



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 30th day of March 2020 by McCourt Investments Limited care of JFOC Architects Limited, 3 and 4 Greenmount House, Greenmount Office Park, Harold's Cross, Dublin 6.

Proposed Development:

A planning permission for a strategic housing development at Earl's Court, Kill Hill, Kill, Co. Kildare.

The development will consist of a residential development of 167 number dwellings, one number vehicular link at Kill Hill Lane, one number vehicular connection to The Avenue, Earl's Court, two further pedestrian/cycle links at number 16 The Green and 52 The Drive, Earl's Court, the provision of a new Heritage Trail and all associated and ancillary site development works.

Details of the dwelling types are as follows:

- (a) Two number "Type A", three-bedroom, 2.5 storey houses,
- (b) Two number "Type B", four-bedroom, 2.5 storey houses,
- (c) 24 number "Type C", three-bedroom, two storey houses,
- (d) 14 number "Type D", two-bedroom apartments,
- (e) 14 number "Type E", two-bedroom apartments,

- (f) Five number "Type F", three-bedroom, two storey houses,
- (g) 10 number "Type G1", one-bedroom apartments,
- (h) Two number "Type G2", one-bedroom apartments,
- (i) Two number "Type G3", two-bedroom apartments,
- (j) 10 number "Type G4", two-bedroom apartments,
- (k) 24 number "Type H", three-bedroom, two storey houses,
- (l) Nine number "Type H2", three-bedroom, two storey houses,
- (m) Two number "Type J", three-bedroom, one storey houses,
- (n) 13 number "Type K", four-bedroom, two storey houses,
- (o) 14 number "Type L", two-bedroom, two storey houses,
- (p) Three number "Type L2", two-bedroom, two storey houses,
- (q) One number "Type M", two-bedroom, one storey house,
- (r) Seven number "Type N", three-bedroom, two storey houses,
- (s) One number "Type P", one-bedroom, one storey house,
- (t) Four number "Type Q", one-bedroom apartments,
- (u) Four number "Type R", one-bed apartments.

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 policies and objectives set out in the National Planning Framework issued by the Department of Housing, Planning and Local Government in February 2018 and Eastern and Midland Regional Assembly/Regional Spatial and Economic Strategy,
- (b) the policies and objectives set out in the Kildare County Development Plan 2017-2023, as amended by Variation No.1 (June 2020),
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (d) Urban Development and Building Heights, Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018,
- (e) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government 2013, as amended,
- (f) the Guidelines for Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (g) the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in March 2018,
- (h) the Planning System and Flood Risk Management for Planning Authorities (including the associated Technical Appendices), issued by the Department of the Environment, Heritage and Local Government in 2009,
- (i) the nature, scale and design of the proposed development,
- (j) the availability in the area of a range of social, community and transport infrastructure,
- (k) the pattern of existing and permitted development in the area,
- (l) the planning history of the site and within the area,
- (m) the submissions and observations received,

- (n) the report of the Chief Executive of Kildare County Council,
- (o) 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 area, the Information for Screening Statement for Appropriate Assessment document 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 developer, 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 an urban 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 proposed development would constitute an acceptable residential density in proximity to the town centre, would not seriously injure the residential or visual amenities of the area, has had due regard to the Kill Hill national monument (KD020-001----Hilltop Enclosure), would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of surface water management and traffic and pedestrian safety and convenience.

The Board considered that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plan for the area, a grant of permission could materially contravene provisions of the core strategy and density objectives. The Board considers that, having regard to the provisions of section 37(2)(b)(i)(ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the Kildare County Development Plan 2017-2023 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 to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended); to its support for the National Policy Objectives in the National Planning Framework, in particular Objective 11, its location within the development boundary of Kill which is identified as Small Town in the Kildare County Development Plan 2017-2023, on zoned and serviced lands, and its potential to contribute both to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

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

The objectives of the development plan are not clearly stated with regard to the two-core strategy housing unit target figures for Kill (table 3.3 of Volume 1 and table 1.2 of Volume 2 of the Kildare County Development Plan 2017-2023) and applicable density figure for the site at this location in Kill, having regard to table 4.2 of the Kildare County Development Plan 2017-2020.

