



An
Bord
Pleanála

Board Order ABP-314802-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 22/889

Appeal by Westar Investments Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 13th day of September, 2022 by Kildare County Council to refuse permission for the proposed development.

Proposed Development: (i) Construction of 59 number residential units, including 24 number three and four-bedroom semi-detached units, 31 number two and three-bedroom terrace units, ranging in height from two to three storeys, and four number two-bedroom maisonette units comprised within a two-storey building. Private amenity space will be provided to serve each dwelling in the form of rear private gardens with the maisonette units being served by designated areas of private amenity space to the south and west of the proposed units at ground floor level; (ii) provision of a total of 117 number car parking spaces, 110 number of which will serve the proposed dwellings and seven number spaces serving the proposed maisonette units (including one number visitor car parking space); (iii) provision of four number sheltered bicycle parking stores to serve the proposed maisonette units located within the private amenity space area associated with each unit with two number visitor bicycle parking spaces provided at surface level; (iv) provision of new pedestrian, cyclist and vehicular infrastructure, accesses and connections

throughout the site; (v) construction of one number vehicular access and two number cycle and pedestrian access points to the site from Brooklands estate to the west. The application is accompanied by two number site layout options, Option A and B. Option A provides for a new cycle and pedestrian access, road connection and vehicular access between the application site and the adjacent Alexandra Walk residential development to the south-east. Option B provides for the omission of the vehicle access point and the inclusion of a pedestrian and cycle access only between the proposed scheme and Alexandra Walk. The proposal also includes a road connection to lands to the north; (vi) road upgrades at the Junction of Brooklands Estate and the R403 to provide for a left turning filter lane onto the R403 from Brooklands Estate as well as a pedestrian island at this junction; (vii) construction of a linear/neighbourhood park adjacent to the River Liffey; and (viii) landscaping, boundary treatments, foul and surface water drainage, bin storage, lighting, and all infrastructural works necessary to facilitate the development all at Capdoo and Abbeylands, 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.

Reasons and Considerations

Having regard to:

- (a) the policies and objectives set out in the Kildare County Development Plan 2023-2029,
- (b) the Core Strategy and Settlement Strategy set out in the Kildare County Development Plan 2023-2029,
- (c) the Design Manual for Urban Roads and Streets (DMURS) 2013 (as amended),

- (d) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2023),
- (e) best practice guidelines “Quality Housing for Sustainable Communities” (2007),
- (f) the location of the site within Key Development Area 1, and
- (g) the nature, scale, and design of the proposed development,

it is considered that subject to compliance with the conditions set out below, the proposed development would constitute an appropriate form, density, and scale of development at this location, would provide for an adequate level of amenity for future occupants, would not seriously injure the residential amenities of the area or unduly impact green infrastructure facilities and would be acceptable in terms of vehicular and public safety and convenience.

The Board noted that the Clane Local Area Plan was in place until a date in 2023 only, the Board considered that the Kildare County Development Plan 2023-2029, particularly the Core Strategy provided the policy basis for the assessment of this application not the Local Area Plan. This concurred with the Inspector that the proposed development accorded with the development plan.

The Board had regard to the decisions of the planning authority for development in Clane since the Inspector’s report was finalised. The Board was satisfied that the scale of development proposed in this application is in accordance with the Core Strategy for Clane in the development plan.

The Board noted that since the Inspector’s report was finalised, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), has been revoked and replaced by the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities as issued by the Department of Housing, Local Government and Heritage. The Board was satisfied that the development as proposed accorded with these new Guidelines.

The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board considered the information on the file, and concluded that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any European site, and a Stage 2 Appropriate Assessment is not therefore required.

Conditions

1. (a) 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 the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matters in dispute shall be referred to An Bord Pleanála for determination.
- (b) The development shall be carried out and completed in accordance with site layout Option B, with the inclusion of a pedestrian and cycle access only between the proposed scheme on Alexandra Walk, drawing reference number 22031-B-303.

Reason: In the interest of clarity.

2. Details of the materials, colours, and textures of all external finishes to 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 visual amenity.

3. Prior to commencement of development, the developer shall submit to the planning authority for written agreement a detailed design for a signalised 4 arm junction of the R403 Regional Road/ Brooklands/Capdoo Link Road, including Vulnerable Road Users (VRU) crossing facilities, in line with current standards. The cost of design, supervision and delivery of these works shall be borne by the developer. These works shall be completed prior to occupation of the residential units.

