



Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 22903

Appeal by KDM Construction Limited care of David Mulcahy Planning Consultants Limited of 67 Old Mill Race, Athgarvan, Newbridge, County Kildare against the decision made on the 14th day of September, 2022 by Kildare County Council to refuse permission for development comprising construction of 30 dwellings over two phases. 1. Demolition of existing partially completed dwellings including two number units currently at wall plate level, five number units at ground floor slab level and four number units at foundation level. 2. New vehicular and pedestrian access on to public road to southwest of site including construction of a roadside footpath along the site frontage. Integration of new road and footpath to existing Cluain Ard development. Temporary construction traffic access onto local road to the southwest of the site. 3. Phase 1 comprises construction of 20 dwellings as follows; two number semi-detached two-bedroom bungalow dwellings (type six), two number semi-detached three-bedroom dormer dwellings (type five), two number detached three-bedroom bungalow dwellings (type 4a), six number detached four-bedroom two-storey dwellings (type three), four number detached four-bedroom two-storey dwellings (types 2a and 2b) and four number detached four-bedroom two-storey dwellings (type one). 4. Phase 2 comprises construction of 10 dwellings as follows; five number detached three-bedroom bungalow dwellings (types 4a and 4b), one number detached four-bedroom two-storey

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dwelling (type 3) and four number detached four-bedroom two-storey dwellings (type 2a and 2b). 5 All associated site development and facilitation works to include civil engineering works to achieve proposed construction levels, roads, footpaths, drainage and sewerage networks, watermain, electrical and telecommunications service connections, boundary treatments, landscaping works, playground along with all associated site development and facilitating works, at Kilmead, Athy, County Kildare.

Decision

GRANT permission for the demolition of existing partially completed dwellings including two number units currently at wall plate level, five number units at ground floor slab level and four number units at foundation level in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for new vehicular and pedestrian access on to public road to southwest of site including construction of a roadside footpath along the site frontage. Integration of new road and footpath to existing Cluain Ard development. Temporary construction traffic access onto local road to the southwest of the site. Phase 1 which comprises construction of 20 dwellings as follows; two number semi-detached two-bedroom bungalow dwellings (type six), two number semi-detached three-bedroom dormer dwellings (type five), two number detached three-bedroom bungalow dwellings (type 4a), six number detached four-bedroom two-storey dwellings (type three), four number detached four-bedroom two-storey dwellings (types 2a and 2b) and four number detached four-bedroom two-storey dwellings (type one). Phase 2 which comprises construction of 10 dwellings as follows; five number detached three-bedroom bungalow dwellings (types 4a and 4b), one number detached four-bedroom two-storey dwellings (type 3) and four number detached four-bedroom two-storey dwellings (type 2a and 2b). All associated site development and facilitation works to include civil engineering works to

achieve proposed construction levels, roads, footpaths, drainage and sewerage networks, watermain, electrical and telecommunications service connections, boundary treatments, landscaping works, playground along with all associated site development and facilitating works based on the reasons and considerations marked (2) under.

Reasons and Considerations (1)

Having regard to the nature and scale of the demolition proposed, the planning history of the site, the location of the development in the rural area outside of the development boundary of Kilmead and the provisions of the Kildare County Development Plan 2023-2029, it is considered that, subject to compliance with the conditions set out below, this element of the proposed development would not seriously injure the residential or visual amenities of the area. This element of the proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The permitted works of demolition 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. Before development commences, a full and detailed Demolition Waste Management Plan shall be submitted to, and agreed in writing with, the

planning authority, which shall include, inter alia, a programme for the works, hours of operation and a traffic management plan.

Reason: In the interest of residential amenity, traffic and pedestrian safety, best practice management of demolition waste and proper planning and sustainable development.

3. Following demolition, the lands shall be returned to their pre-development condition in so far as is reasonable and practicable.

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

Reasons and Considerations (2)

1. Having regard to the existing deficiencies in the Kilmeade Wastewater Treatment Plant (WWTP), whereby the current discharge from the WWTP is resulting in the receiving water, a tributary of the Kildoon River, not meeting its objectives under the EU Water Framework Directive, the Board considers that the proposal would be premature in advance of the upgrade of the WWTP and that to accede to it now to permit the proposed development would risk a scenario wherein existing pollution of the River Kilroon and its tributaries would be exacerbated.
2. On the basis of the information provided with the application and appeal, and in the absence of a Natura Impact Statement, and having regard to the potential for the discharge of contaminated water to the Kildoon River that provides hydrological pathway to the River Barrow and River Nore Special Area of Conservation (Site Code 002162), the Board cannot be satisfied that the proposed development, individually or in combination with other plans and projects, would not be likely to have a significant effect on the River Barrow and River Nore Special Area of Conservation (Site Code 002162), in view of the site's conservation objectives.

The Board noted the Inspector's recommendation that the the proposed development would constitute urban generated development in the rural area, which would contravene Objective HO O46 of the Kildare County Development Plan 2023-2029 and would, if permitted, result in the unplanned expansion of the settlement into the rural area, which would militate against the preservation of the rural environment and the efficient use of public services and infrastructure. The Board would have invited further submissions from the applicant in relation to this matter, in light of the change in the County Development Plan, however in light of the two other grounds for refusal the Board decided not to pursue this matter.



Peter Mullan

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

Dated this *5th* day of *April*, 2024.