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## **Planning and Development Acts 2000 to 2019**

### **Planning Authority: Kildare County Council**

**Application** for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 6<sup>th</sup> day of March 2020 by Rycroft Homes Limited care of Brock McClure Planning and Development Consultants, 63 York Road, Dun Laoghaire, County Dublin.

#### **Proposed Development**

A 10-year planning permission for a strategic housing development at this site on lands at the townlands of Commons West, Boycetown and Kilcock, (all adjoining the existing Brayton Park Estate), Kilcock, Co. Kildare on a site of approximately 11.56 hectares. The site is generally bound by undeveloped agricultural land to the north west, to the north east by the Dublin to Sligo railway line, open space at Bawnogues/Commons West to the south west, the Brayton Park residential development to the east and the M4 to the west.

The development will consist of a new residential scheme of 345 number residential units (69 number duplex type units, 182 number houses and 94 number apartments) ranging from two to five storeys, a standalone creche facility (approximately 466.76 square metres) with an overall height of two storeys, an associated external play area (approximately 277.67 square metres), associated ancillary surface car parking spaces and bicycle parking spaces, a link street, internal roads, pedestrian paths, cycle paths, public and private open spaces.

The proposed breakdown of residential units is as follows:

182 number houses including:

- 42 number two-bed two-storey houses (House Type A),
- 102 number three-bed two-storey houses (House Type B1, B2, C1, C2, 02a, 02b, 04, 05),
- 7 number four-bed two-storey houses (House Type E, 01 and 03),
- 31 number four-bed three-storey houses (House Type D1),

69 number duplexes and 94 number apartments arranged in terraces and corner blocks ranging from three to five storeys including:

- 13 number two-bed duplexes (Type L),
- 56 number three-bed duplexes (Type M),
- 13 number one-bed apartments forming ground floor of duplex units (Type J),
- 56 number two-bed apartments forming ground floor of duplex units (Type K),
- 25 number two-bed apartments accommodated in part of corner Blocks A, B, C, D and E.

Each residential unit has associated private open space, in the form of either gardens, terraces or balconies in addition to access to the proposed public open space (including three number playground areas) with hard and soft landscaping treatment.

A total of 650 number surface car parking spaces are provided for the residential development including visitor parking. 280 number bicycle spaces are proposed for the proposed apartments and duplexes and bicycle spaces for the proposed houses are provided on curtilage. In addition, the crèche will be provided with 34 number surface car parking spaces and 30 number bicycle parking spaces.

The proposed development provides for one number vehicular access and associated pedestrian and cycle paths via a new link street connecting from the Brayton Park Road and one number vehicular access and associated pedestrian path providing a link into the existing Brayton Park Estate.

The proposed development makes provision for future linkages to adjoining lands; including undeveloped lands to the north-west, the adjoining undeveloped educational zoned lands to the north, as part of this application land is reserved for access to a potential future pedestrian/cycle bridge over the railway line to the north-east of the site (to be delivered by others). In addition, the proposed development provides for pedestrian and cycle paths connection to the north east of the site, as well as four number pedestrian access points and one number gated vehicular access (for Kildare County Council maintenance use only) and associated gated pedestrian access to the open space at Bawnogues/Commons West along the southern boundary of the site.

Bin storage is provided either on curtilage and or in communal storage. The associated site and infrastructural works include foul and surface water drainage, attenuation tanks, SuDs arrangements, hard and soft landscaping, permeable paving, all associated ancillary boundary treatments, boundary walls, fences and noise buffers, three number substations (approximately 20 square metres each), public lighting, a link street, internal roads, cycle paths, pedestrian paths and all associated ancillary site development works.

## **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

In coming to its decision, the Board had regard to the following:

- (a) the location of the site on lands with a zoning objective for residential development in the Kildare County Development Plan 2017-2023,
- (b) the nature, scale and design of the proposed development and those issues relating to the contravention of Section 17.2.1 of the Kildare County Development Plan 2017-2023, material contravention of Table 10 of the Kilcock Local Area Plan 2015-2021, and material contravention of Variation No.1 of the Kildare County Development Plan 2017-2023,
- (c) the National Planning Framework, Project 2040,
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness, (Government of Ireland, 2016),
- (e) the Eastern and Midland Regional Assembly RSES 2019-2031,
- (f) the Design Manual for Urban Roads and Streets (DMURS), 2019,
- (g) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009,
- (h) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2018,
- (i) the Urban Development and Building Heights, Guidelines for Planning Authorities, 2018,
- (j) Spatial Planning and National Roads Guidelines (Department of Environment, Community and Local Government) 2012,
- (k) the nature, scale and design of the proposed development,
- (l) the availability in the area of a wide range of social, community and transport infrastructure,
- (m) the pattern of existing and permitted development in the area,
- (n) the report of the Chief Executive of Kildare County Council,
- (o) the submissions and observations received, and
- (p) the report of the Inspector.

## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the Information for Screening for Appropriate Assessment submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

## **Environmental Impact Assessment Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- a) the nature and scale of the proposed development on a site served by public infrastructure,
- b) the absence of any significant environmental sensitivities in the area,
- c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

## **Conclusions on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density in this location, would not seriously injure the residential or visual amenity of the area, would be acceptable in terms of urban design, height and quantum of development 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.

The Board considered that, a grant of permission for the proposed Strategic Housing Development would materially contravene the Kildare Development Plan 2017-2023, as amended by Variation No.1 (June 2020) and the Kilcock Local Area Plan 2015-2021, in respect of density and core strategy.

The Board considers that, having regard to the provisions of section 37(2)(b)(i) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Kildare County Development Plan 2017-2023, as amended by Variation No.1, in particular Table 2.2, relating to revised core strategy figures for the town of Kilcock, would be justified for the following reasons and considerations: -

### **In relation to Section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended)**

The proposed development is considered as a Strategic Housing Development under the Planning and Development (Housing) and Residential Tenancies Act 2016 as it is located on zoned residential land and exceeds 100 number units. The Board's opinion confirmed the proposed development is strategic in nature under the provisions of this Act, and is of strategic importance in respect of the development of Kilcock in line with national policies to provide for compact growth within the Dublin MASP, and in proximity to public transport.

The Board considers the proposal is in accordance with national guidance, such as the National Planning Framework and the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy, Urban Development and Building Height Guidelines, and Sustainable Urban Housing: Design Standards for New Apartments

Guidelines, which seek the creation of compact, sustainable residential developments to be located in appropriate urban location, close to existing/proposed infrastructure and services. While Variation No. 1 reflects certain objectives of the Regional Spatial and Economic Strategy, Variation No.1 has been adopted without any associated rezoning, and in the opinion of the Board, without due regard to density or efficient land-use implications, and as such has not demonstrated itself to be wholly consistent with Sustainable Urban Development Guidelines, Residential Density Guidelines, National Planning Framework compact growth objectives, etc. The development is located on residentially zoned land in an existing urban settlement, within the Dublin MASP and is adjacent to existing infrastructure and services. The development provides linkages to a proposed school site, is well served and accessible to public transport (via the Sligo-Dublin rail line), and as such is suitable for development and of a strategic and beneficial nature to the town of Kilcock.

The Board considers that, having regard to the provisions of section 37(2)(b)(ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of Table 10 of the Kilcock Local Area Plan 2015-2021, which relate to a density restriction on the site would be justified for the following reasons and considerations: -

**In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended)**

It is considered that, in relation to the density requirements for the site there are conflicting objectives in the Kildare County Development Plan 2017-2023 and the Kilcock Local Area Plan 2015-2021. The proposed density of 44 units per hectare complies with the range 35-50 specified in Table 4.2 of the Kildare County Development Plan 2017-2023 although contravenes the restriction of 30 units per hectare in Table 10 of the Kilcock Local Area Plan 2015-2021. The Board considers the density requirements of the Kildare County Development Plan 2017-2023 comply with Section 5.11 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and a density of 44 units per hectare on the site is justified.

**In relation to Section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended)**

It is considered that permission for the proposed development should be granted having regard to Government policies as set out in the 'Guidelines for Sustainable Residential Developments in Urban Areas' issued 2009 (in particular section 5.11 and the accompanying Urban Design Manual) relating to the appropriate densities on sites on the periphery of large towns and the use of a range of building heights for good urban design and place making for new neighbourhoods.

The Board noted the inspector's opinion that the proposed development was in material contravention of Section 17.2.1 of the Development Plan however considered that, in relation to the building heights proposed for the site, the objectives in Section 17.2.1 of the Development Plan are satisfied in that the predominant height is consistent with the prevailing height of the surrounding area (53% of the proposed development are two-storey dwellings), none of the taller elements are in the proximity of existing housing, there are no protected structures, Architectural Conservation Areas or any other sensitive site in the vicinity, the location of the three and five storey elements contribute to the formation of a cohesive streetscape pattern, supported by a strong urban design rationale, and none of the buildings exceed five storeys and/or 15 metres. Furthermore, the Board considered that the proposed height of five storey feature elements for the apartment blocks provide a variety of building heights informing the neighbourhood design and creating a sense of space as required in the national Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) 2009 and the accompanying Urban Design Manual, and Section 13.4.1 of the local area plan. Any contravention relating to 17.2 is not material in nature having regard to the above.