Reason: In the interests of proper planning, sustainable development, and traffic safety.

4. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended.

Reason: In the interest of traffic safety.

5. Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority:
 - (a) a drawing showing areas proposed to be taken in charge by the planning authority,
 - (b) for areas not being proposed for taking in charge, details of the management arrangement to be put in place, and
 - (c) a phasing plan for the proposed development.

Reason: In the interest of orderly development.

6. 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 future 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.

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 the commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interest of amenity and public safety.

8. 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.

9. Proposals for an estate/street name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, all estate and street signs and house/apartment numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local, historical or topographic features or other alternatives acceptable to the planning authority. No advertisement/marketing signage relating to the names

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

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

10. The developer shall enter into water and wastewater connection agreements with Uisce Éireann prior to the commencement of development.

Reason: In the interest of public health.

11. Drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

- (i) Prior to the commencement of development, the developer shall submit plans, cross-sections and maintenance details for the treatment of all drainage ditches on site including any proposal to culvert along the south of the site.
- (ii) Prior to the commencement of development, the developer shall submit to and agree in writing with the planning authority a Stage 1 – surface water audit carried out by a suitably qualified and experienced Consulting Civil Engineer, which shall address the following:
 - (a) compliance of the drainage and SuDS designs and layouts with GSDSDS Volume 2, Chapter 6 Stormwater Drainage Design Criteria 1- 4,
 - (b) sustainability Drainage Design Principle avoiding unduly oversized pipes,
 - (c) the achievement of minimum pipe self-cleansing velocities and two or five year design return period for the drainage pipe network,
 - (d) drainage and SuDS Design shall be compliant with CIRIA SuDS Manual,

- (e) make allowance for failure of the drainage system and SuDS and consider use of a 30% climate change factor and 10% urban creep factor,
- (f) the allowance for connection of runoff from other developments, the hydraulic capacity and condition of and recommend improvements thereto where necessary, and
- (g) confirm in writing that its recommendations have been implemented by the developer.

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

12. Site development and building works shall be carried out only between the hours of 0700 to 1800 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.

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

13. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Planning Authority's Taking in Charge Policy. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

14. 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.

15. The site shall be landscaped in accordance with the Landscape Masterplan and associated drawings prepared by Landmark Design and Consultancy Ltd submitted to the planning authority on the 21st day of July 2022 as part of the application. Landscaping shall be carried out within the first planting season following substantial completion of the external construction works. In addition to the proposals in the submitted scheme the following shall be carried out:
 - (a) The site shall be landscaped, using only indigenous deciduous trees and hedging species and there should be no encroachment during the construction on those hedgerows to be maintained as part of the works to be carried out.
 - (b) Details of all play facilities, outdoor gym equipment and passive recreational facilities including seating shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.
 - (c) Compliance with the requirements and standards of the planning authority in relation to lighting and tree planting within the public open space.
 - (d) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next

planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

16. The developer shall implement all the recommendations pertaining to tree hedgerow retention and protection as outlined in the Arboricultural Report and associated drawings submitted with the application. Prior to the commencement of development, an Arborist shall be retained by the developer for the duration of the construction and shall commence a program for implementation of the recommendations contained in the submitted report. Such works shall be commenced as soon as possible and shall be completed within one year of the completion of development works.

The Arborist shall carry out a post construction tree survey/assessment on the condition of the retained trees. A completion certificate shall be signed off by the arborist when all works are completed and in line with the submitted original tree report and landscape drawings. The certificate shall be submitted to the planning authority for written agreement prior to taking in charge.

Reason: To protect trees and hedgerows during construction

17. The recommendations and mitigation measures as set out in the submitted Ecological Impact Assessment and in the Bat and Badger impact evaluation, submitted with the application shall be implemented in full.

Reason: To ensure the protection of the natural heritage on the site.

18. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development 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) prior to commencement of construction works. 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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

19. 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) Location of the site and materials compounds including areas identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;
 - (e) 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;
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) 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;
 - (i) Provision of parking for existing properties during the construction period;

- (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 interest of amenities, public health and safety.

19. 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.

20. Prior to the 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), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units 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 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

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, 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.



Mary Henchy

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

Dated this 25th day of March 2024