

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 23/416.

Appeal by Pousterle Limited care of Brock McClure Planning and Development Consultants of 63 York Road, Dún Laoghaire, County Dublin against the decision made on the 12th day of October, 2023 by Kildare County Council to refuse a permission for the proposed development.

Proposed Development: The proposed development (38 units per hectare) will consist of the construction of a new residential development of 168 number units (24 number one-bed units; 52 number two-bed units; 77 number three-bed units; and 15 number four-bed units) in a mixture of houses, apartments and duplex units ranging in height from two to three storeys together with a childcare facility of approximately 343.91 square metres. The residential element of the scheme will consist of; 108 number Houses (30 number Semi-Detached Houses and 78 number Terraced Houses) in a range of house types (all two-storeys in height); and 36 number Duplex Units and 24 number Apartment Units across Block A (three-storeys); Block B (three-storeys) Block C (two-storeys); and Block D (three-storeys). A separate building (two-storeys) will accommodate a childcare facility of approximately 343.91 square metres with associated outdoor play area space of

approximately 91.5 square metres, fully accessible from all locations within and adjacent to the scheme. Each residential unit will be afforded with private open space in the form of a balcony in the case of the apartment and duplex units and a rear garden in the case of the housing units. Public open space is proposed in the form of large central play areas, outdoor seating and planting. A total of 203 number car parking spaces (183 number for residents, 11 number for visitors and nine number for creche staff and creche set down/drop off) are provided at surface level, including three number accessible spaces. Two number Bicycle/Bin Storage Buildings (both single storey/2.5 metres in height) are proposed to accommodate (a) 165 number bicycle spaces (128 number for residents, 24 number for visitors and 13 number for creche staff and children) in the form of three number bicycle storage areas (approximately 66.3 square metres); and (b) two number bin storage areas (approximately 17.9 square metres). The development shall be served via a new vehicular access point from the Southgreen Road. New pedestrian and cyclist access points will be provided on to Southgreen Road, Old Road and the Southern Link Road from the site. A double-lane cycle track and footpath are also proposed along Southgreen Road adjacent to the proposed scheme. The associated site and infrastructural works include provision for water services; foul and surface water drainage and connections; attenuation proposals; permeable paving; all landscaping works; boundary treatment; internal roads and footpaths; electrical services and all associated site development works, all on a site on of approximately 5.057 hectares bounded generally by Southgreen Road, Old Road, the Southern Link Road, and the Dublin to Cork Railway line, Kildare Town, 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

In coming to its decision, the Board had regard to the following:

- (a) the location of the site within a serviced area on lands with the zoning objective 'C: New Residential' in the Kildare Town Local Area Plan 2023-2029, the objective for which is 'To provide for new residential development';
- (b) the nature, scale and design of the proposed development, which is in accordance with the policies and objectives of the Kildare County Development Plan 2023-2029 and the Kildare Town Local Area Plan 2023-2029;
- (c) the pattern of existing and permitted development and the availability of adequate social and physical infrastructure in the area;
- (d) the provisions of Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021;
- (e) the provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth;
- (f) the provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in July 2023;
- (g) the provisions of Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage in January 2024;



- (h) the provisions of Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities, issued by the Department of the Environment, Heritage and Local Government in 2007;
- (i) the provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- (j) the provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure;
- (k) the Climate Action Plan 2023 prepared by the Government of Ireland;
- (l) the Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009;
- (m) the submissions and observations received;
- (n) the reports from the planning authority; and
- (o) the report of the Planning Inspector.



Appropriate Assessment Screening

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information and reports submitted as part of the subject application, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the Conservation Objectives of such sites, and that a Stage Two Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment Screening

The Board completed an Environmental Impact Assessment Screening of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents and drawings submitted by the developer identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment. Having regard to:

- (a) the nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,
- (b) the location of the site on lands that are zoned for residential use under the provisions of the Kildare Town Local Area Plan 2023-2029 and the

results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),

- (c) the location of the site in an area served by public infrastructure and the existing pattern of development in the vicinity,
- (d) the location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,
- (e) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (f) the criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- (g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- (h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Preliminary Construction Management Plan, the Hydrogeological Assessment Report, the Construction Environmental Management Plan, the Resource & Waste Management Plan, the Operational Waste Management Plan, the Ecological Impact Assessment, the Flood Risk Assessment, and the Noise Impact Assessment,

the Board concluded that, by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that the preparation of an Environmental Impact Assessment Report would not, therefore, be required in this case.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning objectives and other policies and objectives of the Kildare County Development Plan 2023-2029 and the Kildare Town Local Area Plan 2023-2029, would constitute an acceptable quantum of development at this location which would be served by an appropriate level of transport, social and community infrastructure, would provide an acceptable form of residential amenity for future occupants, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of design and layout, would be acceptable in terms of traffic safety and convenience, would incorporate appropriate surface water management measures which would not generate any unacceptable drainage/flooding concerns or seriously detract from the quality of the proposed public open space, would not result in any unacceptable ecological or biodiversity impacts, and would be capable of being adequately served by wastewater and water supply networks. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



