



An
Bord
Pleanála

Inspector's Report

ABP-307416-20

Development	54 no. dwelling units and associated works.
Location	Kilcullenbridge , Naas Road , Kilcullen
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19824
Applicant(s)	Knox Park Developments Ltd
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Knox Park Developments Limited.
Observer(s)	John Tracey Michael Madsen & Others Peter Moloney & Geraldine O'Rourke
Date of Site Inspection	27 th of August 2020.
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The subject site (2.83Ha) is located on the northern outskirts of Kilcullen town, Co. Kildare. It is accessed from the main Naas Road (R448) via an existing housing estate (The Bungalows) to the rear of Dunlea's garage. The general vicinity of the site includes mainly suburban dwellings, with Laurel Wood housing estate immediately to the south of the site, and Moanbane Park located on the eastern side of the R448.
- 1.2. The site has an ascending topography, it rises from the western site boundary to the long eastern (rear) site boundary. The site mainly consists of scrub, and the site was the subject of filling at some stage, with no topsoil was provided, therefore scrub and gorse have established naturally on the site. The OD level at the south east is 129 and rising to 199. The OD level to the northeast is 132 rising to 140.
- 1.3. There is an old overgrown agricultural entrance from the R448 to the site, in the south-east corner, alongside Laurel Woods housing estate. The site is bounded to the south by Laurel Wood housing estate, to the east is a detached dwelling, a filling station, an apartment complex (Mountainview) and a residential estate of 13No. bungalows (known as The Bungalows). The site is bounded to the north by Castlemartin Stud.
- 1.4. The potential pedestrian link is clearly visible from an adjoining bungalow to the north. I noted from my inspection the private rear garden area and a side elevation window of the adjoining dwelling, are visible from within the subject site and the proposed pedestrian link.
- 1.5. The site is located 200metres from Bus Eireann bus stop which serves a number of routes including Red Cow and Dublin.

2.0 Proposed Development

- 2.1. The proposed development is for 54No. dwellings on the subject site which shall include the following:
 - 26No. bungalows (2, 3- and 4-bedroom bungalows)
 - 28No. two storey dwellings (3-bedroom dwellings)

- Vehicular access will be via and established vehicular access to the site at the northern end
- A new pedestrian access to the south-east corner which is closest to town centre
- A total area of 0.69Ha will be devoted to public open space (23% of total site area).

The proposed development will include the removal of 24,5000 tonnes of spoil material to a licenced facility.

3.0 Planning Authority Decision

3.1. Decision

Kildare Co. Co. refused planning permission for the proposed development by Manager's Order dated 7th of April 2020 for 3 No. reasons:

1. Having regard to the gradient and topography of the site and to the restrictions placed upon the development as set out in Table 10 of the Kilcullen LAP 2014-2020, the development as proposed, of predominantly two storey dwellings, would contravene materially the provisions of the Plan, which restricts the development of the site to a single storey dwelling only, would set an undesirable precedent for similar development on similar sites within the town and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the level differences across the site and in particular to the range of finished floor levels of the dwellings within the scheme, most notably through the centre of the site, it is considered that the heights and level difference proposed would seriously injure the residential amenity and provide an unacceptable residential environment for the occupiers of the development would seriously injure the visual and residential amenities of properties in the vicinity and would set a precedent for similar development would therefore be contrary to the proper planning and sustainable development of the area.

3. Having regard to the scale, height and location of the proposed stepped pedestrian access to the south of the site, adjacent to existing third party dwellings, the use of same by residents and visitors would seriously injure the residential amenity and depreciate the value of these properties due to potential for overlooking, where no such overlooking previously existed. Accordingly, the proposed development would be contrary to proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

The assessment section of the report can be summarised as follows:

- The scheme is predominantly 3 bed units (70%) there is a low level of 2 bed units which is regrettable. A greater housing mix is required.
- The proposed density is 19 units per hectare and the Kilcullen LAP states the density should be 15units per Ha. The restricted density is due to the gradient of the land.
- There is signifigant cut and fill proposed on site
- The site is split by a retaining wall through the middle portion of the site with development located on both sides. A second retaining wall is proposed along a portion of the western and northern site boundaries.
- Open space provision is a 23% of site area.
- The pedestrian access includes a footpath and step construction with railings.
- Ecology report was carried out.
- Archaeological Report was carried out, with no major findings
- Stage 1 and Stage 2 Safety Audit carried out
- The proposal will impact negatively on the visual and residential amenity of the area.

