

An  
Bord  
Pleanála

Board Order  
ABP-309496-21

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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 20/323**

**Appeal** by Michael and Margaret Moore care of Maguire and Associates of 6 Railway Terrace, Dublin Road, Naas, County Kildare against the decision made on the 25<sup>th</sup> day of January, 2021 by Kildare County Council to grant subject to conditions a permission to Thoival Properties Limited care of M.D. Gilligan of Belgrave Building, Unit W4-D1, Ladytown Business Park, Naas, County Kildare in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Residential development consisting of eight number houses as follows:- two number three bedroom, semi detached houses Type A on sites 1 and 2, one number three bedroom detached house Type B on site 3, one number three bedroom detached house Type B1 on site 4, two number three bedroom semi detached houses Type C on sites 5 and 6, two number three bedroom semi detached houses Type D/D1 on sites 7 and 8. Outfall drains, access roads and footpaths, car parking, upgraded site access onto existing link road and all associated site development works. The proposed development forms part of the overall residential development

permitted under planning register reference number 16/955; all at Temple Mills, Yellowlough Cross, Shean, Rathangan, County Kildare.

## **Decision**

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

## **Matters Considered**

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

## **Reasons and Considerations**

Having regard to the location of the application site in an area zoned for residential development under the Kildare County Development Plan 2017-2023, the pattern of development in the area, the planning history for the site and surrounding area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential amenities of surrounding properties or the visual amenity and character of the area, would be acceptable in terms of design and layout, 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, as amended by the further plans and particulars submitted to the planning authority on the 18<sup>th</sup> day of November, 2020 and on the 22<sup>nd</sup> day of December, 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. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. 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 noise and dust management measures, environmental protection measures and traffic management arrangements.

**Reason:** In the interest of public safety, environmental protection, and residential amenity.

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

**Reason:** In the interest of the residential amenities of surrounding properties and in the interest of clarity.

5. 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.

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

6. Prior to commencement of development, the developer shall enter into water and wastewater connection agreement(s) with Irish Water.

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

7. Public lighting shall be provided in accordance with a scheme, (which shall include lighting along pedestrian routes through open spaces) details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall comply with the mitigation measures for bats and shall be provided prior to the making available for occupation of any house.

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

8. Proposals for an estate name, numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all 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. One number parking space shall be reserved for persons with impaired mobility which shall be not less than the dimensions set out in the document "Building for Everyone: A Universal Design Approach" (National Disability Authority).

**Reason:** To ensure a satisfactory parking provision for the proposed development that is accessible to all users.

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

completed prior to the making available by the developer for occupation of any of the residential units in the proposed development.

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

11. The access road, junction, turning areas, and parking areas serving the proposed development shall comply with the Design Manual for Urban Roads and Streets, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. The management and maintenance of the proposed access road and adjoining areas of open space and parking following completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the road being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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. 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.

14. A comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:-
- (a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development,
  - (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings and proposals for the retention of existing hedgerows along the southern and western site boundary,
  - (c) details of proposed street furniture, including bollards, lighting fixtures and seating,
  - (d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes, and the provision of a two metres high wall along the entire length of the eastern site boundary.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.

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

15. 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 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.

16. Prior to the commencement of any house unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority such agreement must specify the number and location of each house or duplex unit), pursuant to section 47 of the Planning and Development Act 2000, as amended, that restricts all houses permitted, to first occupation by individual purchasers, that is, those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

17. 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.

18. 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.

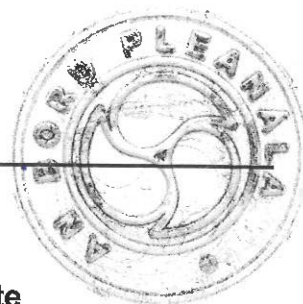
19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the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

  
Stephen Bohan

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



Dated this 10<sup>th</sup> day of December 2021.