



The
**An
Bord
Pleanála**

The

Inspector's Report ABP-307190-20

Development	The omission of 2 apartments and a detached house previously granted under planning reference 04/2699, and the construction of 10 units.
Location	Hemingway Park , Clane , Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	191202
Applicant(s)	Ardstone Homes Limited.
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	David Flynn
Observer(s)	Clane Community Council
Date of Site Inspection	30 th of July 2020
Inspector	Caryn Coogan

1.0 Site Location and Description

1.1. The subject site is currently a construction site of residential units on the southern outskirts of Clane village. *Hemmingway Park* is the name of the estate, where there is a terrace of dwellings to the south of the site completed and occupied. The subject site is 0.849 ha, and is located 0.4km from the village centre, with a mature housing estate (Park View) immediately north of the subject site.

2.0 Proposed Development

2.1. The proposed development consists of:

- (i) the omission of 2No. two bedroom apartments and a detached 3 bedroom house granted previously under planning reference 10/558 (as extended under reference 17/1297)
- (ii) The construction of 10No. new dwelling units, 8No. three bedroom 2 storey dwellings in two terraced blocks, and a semi-detached block.

3.0 Planning Authority Decision

3.1. Decision

Kildare Co. Co. granted planning permission for the proposed development on the 9th of April 2020 subject to 23No. standard conditions.

Condition No. 20 is relevant to this appeal. It provides for the reservation of 10% of the lands to which the permission relates for the provision of housing type referred to in Section 94(4)(a) of the Planning and Development Act 2000.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning Report No 1 (16/12/2019)

The development is in compliance with the development plan. Further information required regarding the layout and changes to house design.

Planning Report No. 2 (08/04/2020)

- Further information submitted on 20th of March 2020, A revised site layout was received to provide passive surveillance to the west of Unit No. 3.
- Floor areas of the dwellings meet with minimum criteria, the three bed units are 100sq.m.
- Access through a locked gate is beyond the scope of the planning application 1No. unit is to be provided as part of the 10% social and affordable housing.

3.2.2. Other Technical Reports

Roads: The partially completed access road to the south of the application site is the Millicent Road to Moat Commons link Roads Objective in the development plan. The upgrade of Millicent. Conditions recommended include compliance with DMURS, 2m wide footpaths, specification of the access road, lighting, surface water, construction traffic.

Water Services: No objection.

3.3. Prescribed Bodies

Irish water: No objection, standard condition

3.4. Third Party Observations

A number of submissions were received during the statutory period of the planning application:

- Impact on existing sewer pipes
- Encroachment onto adjoining lands
- Flooding
- Traffic
- Part V not met
- Reduction in open space
- Pedestrian access to be provided to facilitate access to village and schools.

4.0 Planning History

4.1 Planning Reference 04/2699

Planning permission granted to Conex Construction Ltd for 44No. dwellings consisting of a detached 2 storey house, 33 No. terraced houses, 10No. apartments in 8 two storey blocks

4.2 Planning Reference 10/558

Extension of duration of permission (04/2699) granted for 2 years.

4.3 Planning Reference 13/15

Extension of duration of permission granted for 5 years.

4.4 Planning Reference 17/1297

Extension of permission for references 04/2699, 10/558 and 13/15 granted until 31st of December 2021.

5.0 Policy Context

5.1. Development Plan

Kildare County Development Plan 2017-2023

Chapter 17 – Development Management Standards

Clane LAP 2017-2023

The site is zoned B 'Existing Residential'.

Indicative Roads Objective to the south of the site, Map 13.1, indicating new link road.

5.2. Natural Heritage Designations

The closest designated sites are:

Ballynafagh Bog SAC – 5.2Km west of the site

Ballynafagh Lake SAC – 6.6Km west of the site

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

David Flynn of 42 Hemingway, Clane has taken this appeal against the planning authority's decision to grant planning permission for the proposed development. The grounds of his appeal area summarised as follows:

- There are no visible plans from Ardstone Homes Ltd to highlight if these homes will be designated Part V for Hemingway Park estate. There are no accessible Part V plans for any part of Hemingway Park which is currently under construction.
- The incorrect distribution of Part V in Hemingway Park estate could have a detrimental effect on the value of existing residence properties that already include 9No. occupied properties, therefore the proposal should not proceed without Part V and with the correct percentage distribution plans in place.

6.2. Applicant Response

The appeal should be dismissed under Section 138 of the *Planning and Development Act 2000*.

Section 127 of the *Planning and Development Act* requires an appeal to state in full the grounds of appeal. The third party has no substantive grounds of appeal. The appeal is concerned about the tenure of the residential units, and this is not a relevant planning issue or a valid ground of appeal. The appeal does not meet with the statutory requirements and will result in the unnecessary delay in much needed housing supply.

- The proposal is fully consistent with the proper planning and sustainable development of the area. The application seeks to 2No. two-bedroom apartments and 1No. 3 bedroom house, and the construction of 10No. three bedroom units. The increased numbers are achieved through the rationalisation of the permitted layout and the incorporation of an infill site located immediately north of the permitted development.
- The proposed development will expedite the delivery of housing to address the housing crisis by making efficient use of zoned lands within vibrant settlements.
- The National Planning Framework and Sustainable residential development in Urban Areas Guidelines all seek to increase housing supply through the consolidation of development within existing settlements.
- Clane is identified as a small town in the Kildare County Development Plan 2017-2023. Objective SRO 1 seeks *‘to encourage the consolidation of existing settlements through well designed infill developments in existing residential areas, located where there are good connections to public transport and services which comply with the policies and objectives of the Plan’*.
- *The subject site is located within the development boundary of Clane LAP 2017-2023. It is appropriately zoned Objective B Existing Residential under the LAP.*
- *The planning report and all internal reports had no objection to the proposed development.*

6.3. Planning Authority Response

No further comment to make.