Further having regard to Variation No.1, which amends the core strategy figures to such an extent that fails to have regard to the level of extant permissions in Kill, and fails to co-ordinate zoning and core strategy figures, the plan is considered inconsistent in terms of its policy, population targets and zonings.

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 National Planning Framework, specifically National Policy Objective 27 and 33; the provisions as set out in the 'Urban Development and Building Height Guidelines, Guidelines for Planning Authorities December 2018' (in particular Specific Planning Policy Requirement 3 and Specific Planning Policy Requirement 4); and the 'Guidelines for Planning Authorities on Sustainable Residential Developments in Urban Areas May 2009' (in particular Chapter 6).

In deciding not to accept the Inspector's recommendation to refuse permission, the Board notes the Inspector's summary of the rationale for the Variation No.1 of the Kildare Development Plan, and for the revisions to the core strategy in Table 3.3, which are, inter alia, as outlined in para 11.4.6, 'As noted previously, the figures in table 3.3 are allocated on the basis of an assessment of the overarching figure for the county established by the National Planning Framework and supported by the Regional Spatial and Economic Strategy, with the translation of this assigned figure

from national and regional level down to county level, divided spatially across the various settlements, on the basis of an evidence based quantitative strategy.’

The Inspector further states that ‘Under table 3.3, a dwelling target of 78 units is assigned to the ‘Town’ Kill for 2020-2023, modified from the stated National Planning Framework 2026 dwelling target of 183 units to 2026 (National Planning Framework figure being assigned by County with hierarchy distributing that allocation), with the figure of 78 units allocated to coincide with the life of the development plan.’

The Board, have reviewed and considered the National Planning Framework, Regional Spatial and Economic Strategy, and Variation No.1, as it relates to Kill and are satisfied, that notwithstanding the overarching principles and high level population targets in the National Planning Framework and Regional Spatial and Economic Strategy, there are no specific objectives or population targets that the Variation is required to meet at a micro level relating to Kill and the National Planning Framework does not state or provide a specific unit number for the town of Kill, and that this reference to a ‘stated National Planning Framework 2026 dwelling target of 183 units to 2026’ is inaccurate and not accepted. The Board is satisfied that a reason for refusal which specifically references to the National Planning Framework and Regional and Spatial Economic Strategy are not applicable, and that the development is in accordance with the broad principles and objectives of the national and regional planning framework documents.

The Board accepts and acknowledges the overarching objectives of the National Planning Framework and Eastern and Midland Regional Assembly Regional and Spatial Economic Strategy which seek to concentrate development in to compact and sustainable urban settlements, with a clear hierarchy of villages, small towns, and larger towns within the various counties. This is considered an appropriate and reasonable objective and to be in accordance with proper planning and sustainable development. The Board notes the National Planning Framework stated Kildare population target as 249,000-254,000 persons in 2026, and that no further breakdown is provided. The Board also notes that the National Planning Framework sets out a tiered approach to zoning lands – based on whether the

lands or serviced or serviceable. In this regard the Board also notes that in respect of the subject site, the lands are serviced, and are within the footprint or spatially sequential to the identified settlement.

Having regard to the provisions and population targets stated in the Variation No.1 of the Kildare Development Plan, the Board accepts and concurs with the Inspector's analysis and conclusion that subsequent to the lodgement of the application and pursuant to the provisions of Variation No.1, the proposed development now materially contravenes the County Development Plan, as it relates to the core strategy figures.

The Board further notes the inspector's position that this material contravention is significant, although irrelevant of the extent to which the Plan is materially contravened the provisions of section 37(2)(b) apply equally.

The Board do not accept the Inspector's conclusion that the proposed development should not be considered under section 37(2)(b) in so far as it breaches the core strategy. On a separate issue, the Board accepts the Inspector's conclusions on s.37(2)(b) as it relates to breaches in the height restrictions outlined in the Kildare Development Plan as outlined above.

