

An
Bord
Pleanála

Board Order
ABP-319646-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 2360182

Appeal by Peter Robinson care of Ciarán Sudway Associates Limited, Chartered Surveyors, of 9 Fitzwilliam Square, Dublin against the decision made on the 9th day of April 2024 by Kildare County Council to grant, subject to conditions, a permission to O'Flynn Construction (Dublin) Limited care of Tom Phillips and Associates of 80 Harcourt Street, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of a mixed-use scheme comprising: 36 number residential units (25 number two-storey houses (with attic) (10 number two-bed units and 15 number three-bed units) (with private open space); two number duplex units (all three-bed units) (with terraces/ private open space) and nine number apartments (all one-bed units) (with terraces/ private open space) (with rooflights to stairs and landing, where relevant). The overall unit mix will comprise nine number one-beds, 10 number two-bed units and 17 number three-bed units.); two number ground floor level units comprising retail / office use (to accommodate use Class 1, 2 or 3 of Schedule 2, Part 4 of the Planning and Development Regulations 2001 (as amended)) (circa 63 square metres and circa 112 square metres floor

area, each); bin stores (circa 34 square metres in total); and pumping station (78 square metres). The residential and retail / office development will range in height from 2-2.5 storeys. The development will comprise a total gross floor area of circa 3,364 square metres. The development will also include the provision of: vehicular, cyclist and pedestrian access from the R409; upgrade works to the roads (the R409 and Caragh View) and public realm at the front of the site (including the provision of a signalised junction with signalised pedestrian crossing); car and bicycle parking spaces; electric vehicle charging points; internal roads, footpaths and pedestrian crossings; public open space; hard and soft landscaping; boundary treatments; tree removal; tree planting; lighting; commercial and residential waste facilities; a surface water drainage connection extending east of site; attenuation tanks; permeable paving; SuDS; and all other associated site excavation, infrastructural and site development works above and below ground including changes in level, boundary treatments and associated site servicing (foul and surface water drainage and water supply), all on a site of circa 2.05 hectares on lands, bounded to the west by the R409 and Caragh View, to the south by agricultural buildings, and to the north and east by agricultural lands, at lands to the north of Caragh Village, Caragh, 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 the zoning objectives of the subject site, its location within an existing urban 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 in terms of traffic safety and convenience and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be consistent with Objectives HO O4 and HO O6 of the Kildare County Development Plan 2023-2029. 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 13th day of March 2024, 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. Recommendations, mitigation and monitoring measures outlined in the plans and particulars, including the Archaeological Impact Assessment, Ecological Impact Assessment and Arboricultural Assessment / Method Statement, 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. 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 dwelling 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.

4. Proposals for retail / office unit identification, numbering scheme, shopfront design and shopfront signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The signage shall be lit by external illumination only. Thereafter, all such names, numbering and signage shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

5. Litter in the vicinity of the retail / office premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.

Reason: In the interest of public health and visual amenity.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings and retail /office 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 and to ensure an appropriate high standard of development.

7. All the communal parking areas serving Blocks 1, 3 and 9 shall be provided with functional electric vehicle (EV) charging points, and all other houses within the scheme shall be provided with an electric vehicles (EV) home charge point to the exterior of the houses. 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.

8. The outdoor lighting scheme shall be carried out in accordance with the Signify preliminary outdoor lighting scheme that was received by the planning authority on the 6th day of September 2023 and with technical specifications of the planning authority. The developer shall comply with all future site lighting requirements of the planning authority in relation to adjusting the lights by re-aiming, the addition of louvres and shields and/or dimming. Such lighting shall be provided prior to the making available for occupation of the development.

Reason: In the interest of amenity and public safety.

9. The scheme shall be landscaped in accordance with the landscape plans submitted to the planning authority on the 6th day of September 2023, as amended by further information submitted to the planning authority on the 13th day of March 2024 unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following substantial completion of the external construction works. All planting shall be adequately protected from damage until established. Any trees, plants or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. Unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

10. 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 site and to secure the preservation and protection of any remains that may exist within the site.

11. Prior to the commencement of development, the developer shall submit for the written agreement of the planning authority, final design details for the junction upgrade (signalised crossroads and signalised pedestrian crossings) on the R409. The junction upgrade shall be operational prior to the occupation of the permitted development. All costs associated with these works shall be borne by the developer.

Reason: In the interest of pedestrian and traffic and safety.

12. 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 interest of visual and residential amenity.

13. 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 for this shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

14. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. 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.

15. Upon completion of the development and prior to the taking in charge of the road infrastructure, the developer shall complete a Stage 3 Road Safety Audit, to be carried out by an independent, approved and certified auditor. The recommendations contained in the Road Safety Audit and agreed actions shall be signed off by the audit team.

Reason: In the interest of pedestrian and traffic safety.

16. The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including traffic management measures, consultation measures with local residents, schools and businesses in relation to traffic disruption during construction works, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday 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.

18. Drainage arrangements, including the 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.

19. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection networks.

Reason: In the interest of public health and to ensure adequate water and wastewater facilities.

20. (a) Prior to the commencement of 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 or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant 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.
- (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 specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit 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 housing units, in which case the planning authority shall confirm in writing to the applicant 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.

21. 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, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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 for the area.

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.

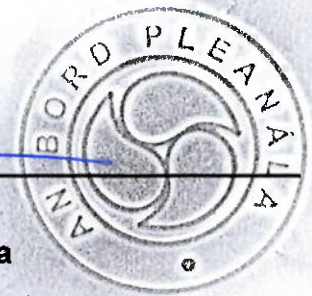
23. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, 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.



Paul Caprani

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



Dated this 14th day of January 2025.