3.2.2. *Other Technical Reports*

No objections raised in the internal reports on the planning file.

Environment: No objections to the proposal

Water Services: No objection

Building Control : No objection

CFO: No objection

Roads: No objections, conditions prescribed.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

A number of residents residing in adjoining houses objected to the proposal:-

- Concern regarding pedestrian access, disturbance, loss of privacy, anti-social behaviour
- Unsafe access arrangements
- Traffic
- Impact on 'The Bungalows' estate
- Preservation of boundary between the site and adjoining stud
- Changes in site levels
- Kilcullen LAP requires single storey dwellings
- Sites contains numerous bird and plant species
- Impact on community, schools and doctors

4.0 **Planning History**

There is no relevant planning history associated with the subject site.

5.0 **Policy Context**

5.1 **National Planning Framework – Project Ireland 2040**

National Objective 11

In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 13

In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

National Policy Objective 32

To target the delivery of 550,000 additional households to 2040.

National Policy Objective 33

Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35

Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

Quality Housing for Sustainable Communities – Best Practice Guidelines DOE 2007

Sustainable Urban Housing : Design Standards for New Apartments – Guidelines for Planning Authorities 2018

5.1. Development Plan

Kilcullen Local Area Plan 2014-2020

The site zoned *Objective C - New Residential – To provide for new residential development.*

Table 10 identifies the site on the Naas Road as developable at 15 units per hectare. The Plan notes the gradient of the site and the location on the edge of a settlement, that lower densities will apply. The proposed dwellings shall have regard to the pattern of development in the immediate vicinity and gradient of the site. In this regard the dwellings shall be restricted to single storey dwellings only.

Kildare County Development Plan 2017-2023

Chapter 4 is relevant regarding new housing proposals

Chapter 17 Development control standards

5.2. Natural Heritage Designations

Pollardstown Fen SAC is 7.3km away from the subject site There is no direct or indirect pathway from the subject site to the Natura 2000 site.

5.3. EIA Screening

Having regard to the nature of the proposed development comprising a residential development of 54 units including all necessary site works, in an established zoned, urban area and where infrastructural services are available, 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

The First Party appeal addresses the 3No. reasons for refusal, which are considered to be unreasonable.

6.2 Reason No. 1

- It is accepted the subject site is a difficult site to develop on account of its sloping, elevated nature which is compounded by existing fill material which increases the elevation even further. There are a number of examples where elevated sites like the subject site have been developed in Kilcullen at Laurelwood and Hillcrest further south. On such sites there has to be a degree of flexibility to facilitate construction as with the topography conventional housing is not feasible. The Board is requested to afford a degree of flexibility which we believe is essential to development of the subject lands for residential dwellings as envisaged under Kilcullen LAP 2014-2020.
- The site is zoned for residential development under the Kilcullen LAP 2014-20 and forms part of the Settlement Strategy for the county. Table 10 in the LAP refers to the subject site as one of 11 areas of zoned lands where residential development can be accommodated in the town. The subject lands are listed as 3Ha and able to accommodate 45No. units at 15No. units per hectare. The LAP states dwellings on the site shall be restricted to single storey only.
- The first planning report indicated the site could accommodate a mix of unit types subject to appropriate visual impact assessment. However, this viewpoint was radically changed following receipt of further information, and a refusal occurred. It is not clear from the Planner's Report why there was a complete turnabout in terms of two storey not been acceptable.
- The subject site is unique and would not set an undesirable precedent, there are no similar sites zoned New Residential within the town containing material fill at an elevated location to the rear of commercial and residential premises.
- **Material Contravention** the proposal does not contravene any specific policy or objective of the LAP. The only reference to a single storey restriction is a footnote associated with Table 10 restricting density and height. This is not sufficient to justify a material contravention of the LAP.
- The removal of the fill material from the site greatly alters the topography of the site and associated levels.

- The footnote at the bottom of Table 10 in the Killcullen LAP is not consistent with Kildare County Development Plan 2017-2023. The county plan promotes higher densities for outer suburban/ greenfield sites of 30-50 units per hectare consistent with national planning guidelines and does not contain any building height restrictions.
- Should the Board decide the proposal is a material contravention, the Board can grant planning permission for the following reason:

Under subsection (ii) it is submitted that the objective to restrict development to single storey housing is not clearly stated and it does not address the proposal whereby the existing fill material on site can be lowered as part of the application. The National Planning Framework 2040 calls for the increase in private housing, and this is a plan-led delivery of housing on lands zoned for New Residential.

