

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 23399

Appeal by Terry McCahey and Others of Apartment 1, Mollyware Court, Courtown Road, Kilcock, County Kildare and by Ursula King and Family of Courtown Road, Kilcock, County Kildare against the decision made on the 18th day of January, 2024 by Kildare County Council to grant permission subject to conditions to James Hiney care of John Madden and Associates of Blackhall Street, Commons, Mullingar, County Westmeath in accordance with plans and particulars lodged with the said Council.

Proposed Development: Permission for a two-storey extension above existing commercial unit consisting of eight number one-bedroom apartments. Permission is also sought to alter the existing commercial building to allow for a new entrance at the front (north elevation) to the proposed residential extension and an extension to the rear (south elevation) of the existing structure for bicycle storage and all associated site works at Courtown Road, Branganstown, Kilcock, 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 site's location on lands within an established residential area and the policy objectives and provisions in the Kildare County Development Plan, 2023-2029 in respect of residential development,
- (b) the nature, scale and design of the proposed development which is consistent with the provisions of the Kildare County Development Plan, 2023-2029 and appendices contained therein,
- (c) the location and specific characteristics of the site and the pattern of development in the surrounding area,
- (d) the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024),
- (e) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2022,
- (f) Housing for All, issued by the Department of Housing, Local Government and Heritage in September 2021,

- (g) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,
- (h) all documents relating to the application and appeal, and
- (i) the report and recommendation of the Planning Inspector,

it is considered that, subject to compliance with the conditions set out below, which includes a requirement to provide a greater second floor level setback from the eastern site boundary, and revisions to the fenestration on the southern elevation, the proposed development would not seriously injure the residential amenity of the area or of property in the vicinity, would be of a scale, design and form which would not detract from the architectural character and visual amenities of site and surrounds, and would provide an appropriate transition in scale within the streetscape, would not result in on-street car parking pressures and would comprise an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board considered the information on the file, the Board 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. 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 received by the planning authority on the 15th day of November 2023 and on the 19th day of December 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 and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The open plan kitchen/living/dining room of Apartment number 5 shall be omitted to provide a greater second floor level setback from the eastern site boundary. A studio/one number bedroom apartment could be provided in place of the storage, bathroom and two number bedrooms of that apartment (that is, Apartment number 5). Revised plans, sections and elevations incorporating the revisions shall be submitted to the planning authority for written agreement, prior to the commencement of development on site.
 - (b) The windows to the living/ dining and kitchen on the southern elevation of Apartment numbers 3 and 6 and the bedroom window on the southern elevation of Apartments 2 and 5 (noting that the use of this window to Apartment 5 may change based on part (a) above) shall be redesigned so as to be angled towards the

southwest to limit overlooking of number 2, the property to the rear of the proposed development. Revised plans, sections and elevations incorporating the revisions shall be submitted to the planning authority for written agreement, prior to the commencement of development on site. (Apartments referenced are as shown on drawing ref number JH-F1-002).

Reason: In the interest of visual amenity and protecting the residential amenity of adjoining property.

3. Details of the materials, colours and textures of all external finishes to the residential units shall be in accordance with the drawings and specifications hereby approved. There shall be no white uPVC windows or doors within the development.

Reason: In the interest of visual amenity and to provide for acceptable standard and quality of development for future residents.

4. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted.

Reason: In the interest of residential and visual amenity.

5. Drainage arrangements, including the attenuation and 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 and surface water management.

6. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

7. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard 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.

8. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of amenity and public safety.

9. The developer shall provide one number EV charging space for dental car parking and two number EV charging spaces for residential. All remaining five car parking spaces for residential shall be ducted for future EV charging spaces should they be required.

Reason: In the interest of a properly planned and serviced development.

10. Prior to commencement of development, the developer shall submit to the planning authority a drawing illustrating the signing, lining and marking of the car parking spaces for dental practice (five spaces) and residential apartment use (seven spaces) and provide details of management of same.

Reason: In the interest of managing a shared car parking provision.

11. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0900 to 1400 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

12. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste. The following noise limits shall apply to construction activities:

- (a) 70 dB(A) (LAeq 1 hour) between the hours of 0800 and 1800 Monday to Friday inclusive (excluding bank holidays) and between 0800 and 1300 on Saturdays when measured at any noise sensitive location in the vicinity of the site.

- (b) Sound levels shall not exceed 45 dB(A) (LAeq 1 hour) at any other time following completion of the site development works.

Reason: In the interest of public safety and amenity.

13. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development (dental practice and residential development), including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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. The developer may consider the provision of internal waste storage area for the proposed dental practice should it not be feasible within the eastern side passage. Details of same shall be provided with the submission.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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 Environmental Protection Agency'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 proper planning and sustainable development.

15. Proposals for the name, apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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.

16. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

17. 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 overground cables shall be relocated underground as part of the site development works.

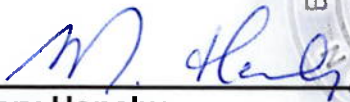
Reason: In the interest of visual and residential amenity.

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. 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 or 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 3rd day of October 2024.