

An
Coimisiún
Pleanála

Commission Order
ABP-321623-25

Planning and Development Act 2000, as amended

Planning Authority: Kildare County Council

Planning Register Reference Number: 24/112

Appeal by Whitecastle Lawns Residents' Association care of Brian Watchorn of 25 Tonlegee Lawns, Athy, County Kildare and by Cois Bhearu-Cluain Bhearu Residents' Association care of Brenda McHugh of 12 Corrain Bhearu, Cois Bhearu, Athy, County Kildare against the decision made on the 10th day of December, 2024 by Kildare County Council to grant subject to conditions a permission to Bettystown Developments Limited care of Armstrong Fenton Associates of 13 Seapoint Building, 44/45 Clontarf Road, Clontarf, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of 76 number houses and a creche. The proposed development is comprised of 10 number four-bedroom, 54 number three-bedroom and 12 number two-bedroom, two-storey, detached, semi-detached and terraced houses. A single storey creche of circa 378 square metres is also proposed. Access to the proposed development will be from the adjoining Cois Bhearu to the north. The proposed development includes for all associated site development works, car parking, open spaces, hard and soft landscaping etc., ESB substation, and demolition of all structures on site, all at Tomard, Athy, County Kildare on a site measuring

circa 2.68 hectares located in the townland of Tomard, south of Cluain Bhearu residential development, east of the Monasterevin Road/Rathstewart Road (R417) and White Castle Lawn, Athy, County Kildare, as revised by the further public notices received by the planning authority on the 13th day of November, 2024 which consisted of 91 number houses, and a crèche, on a site measuring circa 3.1 hectares. The revised development is comprised of 14 number four-bedroom, 65 number three-bedroom and 12 number two-bedroom, two-storey, detached, semi-detached and terraced houses. A two-storey crèche of circa 264.6 square metres is also proposed. Access to the proposed development will be from the adjoining Cois Bhearú to the north. The proposed development includes for all included site development works, car parking, open spaces, hard and soft landscaping etc., ESB substation, demolition of the mill structure on site, and extension and upgrade of footpath to cycle path to the north-west at Corráin Bhearú to connect to path on Monasterevin Road/Rathstewart Road (R417). The applicant has also submitted a concurrent application to the planning authority for a residential development of 38 number dwellings on the adjoining lands to the immediate south under planning register reference number 24/111.

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.

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Reasons and Considerations

Having regard to the nature of the proposed development on an infill site in the urban suburb of Tomard, Athy, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the Kildare County Development Plan 2023-2029 and with the provisions of the Athy Local Area Plan 2023-2029, would be in accordance with national planning policy, as set out in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), would not seriously injure the amenities of the area or of property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Commission completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development in a serviced urban area, the Appropriate Assessment Screening Report and other documentation submitted with the application to Kildare County Council, the Inspector's report, and submissions on file received at application and appeal stage. In completing the screening exercise, the Commission adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on River Barrow and River Nore Special Area of Conservation (Site Code 002162) in view of the conservation objectives of such sites. Possible impacts identified would not be significant in terms of site-specific conservation objectives for the aforementioned site and would not undermine the maintenance of favorable conservation conditions or delay or undermine the achievement of restoring favorable conservation status for those qualifying interest features of unfavorable conservation status.

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Conditions

1. The proposed 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 13th day of November 2024, and as amended by the plans and particulars received by An Coimisiún Pleanála on 10th day of June 2025, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The number of residential units granted for this development is 91.
- (b) Each residential unit shall be used as an individual residential unit and shall not be subdivided into separate living units or for commercial or trade purposes.
- (b) Prior to commencement of development, the developer shall submit, for the written agreement of the planning authority, a detailed phasing plan for the development. This plan shall provide for the completion of the creche, to an operational standard, prior to the occupation of the 75th residential unit. The 75 number includes any units completed under the concurrent application register reference 24111.

Reason: In the interest of clarity and to ensure the timely delivery of the creche.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. (a) The creche structure shall be used as a childcare facility only.
- (b) Any subdivision, amalgamation or change of use of the development, whether or not such change subdivision or amalgamation would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended, shall not be undertaken without a prior grant of planning permission.
- (c) The childcare facility shall operate on Monday to Friday between the hours of 0700 to 1900 hours, unless otherwise agreed in writing with the planning authority.
- (d) The number of children to be accommodated in the childcare facility shall not exceed 44 at any one time.
- (e) Prior to the first operation of the childcare facility, the operator will submit, for the written agreement of the planning authority, a signage plan for the site. No signage panels shall be permitted, and the signage shall comprise of lettering/logos affixed directly to the structure.

Reason: To ensure that proper planning control is maintained.

5. (a) Car parking and bicycle parking provision for the creche and the public parking along Road 1 shall be provided in accordance with the layout, finishes and quantity of spaces indicated on Drawing P0003 – Proposed Site Plan, submitted to the Commission on the 10th day of June 2025, with the exception of the accessible parking space which shall be relocated to the roadside adjacent to the creche.
- (b) Bicycle parking for creche staff members shall be provided in accordance with Drawing P0017 – creche Plans, which was submitted to the planning authority on the 13th day of November 2024 as further information.
- (c) The dimensions of the car parking spaces, the management of the set-down spaces, including signage and road markings, and the details of the bicycle parking spaces shall be subject to the written agreement of the planning authority prior to the commencement of development.
- (d) The parking provision for House Number 1 shall be provided in accordance with the layout shown on Drawing P0003 – Proposed Site Plan submitted to An Coimisiún Pleanála on the 10th day of June 2025.

Reason: To ensure that there is adequate car parking and bicycle parking spaces to serve the development, and to provide parking facilities for all likely users of the development in order to avoid on-street parking and congestion.