6.3 Reason No. 2

- The Council consider the level and heights of the development across the site would seriously injure the residential amenity of the area and provide an unacceptable environment for the occupiers of the development. It is also considered the proposal would impact negatively in the vicinity and would set and undesirable precedent.
- There were several layouts discussed pre-planning with the planning staff, with numerous drafts, and the current proposal was considered to be the optimum layout. The visualisations appear to have changed their minds.
- It was considered from the Planner's Report that the 6-7m difference in finished floor level between the backs of houses 29-40 and 45-54 is significant and unacceptable both from a visual and residential amenity perspective.
- **Visual Impact** : It is assumed the Council are concerned with the visual impact from the rear elevation of the lower dwellings facing towards the retaining wall. There are visualisations submitted on appeal. The visualisations show the generous sized garden to the rear of the lower level gardens with a small raised element to the rear. The gabion walls will be

seen as an attractive feature compared to a standard block wall and can be screened with appropriate planting. The visualisations show indicative tree planting and demonstrates the impact of the planting if it is carried out. The applicant would accept a condition to provide semi-mature trees be planted in each garden if required, however, this is a matter for the future occupiers. There are cross sections through the site submitted for consideration.

- **Relevant Precedent** : The Board is referred to the Old Mill Race, Athgarvan, Newbridge where there is a similar type relationship between the upper and lower dwellings . The shared rear boundary walls measure approximately 4metres high but are appropriately screened via trees and climbing plants. This type of development has been granted and operates successfully in the county. Another example is Oak Park, Craddockstown, Naas which was granted permission for 258No. dwellings under appeal reference PL09.249006.
- **Adjoining Dwelling Owners**: The impact on adjoining owners is difficult to comprehend given the significant distance of the existing dwellings from the proposed dwellings. The proposed dwellings are located 33-62metres from the boundary of adjoining dwellings to the south. There is a large area of public space proposed on the portion of the site adjoining the dwellings to the south. There is a significant separation distance (45m) from the dwelling to the south-east of the site. There is also significant separation distance from the apartments located to the rear of Kilcullen dental to the east of the site which display a gable end to the proposed development.

In the case of No. 9 Naas Road, which is the end row dwelling adjoining the site, the house owner was approached in advance of the application and he has agreed for the existing Leylandii hedge to be replaced with a new wall that will continue around to the rear of his dwelling.

- **Overshadow/ Overlooking** : The proposed upper and lower housing in the centre of the site does not give rise to any adverse impact arising from shadow impact. There is no potential for overlooking from the upper dwellings relative to the lower dwellings. If the Board were concerned about overlooking, the dormer windows can

be replaced with roof lights, or the introduction of semi-mature trees on the inside of the rear boundary wall, and a condition can be attached.

- **Key Views:** It is not clear what views are been referred to in the reason for refusal. There is only one cul-de-sac view form the Laurel Woods, and due to the high retaining wall, there is no view of the subject site.

6.4 Reason No. 3

The third reason relates to the scale, height and location of the proposed stepped pedestrian access to the south of the site, adjacent to existing third party dwellings. The narrow space currently forms an unused agricultural access route to a field at the rear, and it was considered to be a convenient route for pedestrians to walk to and from the town centre without having to travel to the existing vehicular entrance to the bungalows and onto the proposed entrance to the new development. The current proposal is the only viable option in line with the Building Regs. The applicant would be open to providing a wall and railing treatment rather than a solid boundary wall. A solid wall would be provided at the west end along the gable end and rear garden of the adjoining dwelling.

There are two dwellings south side of the narrow part of the site (No. 1 and 28 Laurelwood) and one to the northside (The Bungalow, Naas Road0. No. 28 Laurelwood is located at the higher level and is not really at risk from material overlooking. The Council's key concern is the overlooking of adjoining properties, and any such overlooking arising can be addressed by way of appropriate screen planting on either side of the pathway.

The proposed pathway can be omitted entirely by way of condition.

6.2. Planning Authority Response

The principle of residential development on the lands is acceptable having regard to its zoning. The site is significantly restricted in terms of topography and gradient which is stated in the Kilcullen LAP 2014-2020 and has restricted the density to 15units per hectare. The proposal was deemed unacceptable for the site following receipt of visual imaging and sections by way of further information.

