

An
Bord
Pleanála

Board Order
ABP-312817-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 21/1677

Appeal by Rathaskar Homes Limited care of David Mulcahy Planning Consultants Limited of 67 Old Mill Race, Athgarvan, Newbridge, County Kildare against the decision made on the 27th day of January, 2022 by Kildare County Council to refuse permission for the proposed development.

Proposed Development: The development will consist of the demolition of two number existing habitable dwellings, and the construction of 39 number residential dwellings comprising eight number four-bed semi-detached two storey dwellings, 18 number three-bed semi-detached two storey dwellings, five number two-bed end-terrace two storey dwellings, four number three-bed mid-terrace two storey dwellings, two number three-bed end-terrace two storey dwellings, one number one-bed ground floor apartment, one number one-bed first floor apartment, together with road widening of the existing Rathaskar Road (L6066) from the junction of the Nass Southern Ring Road (R447), including provision of a new pedestrian path and closure of two number existing residential vehicular access points to the application site with the creation of new vehicular access off the Rathaskar Road, all ancillary internal access roads, infrastructure, landscaping and boundary treatments, and all associated site and development works and services at Rathaskar Road, Nass, 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.

Reasons and Considerations

The Board, having considered the design and layout of the proposed development, the policies and objectives of the Kildare County Development Plan 2023-2029 and Naas Town Development Plan 2021-2027, considered, subject to compliance with the conditions set out below, that the proposed development would not be premature, would not represent a piecemeal approach, would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development, would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board, had regard to the zoning of the site in an area zoned as 'Existing/Infill Residential' with the stated land use zoning objective 'To protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services', and considered the proposed development would accord with the zoning objective.

Conditions

1. The development, including improvements proposed to the road, 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 An Bord Pleanála on the 21st day of February, 2022, 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. The site layout shall be as indicated on the site layout plan lodged with the application to the planning authority (reference Drawing Title "Site Layout", drawing number A1-002), except as may otherwise be required in order to comply with the following conditions. The vehicular access, footpath layout serving the development, and removal of the existing hedgerow on the eastern side of Rathasker Road to the north and south of the proposed vehicular access, shall be as indicated on the said site layout of the plan.

Reason: In the interest of clarity and to provide for adequate sight distances at the entrance serving the development.

3. The works to the Rathasker Road (L6066) required to provide for the new pedestrian footpath along this road shall be as indicated on the Site Layout Plan received by An Bord Pleanála on the 21st day of February, 2022 (reference: Drawing Title "Site Layout", drawing number A1-003, REV A) save for works required to comply with condition number 2 above. The existing mature trees and hedgerow on the western side of the Rathasker Road immediately opposite the proposed development shall be retained as indicated on the said Site Layout Plan. Prior to the commencement of the development, the applicant shall submit to and agree in writing with the planning authority detailed design proposals for all works along the Rathasker Road.

Reason: In the interest of retaining as much as is practicable of the existing hedgerow and trees along Rathasker Road in compliance with policies NE 2.2 and MTO 1.10 of the Naas Town Development Plan 2021-2027 and to provide for a pedestrian link from the development to Naas town.

4. The proposed dwelling number 19 as indicated on the Site Layout Plan lodged with the application to the planning authority (reference: Drawing Title "Site Layout", drawing number A1-002), adjacent to the eastern site boundary shall be omitted and the plot shall be dedicated as public open space to serve the development. The proposed pedestrian footpath serving the development shall be extended up to the shared boundary with "Esmondale" in this area of public open space to allow for a possible future pedestrian pathway connection to the adjacent "Esmondale". Prior to the commencement of the development, the applicant shall submit to and agree in writing with the planning authority, an amended Site Layout Plan indicating compliance with this condition.

Reason: In the interest of facilitating permeability and connectivity between the proposed development and existing residential development in the area and in the interest of sustainable transport.

5. 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.

6. 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.

7. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

8. 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 house.

Reason: In the interests of amenity and public safety.

9. 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.

10. A minimum of 10% of all 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 to, 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.

11. Proposals for a house/apartment 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/apartment numbers, shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

12. The site shall be landscaped, and earthworks carried out in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential and visual amenity.

13. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse and bin storage, 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 plans and 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.

14. The road and pedestrian network serving the proposed development, including the turning area, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works. Details of the revised proposals in line with the conditions above including all boundary treatments 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.

15. 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 where prior written approval has been received from the planning authority.

16. 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 management measures and off-site disposal of construction/demolition waste.

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

17. Prior to commencement of any house 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 unit), pursuant to Section 47 of the Planning and Development Act, 2000, that restricts all house permitted, to first occupation by individual purchasers i.e., those not being a corporate entity, and/or by those eligible for the occupation of social/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 and adequate choice and supply of housing, including affordable housing, in the common good.

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.


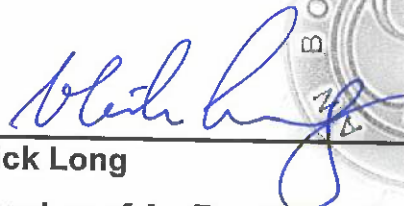
Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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, 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.

20. 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.



Mick Long

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 13 day of September 2023.