

Planning and Development Act 2000, as amended

Planning Authority: Kildare County Council

Planning Register Reference Number: 24111

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 6th 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 50 number houses. The proposed development is comprised of 19 number four-bedroom and 31 number three-bedroom two-storey, detached, semi-detached and terraced houses. 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 1.85 hectares located in the townland of Tomard, south of the Cluain Bhearu residential development, east of the Monasterevin Road/Rathstewart Road (R417), as revised by the further

public notices received by the planning authority on the 13th day of November, 2024 which consisted of 38 number houses, on a site measuring circa 1.58 hectares. The proposed development is comprised of 31 number three-bedroom and six number one-bedroom, one and two storeys, detached, semi-detached and terraced houses, and one number two-bedroom maisonette. The existing "Miller's House" is to be retained and renovated into the proposed two-bedroom dwelling. 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 et cetera, 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 91 number dwellings and a creche on the adjoining lands to the immediate north under planning register reference number 24/112.

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 nature of the proposed development on an infill site with a New Residential zoning objective 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.

Having regard to recommendation for construction of the proposed balconies for the Millers House, the commission did not agree with the recommendation of the Planning Inspector, as outlined in their addendum report dated the 12th day of August 2025. The Commission considered that the balconies would be visually discordant and not in keeping with the original structure.

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.

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 3rd 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 units permitted for the proposed development is 38.
- (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.
- (c) Prior to commencement of development, the developer shall submit, for the written agreement of the planning authority, a plan for the timely completion of works to the Millers House. The Millers House shall be completed in accordance with the plans and particulars as required in Condition 3(a) of this Grant of Permission and the unit shall be completed to a fully residential standard prior to occupation of any other residential units of this development.

Reason: In the interest of clarity and to ensure the timely completion of the Millers House as a residential unit.

3. The proposed development shall be amended as follows:

- (a) The Millers House shall be a single dwelling house and revised drawings to a scale of not less than 1:50 to include elevations, plans and sections of the structure prepared by a suitably qualified architect with conservation expertise and accreditation shall be submitted to and agreed with the planning authority prior to the commencement of development.
- (b) The proposed balconies shall be omitted from the Millers House.
- (c) The Millers House shall be finished in blue/black natural slate roof, lime rendered, aluminium rainwater goods and granite cills. The windows, doors and rainwater goods shall not be white uPVC.

Reason: In the interest of visual amenity and the protection of architectural heritage (in accordance with the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities).

4. Prior to the commencement of development on the former Mill and Millers House the developer shall submit for the written agreement of the planning authority confirmation that:

- (a) all of the works proposed, including the removal of vegetation, demolition works to the Mill, and the stabilisation and restoration works for the Millers House, shall be carried out in accordance with the details and methodology set out in the Method Statement submitted to An Coimisiún Pleanála on the 3rd day of June 2025,
- (b) the development will be monitored by a suitably qualified architect with conservation expertise and accreditation and

- (c) competent site supervision, project management and crafts personnel will be engaged, suitably qualified and experienced in conservation works.

Reason: In the interest of the protection of architectural heritage (in accordance with the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities).

- 5. 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.

- 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,
 - (a) 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,
 - (b) details of the extent of the original stone and materials to be reused on the site and how it will be incorporated into the landscaping plan,

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.

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 84,97,105,108 and 115. 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 (NMS), 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 NMS, 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 NMS, 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 NMS 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) Prior to the commencement of development all potential roost features within the former Mill and Millers House shall be inspected by an Ecological Clerk of Works (ECoW) or a Bat Ecologist.
- (b) Prior to the removal of any trees on the site, a pre-construction survey for potential bat roost features shall be carried out. Any features identified should be inspected with an endoscope immediately prior to removal.

If a roost is identified a derogation licence under Regulation 54 of the European Communities (Birds and Natural Habitats) Regulations 2011-2021 shall be required prior to any works. If a roost is not identified the ECoW shall remain on site and re-check potential roosting features prior to removal each day, until all areas that have bat roosting potential have been removed.

Reason: In the interest of environmental protection and the proper planning and sustainable development for the area.

19. 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.

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. 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.

22. Prior to commencement of development, the developer shall submit a revised Road and Footpath Layout Plan to the planning authority 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 (DMURS).

Reason: In the interest of pedestrian safety.

23. 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.

24. 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.

25. 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.

26. 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.

27. 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.

28. 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.

29. 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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30. Site development and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried out on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

31. 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 shall apply. 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.

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32. (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 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 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

33. 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 lands 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.

34. 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.

35. 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.