

Planning and Development Acts 2000 to 2020

Planning Authority: Kildare County Council

Planning Register Reference Number: 20/479

Appeal by Joe Higganbotham care of David Mulcahy Planning Consultants Limited of 67 Old Mill Race, Athgarvan, Newbridge, County Kildare against the decision made on the 11th day of March, 2021 by Kildare County Council to refuse permission for the proposed development.

Proposed Development: The construction of 20 number dwellings comprising of six number three bed, two storey, semi detached dwellings (House Type D), 12 number four bed, two storey, detached dwellings (House Type A, B, B1, C, C1,) and two number four bed, detached bungalows (House Type E). Also, new vehicular entrance to public road, separate pedestrian link to Church View Estate, open space, landscaping, boundary treatment, roads, paths, parking, partial piping of ditch along western boundary and all associated site works including attenuation chamber on a site immediately west and north of Church View Estate, Nurney, County Kildare, as amended by the further public notice received by the planning authority on the 16th day of February, 2021.

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 and the zoning of the site for residential purposes, to the location of the site in a designated rural settlement and to the nature, form, scale, density and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. 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 submitted on the 12th day of May 2020, as amended by the further plans and particulars submitted on the 5th day of February, 2021, 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) The permission is for 15 number dwelling houses as per drawing number 4740-FIR-01 (Site Layout Plan) submitted to the planning authority on the 5th day of February, 2021.
- (b) Prior to the commencement of the development, the developer shall submit to, and agree with the planning authority in writing, the boundary treatment along the full length of the northern site boundary (alongside Tully Stream).

Reason: In the interests of residential amenity and clarity.

3. Prior to the commencement of development, the developer shall provide, for the written agreement of the planning authority, full details of the proposed external design/finishes in the form of samples and on-site mock-ups. These details shall include photomontages, colours, textures and specifications.

Reason: In the interest of visual amenity.

4. (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 standards of the planning authority for such works.
- (b) A Stage 3 Road Safety Audit, in relation to all road works including the junction with the public road, shall be prepared and submitted for the written agreement of the planning authority prior to the commencement of development. Any necessary revisions to comply with the Stage 2 recommendations and/or additions shall be agreed in writing with the planning authority.

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

5. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of pedestrian safety.

6. 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 be provided prior to the making available for occupation of any dwelling unit.

Reason: In the interests of amenity and public safety.

7. (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 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.
- (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.

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 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

9. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Full details of all surface water disposal, surface water management and all necessary legal entitlements to carry out works to adequately service 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 public health.

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

Reason: In the interest of public health

11. To ensure full implementation of the proposed landscape plan, the developer is required to retain the services of a Landscape Consultant throughout the life of the site development works. A completion certificate shall be signed off by the Landscape Consultant when all works are completed and in line with the submitted landscape drawings. This completion certificate shall be submitted to the planning authority for written agreement upon completion of works.

Reason: In the interest of amenity.

12. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works,
 - (c) shall carry out licenced metal detection surveys (including the field boundaries to be removed), develop an archaeological and artefact strategy on the basis of the results and in consultation with the Department of Culture, Heritage and the Gaeltacht and the National Museum of Ireland, agree protective measures in advance of site preparation and construction works to ensure the preservation/ protection of archaeological features (burnt mound material) and archaeological monitoring of topsoil stripping (licenced under the National Monuments Acts 1930 to present), and
 - (d) a detailed final report describing the results of all archaeological work carried out on site, including any subsequent archaeological excavation by hand and required specialist post excavation reports, shall be submitted to the relevant authorities following the completion of all archaeological assessment. All costs shall be borne by the developer in this regard.

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

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

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

Reason: In order to safeguard the amenities of property in the vicinity.

14. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, noise management measures and off-site disposal of construction/demolition waste.

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

15. 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.

16. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

17. (a) 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.

18. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interests of orderly development and the visual amenities of the area.

19. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of further electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.



20. 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.

21. 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, 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 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.

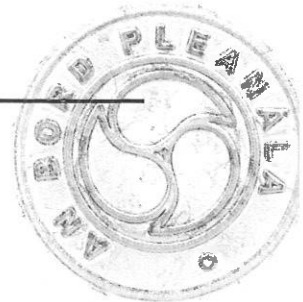
22. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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 21st day of September 2021.