



Planning and Development Acts 2000 to 2019

Planning Authority: Kildare County Council

Planning Register Reference Number: 19/1000

Appeal by Howard Berney of Birchmount, Hillside, Kilcullen, County Kildare against the decision made on the 26th day of March, 2020 by Kildare County Council to grant subject to conditions a permission to Alchemy Homes Development (Naas) Limited care of CCH Architects Limited of Lacken House, Dublin Road, Kilkenny in accordance with plans and particulars lodged with the said Council.

Proposed Development: A revision to a section of the previously approved residential scheme (Planning Reference 13/1019), for the construction of 90 number residential units, as Phase 2 of the residential development consisting of 8 number two-storey one bed maisonettes, 54 number three bed two-storey terrace houses and 28 number two bed apartments in a three storey plus penthouse block, with bin store, car and bicycle parking, along with the extension of the internal road network, sewerage, surface water and water connections, landscaping and ancillary works at Riverside Manor, Kilcullen, County Kildare, as amended by the revised public notice received by the planning authority on the 2nd day of March, 2020 as follows: revisions to the previously approved residential scheme (Kildare County Council Register Reference 08/1679 which was further extended under Register Reference 13/1019 and 18/1475), including revisions to the permitted application

boundary, to comprise the construction of 90 number residential units consisting of 16 number one bed maisonettes, 24 number two bed duplex units, 42 number three bed houses and 8 number four bed houses; all associated site development, landscaping and boundary treatment works above and below ground.

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, the Kilcullen Local Area Plan 2014-2020, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) issued by the Department of the Environment, Heritage and Local Government in May 2009, and the nature, layout and scale of the proposed development on a residentially zoned site in Kilcullen, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of zoning, layout and design, would be of an appropriate density and would be acceptable in terms of pedestrian and traffic safety and convenience. 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 21st day of February, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) Prior to the making available for occupation of any dwelling unit on the site, a two metre high, green coloured, pre-coated paladin fence of stock proof standard shall be constructed along the boundary of the entirety of the lands in the applicant's ownership where they adjoin farmland in third party ownership, apart from along the northern site boundary abutting the existing lane to the rear of dwelling units numbers 25-40 where the boundary treatment shall be as set out in (b) below and to the rear of dwelling units numbers 1-24 where the boundary treatment shall be as proposed in this planning application.
- (b) Prior to the commencement of development, revised details shall be submitted to, and agreed in writing with the planning authority, for the provision of a wall along the northern boundary abutting third party lands. The wall shall be at least two metres in height, capped and plastered on both sides.

Reason: In the interest of the proper planning and sustainable development of the area.

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

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

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

Reason: In the interest of public health.

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and

- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

- 7. The internal road network serving the proposed development including junctions, parking areas, footpaths, kerbs and signage shall comply with the detailed standards of the planning authority for such road works.

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

8. (a) A Stage 3 Road Safety Audit shall be carried out by an independent approver and certified auditor. Any necessary improvements shall be made prior to occupation of the residential units.
- (b) The developer shall agree with the planning authority the exact location for a pedestrian crossing and road markings as generally indicated on the 'Works to existing junction on Main Street' plan drawing number KILCUL-DOB-00-SI-DR-C-0065 received by the planning authority on the 21st day of February, 2020. These works shall be completed, at the developer's expense and to the satisfaction of the planning authority, prior to first occupancy of the proposed development.
- (c) Prior to first occupancy of the proposed development, the developer shall install and commission a CCTV monitor for the Main Street, at the developer's expense, in agreement with the planning authority.

Reason: In the interest of road safety.

9. Ducting shall be provided at all proposed residential units to facilitate the installation of electric vehicle charging points.

Reason: In the interest of sustainable transport.

10. 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.

Reason: In the interest of sustainable waste management.

11. (a) Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1300 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.
- (b) 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:
 - (i) location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
 - (ii) location of areas for construction site offices and staff facilities,
 - (iii) details of site security fencing and hoardings,

- (iv) details of on-site car parking facilities for site workers during the course of construction,
- (v) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of any abnormal loads to the site,
- (vi) measures to obviate queuing of construction traffic on the adjoining road network,
- (vii) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (viii) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works,
- (ix) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (x) 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,
- (xi) off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil, and

- (xii) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

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 interests of amenities, public health and safety.

- 12. Public lighting shall be provided in accordance with a scheme, 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 residential unit.

Reason: In the interests of amenity and public safety.

- 13. 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.

- 14. The landscaping scheme as submitted to the planning authority on the 21st day of February, 2020 shall be carried out within the first planting

season following substantial completion of external construction works. 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 interests of residential and visual amenity.

15. (a) Prior to commencement of development, all trees and hedging 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 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.

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

16. Mitigation measures contained within the Ecological Impact Assessment submitted to the planning authority on 21st day of February, 2020 shall be implemented in full.

Reason: In the interest of the protection of the ecology of the area.

17. 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.

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 roads, footpaths, 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.

20. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance

with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Dated this day of 2020.