



An  
Bord  
Pleanála

Board Order  
ABP-309087-21

## Planning and Development Acts 2000 to 2020

### 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 January 2021 by Declan Brassil and Company Limited care of Debussy Properties Limited of 62 Hayfield, Maynooth, County Kildare.

#### **Proposed Development comprises of the following:**

Construction of 192 number residential units, comprising:

(a) 114 number two-storey houses consisting of:

- Seven number three-bedroom, semi-detached wide fronted houses - (Unit Type A - 107.2 square metres),
- One number three-bedroom, detached wide fronted house - (Unit Type A1 - 107.2 square metres),
- Seven number four-bedroom, semi-detached corner houses - (Unit Type B - 132 square metres),
- 69 number three-bedroom, semi-detached and mid-terrace houses - (Unit Type C - 114 square metres),
- Six number three-bedroom, semi-detached and end terrace houses - (Four number Unit Type C1 - 114 square metres, one number Unit Type C2 - 115.4 square metres and one number Unit Type C3 - 114 square metres),

- 17 number four-bedroom, semi-detached and terraced houses (Unit Type D – 137.5 square metres),
  - Seven number four-bedroom, semi-detached and end terrace houses (Six number Unit Type D1 – 137.5 square metres and one number Unit Type D2 – 137.5 square metres),
- (b) 78 number duplex units arranged in six number three-storey buildings (Blocks A – F) consisting of:
- 10 number one-bedroom units measuring 56.6 square metres (Unit Types A, A1, A2, B and B1),
  - 40 number two-bedroom units measuring 82.7 square metres (Unit Types A3, A4, A5, B2, B3, B4, C, C1, D, D1, E, E1, F and F1),
  - 28 number three-bedroom units measuring 112.6 square metres (Unit Types C2, D2, E2 and F2),
- (c) A childcare facility 160 square metres is also proposed at the ground floor level of Duplex Block B to serve the development.

The proposed development includes the provision of a link street through the subject site (including pedestrian and cycle paths) to connect Prosperous Road (R403) to the north with Millicent Road to the east, incorporating all associated junction upgrade works and pedestrian and cycle improvement works, integrating with existing infrastructure in the vicinity. A priority junction is proposed at the Prosperous Road (R403) entrance to the site and a signalised junction is proposed at the Millicent Road entrance to the site. The existing Clane Gaelic Athletic Association Club access onto Prosperous Road (R403) is proposed to be replaced with a pedestrian and cycle only access at this location and a new vehicular, pedestrian and cycle access provided along the western boundary of the proposed link road. It is also proposed to demolish and clear the existing Clane Gaelic Athletic Association Club ball court to facilitate the new vehicular and pedestrian and cycle access to the Clane Gaelic Athletic Association Club.

The proposed development also includes the provision of 340 number car parking spaces and 160 number bicycle parking spaces; internal roads; services infrastructure including foul and surface water drainage; bin and bicycle storage facilities; public open space; play areas; boundary treatments; landscaping and public lighting; together with all associated and ancillary site and development works all located at this site on the Western Side of Millicent Road and Southern Side of Prosperous Road, Clane, County Kildare.

## **Decision**

**Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## Reasons and Considerations

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

- (a) The policies and objectives as set out in the Eastern and Midland Regional Assembly and Northern and Western Regional Assembly and Regional Spatial and Economic Strategy,
- (b) The policies and objectives as set out in Project Ireland 2040 National Planning Framework,
- (c) The policies and objectives as set out in the Kildare County Development Plan 2017-2023, as amended by Variation No.1 (June 2020),
- (d) The policies and objectives as set out in the Clane Local Area Plan 2017-2023,
- (e) The provisions of Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (f) The provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, issued by the Department of Housing, Planning and Local Government in December 2018,
- (g) The provision of the Design Manual for Urban Roads and Streets issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government 2019, as amended,
- (h) The Guidelines for Sustainable Residential Developments 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,
- (i) The provisions of 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 December 2020,
- (j) The provisions of 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,



- (k) The provisions of the Housing Supply Target Methodology for Development Planning Guidelines for Planning Authorities issued under section 28 of the Planning and Development Act 2000, as amended,
- (l) the nature, scale and design of the proposed development,
- (m) the availability in the area of a range of social, community and transport infrastructure,
- (n) the pattern of existing and permitted development in the area,
- (o) the planning history of the site and within the area,
- (p) the submissions and observations received,
- (q) the report of the Chief Executive of Kildare County Council, and
- (r) the report of the Planning 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, Appropriate Assessment Screening Report 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 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 299(C) 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

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

## 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, 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. (a) The proposed development shall be amended as follows:  
Unit numbers 149 to 182 inclusive and Duplex Block E (50 number units in total) shall be omitted from the development.
- (b) The use of render on the exterior of the duplex blocks shall be omitted in full and any render shown on the plans and particulars submitted with the application shall be replaced with suitable brick type finish.
- (c) In-curtilage car parking spaces serving unit numbers 132 to 135 shall be omitted and replaced with a communal car parking bay with a minimum of four number spaces and maximum of six number spaces that run parallel to Millicent Road.

Revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In order to comply with the Core Strategy of the Kildare County Development Plan 2017-2023 (as varied) and in the interest of visual amenity and traffic safety.

3. (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development. The phasing scheme shall address both the phased delivery of the link street from the R403 Prosperous Road to the L2004 Millicent Road in accordance with Condition Numbers 3(b) and 3(c) below and the delivery of the childcare facility.
- (b) The proposed link street from the R403 Prosperous Road to the L2004 Millicent Road including junctions with the R403 Prosperous Road, the L2004 Millicent Road and the Gaelic Athletic Association grounds and the boundary wall and railings to the eastern boundary of the Gaelic Athletic Association grounds shall be completed and operational prior to the occupation of the 51<sup>st</sup> residential unit.
- (c) The priority controlled junction onto the R403 Prosperous Road, the access to the Gaelic Athletic Association grounds and the signalised junction into Millicent Road shall come into operation simultaneously. The existing vehicular access to the Gaelic Athletic Association grounds shall be decommissioned with immediate effect when the new priority controlled junction onto the R403 Prosperous Road becomes operational.

**Reason:** To ensure the timely provision of services and infrastructure for the benefit of the occupants of the proposed dwellings and in the interest of traffic safety.

4. All mitigation and monitoring measures outlined in the plans and particulars, including the Site Specific Flood Risk Assessment, Construction and Environmental Management Plan, Ecological Impact Assessment and Cultural Heritage Assessment Report, shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of protecting the environment and in the interest of public health.



5. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.

**Reason:** In the interests of clarity and public health.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and buildings and boundaries shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

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

7. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit the following details to the planning authority for written agreement:

- (a) Full design details of the proposed surface water attenuation system, to include details of outflow rates, design calculations to allow for a 20% climate change factor, Sustainable Drainage System measures, storm attenuation storage chambers, flood pipe network design, and outfall to watercourse and culvert.
- (b) A maintenance strategy for the proposed surface water drainage system. The agreed strategy shall be implemented until such time as the drainage infrastructure has been taken in charge by Kildare County Council.
- (c) A condition and capacity report for culverts within the site to include details of any measures to be undertaken to protect and or upgrade culverts where this is required to facilitate the proposed development.
- (d) Prior to commencement of development a Stage 2 – Detailed Design Stage Storm Water Audit shall be submitted to the planning authority for written agreement.

- (e) 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.

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

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

8. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the development and where required, revised plans and particulars demonstrating compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development:

- (a) Detailed design plans and particulars for the proposed link street between the R403 Prosperous Road and the L-2004 Millicent Road, including all junctions, shall be submitted to the planning authority for approval prior to the commencement of development.
- (b) The roads and traffic arrangements serving the site including signage shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (c) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings and car parking bays shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the planning authority for such road works.
- (d) Cycle tracks within the development shall be in accordance with the guidance provided in the National Cycle Manual.

- (e) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.
- (f) The developer shall carry out a Stage 3 – Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

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

**Reason:** In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

- 9. The site shall be landscaped, and earthworks carried out in accordance with the detailed scheme of landscaping, which shall be submitted to and agreed in writing with the planning authority prior to commencement of development. The scheme shall include provisions for hard and soft landscaping within the site, boundary treatments and includes measures for the protection of trees within and adjoining the site.

**Reason:** In order to ensure the satisfactory completion of the development.

- 10. A total of 160 number secure bicycle parking spaces shall be provided within the development. Design details for the cycle spaces and cycle storage compounds shall be submitted to, and agreed in writing with, 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.



11. Prior to the opening or occupation of the development, a Mobility Management Strategy including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns 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 and staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy. The interim or temporary strategy, where applicable, should reflect the requirements of Design Manual for Urban Roads and Streets Interim Advice Note – Covid Pandemic Response (May 2020). 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 and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

12. A minimum of 10% of all communal car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of electric vehicle charging points or stations at a later date. Where proposals relating to the installation of electric vehicle ducting and charging stations or 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.



13. 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 employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.

**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.

14. Prior to the commencement of development, the developer shall agree in writing with the planning authority details for the protection of the Wayside Cross Base (Record of Protected Structures Reference Number B14-067) located within the site during construction.

**Reason:** In order to conserve the architectural heritage of the site.

15. Proposals for an estate and 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 and 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.

16. 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 installation of lighting. 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.

17. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained in the site. 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.

18. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

19. Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. 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 property in the apartment blocks. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

The Management Company shall include and manage the Community Building for the benefit of the residents of the apartments or the wider community as determined by the planning authority.

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

20. 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.

21. The construction of the development shall be managed in accordance with a Construction and Environmental 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 material compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;
- (b) 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 abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to the matters outlined in the submission received from Inland Fisheries Ireland.

A record of daily checks that the works are being undertaken in accordance with the Construction and Environmental Management Plan shall be kept for inspection by the planning authority.

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



22. 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.

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 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.

DECISION QUASHED

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.

*Terry Prendergast*

**Terry Prendergast**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**



Dated this *22* day of *April*

**2021**

**DECISION QUASHED**