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 plans and particulars submitted on the 15th day of September 2023 and by the further plans and particulars received by An Bord Pleanála on the 7th day of November 2023, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars

Reason: In the interest of clarity.

2. In accordance with proposals submitted to An Bord Pleanála on the 7th day of November 2023, the proposed development shall:
 - (a) Incorporate an east-west surface water corridor including swales and wetlands for the full length of the southern open space.
 - (b) Omit the underground attenuation tank(s) proposed beneath the central open space and revise the ground levels to achieve a minimum 500 millimetres freeboard between the 100-year storm event water level and the finished floor levels of the proposed dwellings.
 - (c) Omit two houses in Cell 4 and revise the site layout accordingly.

Final design details in relation to (a), (b) and (c) above shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of clarity, to ensure adequate drainage and servicing of the development, and in the interest of amenity.

3. The developer shall provide:

- (a) Internal storage space for all residential units in compliance with Kildare County Development 2023-2029 standards.
- (b) Details of the demarcation, detailed design and materials for the ground floor terraces serving Blocks C and D such that adequate amenity and privacy is afforded to these areas for residents.
- (c) A final boundary treatment plan for the site to include retention of a greater extent of the existing hedgerow along Old Road, and brochures and samples of all boundary treatments within the development.

Detailed design proposals in relation to (a), (b) and (c) above shall be submitted by the developer to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity and visual amenity.



4. The development shall be carried out in accordance with the Phasing Scheme Plan (Drawing Number PL600 by McCrossan O' Rourke Manning Architects) submitted with the application unless otherwise agreed in writing with the planning authority.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings 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. 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 commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) 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 placenames for new residential areas.

7. The internal and external road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works, and shall comply, in all respects, with the standards set out in 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. Details of same 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.

8. A minimum of 10% of the proposed car parking spaces shall be provided with electric vehicle charging stations or points. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of 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 transport.

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting. The lighting scheme shall incorporate the requirements of the Ecological Impact Assessment mitigations measures. Such lighting shall be provided prior to the making available for occupation of any apartment unit.

Reason: In the interests of amenity, public safety, and nature conservation.

10. 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.

11. (a) The management, treatment, and disposal of surface water, shall comply with the requirements of the planning authority including in relation to the requirements of condition number 2 (above) and
- (b) Full details of surface water drainage proposals, including a management and maintenance plan, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

12. 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.



13. (a) The site shall be landscaped in accordance with the Landscape Masterplan submitted with the application. A final detailed scheme of landscaping works, planting and materials (including for play equipment and facilities) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The landscaping proposals shall be managed and maintained in accordance with the Landscape Strategy Report submitted with the application, unless as otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

14. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each house and apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) Details of satisfactory communal bin storage structures/buildings for the apartment and duplex units shall be included in the plan under (a) above.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

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 site offices at all times.

Reason: In the interest of sustainable waste management.

16. The construction of the development shall be managed in accordance with a Construction Environmental 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 with measures to reflect mitigation described in the application, in addition to the following:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) location of access points to the site for any construction related activity;
- (c) location of areas for construction site offices and staff facilities;
- (d) details of site security fencing and hoardings;

- (e) details of on-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 network;
- (h) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and for the cleaning of the same;
- (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;
- (n) a record of daily checks that the works are being undertaken in accordance with the Construction Environmental Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

17. 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 amenities of property in the vicinity.

18. (a) 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 legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management 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. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.

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

19. 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 who shall monitor all site investigations and other excavation works; and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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.

20. Prior to the commencement of any house or duplex unit in the development as permitted, the developer 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 (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.

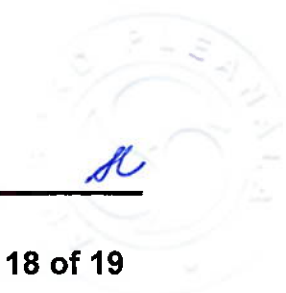
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

21. Prior to commencement of development, the developer 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.

22. 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.



23. 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.



Stewart Logan

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



Dated this 26 day of February 2024.