day of November 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. This permission is for 40 number residential units in the form of 32 number houses, four number maisonettes and four number apartments. Save for any changes subsequent to further conditions hereunder, the layout shall be as per drawing number 18001 – 301G – Site Layout received by the planning authority on the 20th day of November 2019.

Reason: In the interest of clarity.

3. (a) The main access road within the development shall be reduced in width to 5.5 metres.
- (b) The roadway serving house numbers 16 and 17, including visitor parking spaces 3 and 4, shall be omitted and replaced with access to these houses via a shorter spur and turning head off the roadway serving house numbers 18 to 22, at its north-eastern end. The omitted roadway space shall be reallocated as public open space, save where the new spur road is laid out. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the junction with the public road shall be in accordance with the detailed standards of the planning authority for such works and shall comply with all relevant aspects of the Design Manual for Urban Roads and Streets, May 2019.

Reason: In the interest of visual amenity.

4. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Full details of the pedestrian/cycling link between the site and Killybegs Manor shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This to include full engineering details, suitable lighting and landscaping.

Reason: In the interest of pedestrian safety.

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 for occupation of any dwelling unit.

Reason: In the interests of amenity and public safety.

6. Proposals for a development name, unit 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, houses and apartment unit 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. Water supply and drainage arrangements, including the 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 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. All rear gardens shall be bounded by block walls or concrete post and concrete panels, 1.8 metres in height, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

10. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, to facilitate the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electrical vehicle ducting and charging stations/points have not been submitted with the application, in accordance with the above requirements, such proposals shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, and the agreed provisions shall be carried out and completed prior to the making available by the developer for occupation

of any of the residential units in the proposed development or, if the overall development is phased, before the making available by the developer for occupation of any of the residential units.

Reason: To provide for sustainable transportation.

11. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, 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 indicating –
 - (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.
 - (ii) Details of screen planting which shall not include cupressocyparis Leyland.
 - (iii) Details of roadside/street planting which shall not include prunus species
 - (iv) Hard landscaping works, specifying surfacing materials, furniture and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) 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.

12. 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, identifying the location of the 20 metre buffer zone around the recorded monuments to the west of the site,
 - (c) carry out licenced metal detection surveys (including the field boundaries to be removed), develop an archaeological and artefact strategy on the basis of the results and in consultation with the Department of Culture, Heritage and the Gaeltacht and the National Museum of Ireland, agree protective measures in advance of site preparation and construction works to ensure the preservation/ protection of archaeological features and

archaeological monitoring of topsoil stripping (licenced under the National Monuments Acts 1930 to present).

A detailed final report describing the results of all archaeological work carried out on site, including any subsequent archaeological excavation by hand and required specialist post excavation reports, shall be submitted to the relevant authorities following the completion of all archaeological assessment. All costs shall be borne by the developer in this regard.

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.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

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, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

15. Construction 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.

16. (a) The communal open spaces, including hard and soft landscaping, any car parking areas, access ways, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

17. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

18. 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.

19. 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 all roads, footpaths, watermains, drains, public open space and other services required in connection with the development intended to be taken in charge or to be maintained by a legally constituted management company, as per condition number 16 of this Order, 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 all elements of the development until respectively taken in charge and maintained by a legally constituted management company.

20. 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.

Chris McGarry

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board

Dated this day of 2020