In not accepting the Inspector's recommendation in respect of material contravention on Variation No.1, the Board considered the development to be of strategic importance and consistent with national guidance on compact growth, density and efficient land-use and optimisation of existing and proposed public transport services and infrastructure in the area, and as such consider that a grant of permission having regard to the provisions of section 37(2)(b)(i) to be appropriate



and warranted. The Board considered the submissions received, and in particular noted the Chief Executive's report and recommendation which recommended a refusal for, inter alia, reasons relating to Material Contravention of Variation No.1.

## **Conditions**

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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, or as otherwise stipulated by conditions hereunder, and the proposed development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. The period during which the development hereby permitted may be carried out shall be five years from the date of this order.

**Reason:** Having regard to the nature of the development, the Board does not consider it appropriate to specify a period of validity of this permission in excess of five years.

3. The proposed development shall be amended as follows:
  - (a) The proposed link road required to comply with the road objective MT025 in the Kilcock Local Area Plan 2015-2021, between Bawnogues to the M4 interchange, shall be designed and constructed in accordance with the National Road Authority, Design Manual for Roads and Bridges.
  - (b) A proposed cycle connection point into Brayton Park, adjacent to the crèche parking area and along the railway line, shall be designed and constructed to provide designated cycle access.

- (c) Cycling infrastructure shall be in accordance with the National Cycle Manual.

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 sustainable transportation

4. Prior to commencement of development, land required by the planning authority for the bridge cross over along the north east boundary of the site (as indicated in the lodged documentation), and the school site, shall be reserved free from development and shall be marked out on site in consultation with the planning authority.

**Reason:** In the interest of traffic safety and to prevent the development of this area prior to its use for future road improvements.

5. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs and access road shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

6. Proposals for an estate/street 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. 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.

7. The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. The car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units and to prevent inappropriate commuter parking.

8. 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, facilitating the installation of electric vehicle charging points/stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the planning authority prior to the occupation of the development.

**Reason:** To provide for and/or future proof the development such as would facilitate the use of electric vehicles.

9. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning

authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport.

10. Details of the materials, colours, and textures of all the external finishes to the proposed dwellings/buildings shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

11. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with the planning authority prior to commencement of development. Agreement of landscape plan/specification details shall include the following:

- (a) Tree protection,
- (b) Children's play area specification,
- (c) Green infrastructure,
- (d) Boundary treatment around the play areas,
- (e) Details of the construction and design of the noise barrier,
- (f) Integrate appropriate planting and proposals for pedestrian and cycle permeability into the adjoining site.
- (g) Taking in charge of areas designated for public open space.

**Reason:** In the interests of residential and visual amenity.

12. (a) All screen walls shall be two metres in height above ground level, and constructed and finished to match external finish of dwellings/building,
- (b) All rear garden walls shall be 1.8 metres in height above ground level and shall be concrete block or concrete post and panel unless otherwise agreed in writing with, the planning authority prior to commencement of development.

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

13. (a) 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 for each apartment and duplex unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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, 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.

15. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas, or equipment, unless authorised by a further grant of planning permission.

**Reason:** To protect the residential amenities of property in the vicinity and the visual amenities of the area.

16. 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. All existing over ground cables shall be relocated underground as part of the site development works.

**Reason:** In the interests of visual and residential amenity.

17. 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.

18. The development shall be carried out on a phased basis, in accordance with a phasing scheme submitted with the planning application.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

19. 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/installation of lighting. Such lighting shall be provided prior to the making available for occupation of the development.

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

20. The developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

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

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

21. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority, a properly constituted Owners' Management Company. The Management Company shall relate to the apartment and duplex units only.

This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owner's Management Company. Membership of this company shall be compulsory for all purchasers of apartment and duplex units in the proposed development.

Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

**Reason:** To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

22. Site development and building works shall be carried out only between 0800 to 1900 hours 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 residential amenities of property in the vicinity.

23. Prior to commencement of development, the developer 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.



24. 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 of roads, footpaths, watermains, drains, 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 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 of the development.

25. 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.

