



An
Bord
Pleanála

Board Order
ABP-315884-23

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 22/599

Appeal by Dwellings Developments Newbridge Limited of Unit A, Ground Floor, Glencormack Business Park, Kilmacanogue, County Wicklow against the decision made on the 26th day of January, 2023 by Kildare County Council to refuse permission for the proposed development.

Proposed Development: The construction of 60 number residential units as follows: 12 number Type A (three bed semi-detached units); 19 number Type B (two bed terrace units); 21 number Type A1 (three bed end of Terrace units); two number Type C (three bed semi-detached units); two number Type D (one bed apartment); two number Type E (one bed apartment); one number Type F, (two bed apartment) and one number Type G, (two bed apartment). Provision of public and private open space, carparking, bin storage, public lighting, landscaping, boundary treatments, pedestrian access and site entrance onto Lakeside Park, connections to existing services and all associated development at Morristownbiller, Newbridge, County Kildare. Further public notices were received by the planning authority on the 5th day of January, 2023.

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 zoning objective of the subject site, the provisions of the Kildare County Development Plan 2023-2029, to the site's location within an existing urban area, to the existing pattern of development in the area and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would be acceptable in terms of flood risk and traffic safety and convenience. 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 the Board concluded that the proposed development, either individually or in combination with other plans and projects, would not be likely to have a significant effect on any European Site and that a Stage 2 Appropriate Assessment is not, therefore, required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information received on the 22nd day of December 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. Mitigation measures outlined in the plans and particulars, including the Flood Risk Assessment, shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

3. The floor plans and elevational drawings for proposed House Type C1 (unit numbers 1 and 4), indicating active frontages onto the adjacent public spaces and floor plans and elevational drawings for Apartment Units D and E shall be as submitted with the planning application, drawing number RSDS/22-10-05 and drawing number RSDS/22-10-10.

Reason: In the interest of clarity and to ensure passive overlooking for public spaces.

4. Prior to commencement of development, the developer shall agree in writing with the planning authority, the final details of furniture and equipment including seating areas and play spaces to be provided within the areas of public open space.

Reason: In the interest of residential amenity and to ensure an appropriate high standard of development.

5. Prior to commencement of development, a schedule of all materials to be used in the external treatment of the residential units shall be submitted to, and agreed in writing with, the planning authority.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

6. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority, details of the proposed bin storage for the proposed mid-terrace dwellings.

Reason: In the interests of clarity and residential amenity.

7. Prior to commencement of development, a comprehensive boundary treatment and landscaping scheme shall be submitted to, and agreed in writing with, the planning authority. 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 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 interests of residential and visual amenity.

8. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Outdoor Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. 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. Proposals for a naming/numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and unit numbers, shall be provided in accordance with the agreed scheme. The proposed names 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(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

10. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply in all respects with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

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

11. 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.

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

Reason: In the interest of public health.

13. (a) Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

(b) Prior to commencement of development, the developer shall submit to the planning authority for written agreement, a Stage 2 - Detailed Design Stage Storm Water Audit.

(c) Upon completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

14. 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.

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

15. 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 interests of public safety and residential amenity.

16. (a) The areas of the development for Taking in Charge shall be agreed in writing with the planning authority, prior to the commencement of development on site.
- (b) The car parking and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (c) The development hereby permitted shall be carried out and completed at least to the construction standards set out in the Kildare County Council'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.
- (d) 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 ensure that the development is carried out and completed to an acceptable standard of construction and to provide for the satisfactory future maintenance of this development in the interest of residential amenity.

17. (a) Prior to the commencement of 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 housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential 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.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

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

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.



Mary Henchy

Member of An Bord Pleanála

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

Dated this *26th* day of *April* 2024.