6.4. Observations

Clane Community Council submitted an observation that in order to reduce the impact on local traffic and to improve permeability it is requested an opening be provided in the Hemingway Park boundary wall near Park View on Millicent Road,

and the footpaths within the new development be provisioned to facilitate safe pedestrian and cycling access.

It is requested that pedestrian and cycling permeability to the Moat Commons Road (the leads to Abbeylands Shopping Centre) also be addressed. One possibility is via the locked gates beside Hemmingway Park units 1-4 adjacent to Moat Commons Road.

The native trees and hedgerow should be retained, and all new planting should be indigenous species.

7.0 Assessment

- 7.1. There is a long planning history associated with the subject site and the proposed development dating back to 2004 under planning reference 04/2699 which was the parent permission for 44No. dwelling units on the subject site. Since the original permission has been granted there have been three subsequent extension of duration of permissions granted under references 10/558 (two years), 13/15 (five years) and 17/1297 (five years up to 31st of December 2021).
- 7.2. The subject site is located within the development boundary of Clane LAP 2017-2023 and the land is zoned B ' Existing Residential', which is *to protect and enhance the amenity of established residential communities and promote sustainable intensification*. The proposed development is an infill development within an established residential area, strategically located only 150metres form Clane town centre. In essence, the proposal increases the density of the overall development on a portion of the overall site. Instead of the permitted 3No. residential units, there will be ten dwelling units, all of which meet with the minimum design standards for sustainable residential living. The application also involves extending the northern site boundary into a field north of the original site area. I note the new proposed building line along Millicent Road is similar to the abutting residential estate, Park View. The proposed layout submitted by way of further information on 20th of March 2020, is the preferred and permitted propsoal, as it offers an improved layout on the original submission received on 30th of October 2019, which left very poor passive surveillance of open space area along the western site boundary.

- 7.3. The grounds of the third-party appeal are unfounded and unsubstantiated. A resident of Hemingway Park is concerned about the number of units to be designated under Part V of the *Planning and Development Act* regarding Social and Affordable Housing allocation. I note from the planning application documentation, the applicant has offered 10% of the proposed development, i.e. one dwelling, as part of their commitment to fulfilling the Kildare County Development Plan requirement of 10%. Furthermore, Condition No. 20 requires an agreement between the planning authority and the developer for the provision of 10% of lands to which the permission relates.
- 7.4. In addition, the third-party appeal identifies concerns regarding the future tenure of the proposed residential units, however this is not a relevant planning consideration, and I recommend the Board dismiss this concern in the appeal.
- 7.5. An observation was submitted to the Board regarding the potential to provide access links onto Millicent Road and Moat Commons Road. The latter is beyond the remit of the appeal as it is outside of the site boundary, and it was addressed by the planning authority during the assessment of the application. A condition can be included for a pedestrian gate to be provided at the northern extremity of the site onto Millicent Road which would create greater permeability and ease of access to the town centre from Hemingway Park.

7.6. **Appropriate Assessment**

The proposed development is located within an urban area on zoned lands that are serviced. It is reasonable to conclude, on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects, would not be likely to have a significant effect on any Natura 2000 designated sites.

8.0 **Recommendation**

- 8.1. I recommend the Board uphold the planning authority's decision to grant planning permission for the proposed development.

9.0 Reasons and Considerations

Having regard to the extensive planning history of the site, the existing residential landuse of the site, the zoning of the site in the current Clane Local Area Plan 2017-2023, it is considered the proposed change in house type and the additional residential units envisaged under the proposed development, would be in keeping with current planning policy, the residential amenities of the area and be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 20th of March 2020, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The grant of permission is for ten dwellings only and shall be provided in accordance with the revised layout submitted by way of further information on the 20th of March 2020.</p> <p>Reason: In the interests of clarity and residential amenity.</p>
3.	<p>Details of the materials, colours, and textures of all the external finishes to the proposed development and the boundary and surface treatments, including details of balcony finishes, shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>

4.	<p>The areas of public open space shown on the lodged plans shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the landscaping proposals received by the planning authority and the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.</p> <p>Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.</p>
5.	<p>A comprehensive boundary treatment and landscaping scheme shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. This scheme shall include the following:-</p> <p>(a) details of all proposed hard surface finishes, including samples of proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;</p> <p>(b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;</p> <p>(c) details of proposed street furniture, including bollards, lighting fixtures and seating;</p> <p>(d) details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes.</p> <p>(e) the provision of a pedestrian access at the northern extremity of the roadside boundary onto Millicent Road</p> <p>The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces and the</p>

	<p>public park, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interest of amenity and public safety.</p>
7.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health</p>
8.	<p>The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets.</p> <p>Reason: In the interests of amenity and of traffic and pedestrian safety</p>
9.	<p>A minimum of 10% of all car parking spaces shall be provided with electrical vehicle charging stations/points, and ducting shall be provided for all remaining car parking spaces to facilitate the installation of electrical vehicle charging points/stations at a later date. Where proposals relating to the installation of electrical vehicle ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the developer shall submit such proposals to the planning authority prior to the occupation of the development.</p> <p>Reason: In the interest of sustainable transportation.</p>
10.	<p>All of the communal parking areas serving the residential units shall be provided with functional 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.</p> <p>Reason: In the interests of visual and residential amenity.</p>

11.	<p>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 waste shall be managed in accordance with the agreed plan.</p> <p>Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.</p>
12.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
13.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
14.	<p>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 96(4) and 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</p>

	<p>agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p>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.</p>
15.	<p>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.</p> <p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
16.	<p>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 the 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</p>

	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
--	---

Caryn Coogan
Planning Inspector

25 August 2020