6. The landscaping scheme as submitted to the planning authority on the 13th day of November, 2024 shall be carried out within the first planting season following substantial completion of external construction works. Additional tree planting shall be included in the overall scheme with details to be agreed in writing with the planning authority. In addition to the proposals submitted in the scheme the developer shall submit, for the written agreement of the planning authority, details of the proposed play area and equipment and shall ensure that the proposal provides for imaginative, constructive and active play with universally accessible play areas. 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 interest of residential and visual amenity.

7. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be landscaped in accordance with the landscaping scheme submitted to the planning authority on the 13th day of November, 2024. This work shall be completed before any of the dwellings are made available for occupation, unless otherwise agreed in writing with the planning authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

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8. A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. The schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation.

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

9. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority a revised Boundary Treatment Plan with boundary treatment Type 1 (1.8-metre-high concrete post and timber panel fence) omitted from all areas adjoining public spaces/roads and a revised boundary treatment for units 20, 30, 36, 43, 56, 67, 68, 72, 123 and 124. The Boundary Treatment Plan shall include plan and section drawings that detail a permanent boundary type which allows for the retention and protection of existing trees and hedgerows and their root systems, and which shall be installed to avoid the creation of areas of 'no man's land' or inaccessible areas. The plan shall clearly identify the site boundaries and land ownership. The western site boundary shall comprise boundary treatment Type 2 (two-metre-high block wall with pre-cast concrete capping) for its full extent.

Reason: In the interest of clarity and visual amenity.

10. Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum radius of two metres from the trunk of the tree or centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed. No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the

trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: In the interest of visual amenity and to protect trees and planting during the construction period.

11. Proposals for an estate 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 numbers, shall be provided in accordance with the agreed scheme. The proposed name 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 of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames.

12. Prior to commencement of development, the developer shall enter into a connection agreement (s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/or wastewater collection network.

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

13. Prior to commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction, including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

14. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

Reason: In the interest of sustainable transport and safety.

15. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. 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. 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 interest of public health and surface water management.

16. 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 commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the landscape plan. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

17. (a) The developer shall engage a suitably qualified archaeologist (licensed under the National Monuments Acts) to monitor all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to commencement of such works, the archaeologist shall consult with and forward to the planning authority or the National Monuments Service, as appropriate, a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation.
- (b) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.
- (c) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

18. 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 within each house plot, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

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

19. The developer shall provide a filtered permeability link for walking and cycling to connect with the existing estate at Whitecastle Lawns on the western site boundary of the development, and at the location shown as Linkage 3 on drawing number ATHY-WMC-ZZ-XX-DR-C-P600 Rev A – Permeability Links, which was submitted to the planning authority on the 13th day of November, 2024. Prior to commencement of development, the developer shall obtain the written agreement of the planning authority on the detailed design, timing, phasing of the delivery of the permeability links. The works proposed shall include internal footpath/cycle path design, associated public lighting and landscaping. The developer shall ensure that all works are completed to the site boundaries and where estates have been taken in charge, that tie-in facilities are provided for pedestrians and cyclists prior to the occupancy of the last 25 residential units. The developer shall be liable for all costs associated with the connection for pedestrians and cyclists.

Reason: In the interest of providing connected neighbourhoods and to promote Active Travel.

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20. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

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

21. Prior to commencement of development, the developer shall submit a revised Road and Footpath Layout Plan to the planning authority, for their written agreement, detailing how the existing and proposed residential units will be connected via a footpath and shall also demonstrate compliance with the requirements of the Design Manual for Urban Roads and Streets.

Reason: In the interest of pedestrian safety.

22. The developer shall provide a four-metre-wide shared surface from the school to the north of the Cois Bhearu estate to the internal western footway and carriageway at Cois Bhearu as shown on drawing numbers ATHY-WMC-ZZ-XX-DR-C-P600, ATHY-WMC-ZZ-XX-DR-C-P603 Rev A and ATHY-WMC-ZZ-XX-DR-C-P605 Rev A, which were received by the planning authority on the 13th day of November, 2024. The developer shall also install a staggered open gateway to allow pedestrian and cyclist only access at a T-junction where the estate footpath meets the footpath on the R417 to the written agreement of the planning authority.

Reason: In the interest of pedestrian and road safety.

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23. Prior to the occupancy of the development, the developer shall conduct a Stage 3 Road Safety Assessment (RSA). The Stage 3 RSA shall be conducted by an independent, approved and certified auditor. The recommendations of the Stage 3 RSA shall be incorporated into the remedial works.

Reason: In the interest of road safety.

24. All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle 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 transportation.

25. 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 over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual amenity.

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26. The developer shall implement all of the mitigation measures identified in the Amplitude Acoustics report received by the planning authority on the 2nd day of April, 2024.

Reason: To mitigate the effects of noise and vibration.

27. 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 or public holidays. Deviation from these times shall 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.

28. Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.

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29. 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 on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, 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 Coimisiún 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.

30. (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 house), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers, that is, 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 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 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.

31. 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 planning authority of roads, footpaths, watermains, drains, public open space, the satisfactory completion of the landscaping plan and other services required in connection with the development, coupled with an agreement empowering the planning 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 Coimisiún Pleanála for determination.

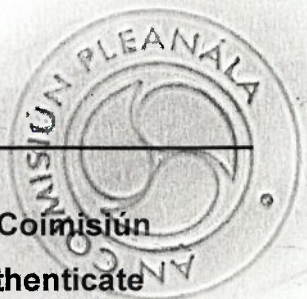
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

32. 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 Coimisiún 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.


Marie O'Connor

Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.



Dated this 22 day of September 2025