To this end, in so far as the Board is addressing the issue of the Material Contravention of the Core Strategy and Settlement Hierarchy, the Board, having considered the submissions received including those of the planning authority (executive and elected members), third parties and developer, and are of the opinion, that while the proposed development materially contravenes the Core Strategy as set out in Variation No.1, that the development in all other regards accords with the principles of proper planning and sustainable development, and is of a scale and nature, that in the opinion of the Board, does not significantly undermine the county's settlement hierarchy or proposed pattern of growth. The scale of development proposed, in conjunction with the permitted development is such as to allow the town of Kill remain within the population figures of a small town and does not adversely prejudice the realisation of the objectives of the National Planning Framework or Regional Spatial and Economic Strategy.

The National Planning Framework sets out a tiered approach to zoning lands – based on whether the lands are serviced or serviceable. In respect of the subject site, the lands are serviced, and are within the footprint or spatially sequential to the identified settlement.

The Board also noted Table 2.4 of the Variation, which states that Kildare's growth is estimated at approx. 6,000 units for 2020-2023, although noted as circa 14,000 units up to 2026. The proposed development of 167 units equates to approximately 1% of the target growth of units for the period up to 2026.

The town of Kill currently has a population of approx. 3,500 persons. With an additional circa 315 housing units proposed (including the current development of 167 units), the town remains below 5,000 persons (as a household size of 2.4 persons per household is applied).

If the proposed development were permitted it could not be commenced until late Quarterly 4 2020 although more likely early Quarterly 1 2021. Therefore, the proposed development could and would reasonably be phased over the five-year period 2021 to 2026, and as such would equate to 167 units of the total 14,000 units identified as the target, i.e. approx. 1% of the growth. Based on the broad principles and targets outlined in the National Planning Framework and Regional Spatial and Economic Strategy and as per the overall dwelling/unit targets for Kildare (as outlined in the Variation No.1), the Board is satisfied that the proposed development does not undermine the principles of compact growth and sustainable development for the county or town, and does not undermine the settlement strategy for the county, notwithstanding the breach of the household target for Kill which relates to the period Quarterly 1 2023.

Having regard to the provisions of section 37(2)(b),(i) and contrary to the Inspector's argument that the development could not be considered strategic by reason of its breach of the core strategy and Variation, the Board is satisfied that the development is of strategic and national importance, in that it is providing much need housing in line with the Rebuilding Ireland Housing Action Plan for Housing

and Homelessness 2016, and that it is doing so in a way that accords with national policies in respect of compact growth, recommended/required densities as per section 28 Guidelines and on lands that are zoned and serviced and the development of which will enhance and improve connectivity within Kill and provide and open up amenity lands.

Conditions

1. The 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 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 proposed development is hereby permitted for a period of five years.

Reason: In the interest of orderly development.

3. The proposed development shall be completed in accordance with the submitted phasing plan.

Reason: In the interest of orderly development.

4. The proposed development shall be amended as follows:

- (i) Duplex Block G shall be redesigned to incorporate dual entrances to the block from both the front and rear elevations, that is, the ground level apartments shall be accessed via an entrance at ground level from the rear/public open space area, with the entrance to the upper level apartments only remaining from Slí na Naomh/eastern main street via an internal stairwell as proposed. Revised boundary treatments to the ground level patios shall be submitted accordingly.

- (ii) Additional windows shall be inserted to the apartments in the two gable ends of Block G.
- (iii) The southern first floor window to apartment 93, which adjoins plot 95 shall be replaced with a higher-level window.
- (iv) The dwelling on plot 97 shall be omitted and the vacated space incorporated into the gardens of plots numbered 96 and 98.

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 interests of residential amenity.

- 5. All recommended measures outlined in the submitted Ecological Impact Assessment and Arboricultural Assessment Report shall be implemented in full.

Reason: In the interest of biodiversity.

- 6. Dwellings H and K on plots 34 and 35 shall be omitted. A separate application shall be lodged for a childcare facility with a minimum capacity of 39 children on that part of the site thereby released, or such alternative location within the site as the developer may determine appropriate, in consultation with the planning authority.

Reason: To comply with the provisions of "Childcare Facilities: Guidelines for Planning Authorities" issued by the Department of the Environment and Local Government in June 2001, and in the interest of the amenities of the area.

7. 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.

8. 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.

9. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of proposed dwelling houses on plots 82, 83, 84, 85 and 86 or gardens to apartments on plots 87, 90, 91 and 94 without a prior grant of planning permission.

