

An  
Bord  
Pleanála

Board Order  
ABP-314385-22

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 22/652**

**Appeal** by Thomas and Patrick Leeson care of Matt Barnes Architect of Coolamber, Stocking Lane, Ballyboden, Dublin against the decision made on the 22<sup>nd</sup> day of July, 2022 by Kildare County Council to refuse a permission for the proposed development.

**Proposed Development:** Demolition of two dwellings and construction of five dwellings including one studio, two number one-bed duplex units, two number two-bed duplex units in a three-storey structure, all at Gleann na Greine, Naas, 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

Having regard to the Objective A - Town Centre 'To Protect, improve and provide for the future development of the town centre' zoning of the site in the Naas Local Area Plan 2021- 2027, to the policies and objectives of the Kildare County Development Plan 2023 - 2029 relating to Town Renewal, to the scale and design of the proposed development, and to the nature of development in the vicinity, 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, would respect the existing character of the Architectural Conservation Area, would not directly or indirectly impact on any Protected Structures, and would be acceptable in terms of residential accommodation. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the recommendation of the Inspector to refuse permission, the Board noted the specific location of the site to the rear and side of the existing property facing onto the Dublin Road and proximate to the recently constructed extension to Lawlor's Hotel which is four storeys in nature and was facilitated by the demolition of a dwelling within the Naas Architectural Conservation Area. It is considered that the proposed development would be sympathetic in design and scale terms to the Naas Architectural Conservation Area and would not adversely affect its overall character or quality. The Board also noted that the site does not include any protected structures and that the historic town wall Protected Structure (Site Code NS19-017 of the Naas Local Area Plan 2021 - 2027) is located outside the application site as part of the Butt Mullins site. The Board also considered that issues of archaeological potential and safeguarding of adjoining properties/structures could be satisfactorily dealt with by appropriate conditions to be attached to a grant of permission. The Board also concurred with the Inspector's assessment that, given the limited scale



of the proposal and its location in Naas Town Centre with access to bus routes and local public car parking, the omission of car parking from the proposed development would be acceptable.

## 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.

**Reason:** In the interest of clarity.

2. This permission is for five dwellings.

**Reason:** In the interests of clarity and orderly development.

3. 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.

4. The area between the site and the public road (Gleann na Greine) shall be upgraded to include landscaping, footpaths, surface water drainage and public lighting prior to the occupation of the development. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and such works shall be provided at the developer's expense.

**Reason:** In the interest of the amenities of the area.

5. 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 under licence prior to the commencement of development. The archaeologist shall monitor and assess all site investigations, excavation, grounds works and demolition 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 and foundation layout) prior to commencement of construction works. Archaeological material encountered shall be investigated and fully recorded. If significant archaeological material is identified by the archaeologist during monitoring, the National Monuments Service shall be notified and the resolution of such material shall be determined in consultation with the NMS. 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.

6. A landscaping plan for the communal open space shall be agreed in writing with the planning authority and the associated works completed by the developer prior to the occupation of the development.

**Reason:** In the interest of the amenities of the development.

7. 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.

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

8. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann prior to commencement of development.

**Reason:** In the interests of public health and orderly development.

9. Prior to the commencement of development, details of the design and materials of the external stair access and balconies of the development shall be agreed in writing with the planning authority. These details shall include for railings and screens/glazing as appropriate and shall be of suitable high quality durable construction.

**Reason:** In the interest of the amenities of the development.

10. Prior to the commencement of development, details of the size, nature and construction of the individual cycle storage facilities located in the rear communal area shall be agreed in writing with the planning authority. These details shall provide for five separate storage units (one per dwelling) and shall be of permanent construction, weather-proof, secure and each capable of accommodating a minimum of three bicycles.

**Reason:** In the interests of sustainable transport and the amenities of the development.

11. 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:

- (a) Measures to protect and ensure the stability of the site boundary walls/structures proposed to be retained as part of the development;

- (b) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (c) Location of areas for construction site offices and staff facilities;
- (d) Details of site security fencing and hoardings;
- (e) Details of off-site car parking facilities for site workers during the course of construction;
- (f) 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 abnormal loads to the site;
- (g) Measures to obviate queuing of construction traffic on the adjoining road;
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (i) 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;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) 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;

- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) 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. Site development and building works shall be carried out only between the hours of 0800 and 1800 from Mondays to Fridays inclusive, between 0800 and 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.

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



13. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

**Reason:** In the interest of sustainable waste management.

14. 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.

15. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

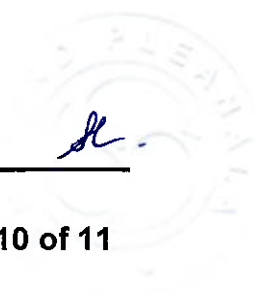
**Reason:** to provide for the satisfactory future maintenance of this development in the interest of residential amenity.

16. 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.

17. 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.



18. 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.



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**Stewart Logan**

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

Dated this 5 day of December 2023.