Reason: In the interest of residential amenity, protection of existing tree and hedgerow line and protection of surface water infrastructure at this location.

10. 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.

Reason: In the interests of amenity and public safety.

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. The number of bicycle parking spaces within the site, shall be agreed in writing with the planning authority. Details of the layout, storage arrangement, marking demarcation, and security provisions for bicycle spaces shall be submitted for the written agreement of the planning authority prior to commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

13. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, 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.

(b) The findings of the Stage 1 Road Safety Audit and the undertaking of a Stage 2/3 Road Safety Audit and its findings, shall be closed out, signed off and incorporated into the development at the developer's expense. Exact details of any improvement measures shall be submitted to the planning authority for written agreement prior to the commencement of development.

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

14. 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.

15. A minimum of 10% of all car parking spaces shall be provided with functioning electric vehicle charging stations/points, and ducting shall be provided for all remaining car parking 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 have 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.

16. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit.

Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

17. The site shall be landscaped and earthworks carried out in accordance with a detailed comprehensive scheme of landscaping, which shall be submitted to and agreed in writing with, the planning authority prior to commencement of development. The landscape plan shall include the final detailed design of the Kill Hill Heritage Trail including final specifications of all finishes, boundary treatments and hedgerow protection measures.

Reason: In the interest of residential and visual amenity.

18. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscape scheme submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority or management company.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

19. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees and hedgerows which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.
- (c) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of tree(s)/hedgerow(s) to be retained, as submitted with the application, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected and all branches are retained.

(d) No trench, embankment or pipe run shall be located within three metres of any trees which are to be retained on the site.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

20. That section of hedgerow along the eastern boundary of the site, which is associated with the national monument of Kill Hill (KD020-001-003) shall be retained in its entirety. This hedgerow and all hedgerows to be retained shall be protected by a 1.5-metre-high fence which shall enclose at least the area covered by the branch spread.

Reason: To ensure the protection of a feature of major importance.

21. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. This schedule shall cover a period of at least three years, and shall include details of the arrangements for its implementation.

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

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. 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 secure the protection of the trees on the site.

23. (a) All entrance doors in the external envelope shall be tightly fitting and self-closing.

(b) All windows and roof lights shall be double-glazed and tightly fitting.

(c) Noise attenuators shall be fitted to any openings required for ventilation or air conditioning purposes.

Details indicating the proposed methods of compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect residential amenities.

24. (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 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.

25. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, the treeline along the western boundary of the site to the rear of plots 82 to 94, 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.

26. 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.

27. 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:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site, including via Slí na Naomh and adjoining primary school, and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;

- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- i) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- j) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- k) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- l) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

28. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, 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.

29. 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.

30. 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.

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

Reason: In the interest of public health.

32. The agreed buffer area adjacent to monument number KD020-001----Hilltop Enclosure and to the Preservation Order area to the south of the proposed development site shall be clearly marked on site, prior to the commencement of development, in consultation with the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht and Kildare County Council and this buffer area shall not be used as a site compound or for storage and heavy machinery shall not be allowed to track across the buffer areas.

Reason: In order to conserve the archaeological heritage of the site.

33. 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 carry out site testing and monitor all site investigations and other excavation works, including all removal of topsoil associated with this development, including the construction of the heritage trail, all necessary licences or consents under the National Monuments Acts 1930 to 2014 having been obtained.

(c) should archaeological material be found during the course of archaeological monitoring, all work which might affect that material will cease pending agreement with the National Monuments Service of the Department of Culture, Heritage and the Gaeltacht to how it is to be dealt with.

(d) all archaeological deposits/features, within the area where groundworks will occur, which were recorded during test excavation at the site in December 2005, shall be fully archaeologically planned, photographed and excavated by a suitably qualified archaeologist, all necessary licences or consents under the National Monuments Acts 1930 to 2014 having been obtained.

(e) all costs of archaeological work necessitated by, or arising from, the development shall be borne by the developer.

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 (in situ or by record) of any remains that may exist within the site.

34. The development shall be carried out on a phased basis, in accordance with a phasing scheme submitted with the planning application, (unless otherwise agreed in writing with the planning authority prior to commencement of any development).

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

35. 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.

Paul Hyde
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2020