6.3. Observations

6.3.1 *Michael Madsen & Residents*

He owns the bungalow facing into the site. The validity of the appeal is questioned.

The two access points will result in inconvenience, disturbance, unsafe and hazardous conditions within the estate, which would then use the existing access road. This is already in a very poor state of repair and could not sustain such an increased traffic flow. If it is proposed to use the existing access road as a throughway for construction traffic this would create a dangerous and unacceptable environment for existing residents in The Bungalows.

The existing access road is 6.1metres, the local authority narrowed the entrance (when existing footpaths on main road) and it created a dangerous entrance. There are cars parking on the service road which narrows the access road.

There is no reason why the pedestrian access could not be used as the construction traffic access to the site, it is 7.1metres wide, and could also be used as the main entrance to the estate.

The submitted drawings indicate a series of steps from the development down to the road along the proposed pedestrian access, which is unsuitable for prams and buggies, and wheelchairs.

The applicant should not compare the proposed development to Laurel Wood, Hillcrest or Esker Lea, these were built since 2000 on greenfield sites fronting the road.

The pedestrian access is alongside residential property who's owner has expressed an interest in Knoxpark, and if the site was fully or partially purchased by Knoxpark this would create sufficient area for a modern, safe and environmentally friendly access off the busy Naas/ Kilcullen access.

Knoxpark have allocated carpark bays for cul de sac residents. This was not discussed with the residents. This will remove the attractive grass frontage and decorative trees from the frontage onto the main road which is not acceptable.

The replacement of a Leylandii hedge with a wall does nothing for the community of 13No.bunglaows and should not be interpreted as an acceptable form the residents to the development.

The subject site has become an urban reserve and should be retained as such.

6.3.2 **Paul Moloney**

Knox Park should not remove the trees and the grass area at the entrance to the existing estate, to provide parking as suggested in the response to further information. It is a totally unacceptable proposal in order to provide parking bays.

The subject site could be turned into a bio-diversity and wildlife are for Kilcullen, it is already a sanctuary for birds and wildlife.

6.3.3 **John Tracey**

- The lodgement of the appeal on the 22nd of June 2020, greatly exceeds the 4 weeks appeal deadline from the 7th of April 2020.
- The proposal represents a 20% increase in density to 54units as opposed to 45units as prescribed by the Kilcullen LAP, i.e. 18 units per hectare as opposed to 15 units per hectare.
- The access road is not structurally capable of carrying the construction traffic, and the extra domestic traffic.
- The applicant is ignoring the presence of an existing mature community.
- Earth movements on the site could have an impact on the adjoining dwellings.
- The two storey dwellings in particular windows at first floor level will be looking into the bedroom windows of his house. The applicant cannot build two storey dwellings beside existing bungalows. The signifigant gradient difference means the existing houses will be overlooked as well as other probable impacts, soil disturbance, runoffs.
- Density levels are set in the Kilcullen LAP at 15 dwellings per hectare
- The terminology used like brownfield site is an abandoned industrial or commercial site, and not the subject site. There is an abundance flora and wildlife on the site

- The proposal represents overdevelopment and urbanisation of the site which will lead to the possible collapse of existing infrastructure and environmental impacts.

7.0 Assessment

7.1 The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- National Planning Policy
- Zoning and Compliance with Kilcullen Local Area Plan
- Design and Impact on the Character of the Area
- Impact on Residential Amenity
- Traffic, Access, Road Layout
- Other Matters
- Appropriate Assessment

7.2 National Policy

The ***National Planning Framework – Project Ireland 2040*** was published in February 2018. This document that will guide strategic planning and development for the country over the next 20+ years, so that the population grows in a sustainable manner (in economic, social and environmental terms). The subject site is located on the outskirts of Kilcullen town, within the Kilcullen LAP development plan boundary and within a built-up residential area of the town. There is a large garage on the contiguous site to the front of the proposed development along the Naas Road and a block of apartments (Mountain View). The subject site is currently vacant and overgrown.

National Policy Objective 32 is to deliver 550,000 additional housing units throughout Ireland in a sustainable manner. National Policy Objective 35 requires increased densities using increased building heights which according to Objective 33 should be an appropriate scale of provision relative to the location. The site is adjoined by dwellings, with single storey dwellings to the east, and two-storey dwellings to the

south. The provision of 54No. new dwellings on the site, which is in accordance with residential development standards in terms of floor areas, open space provision and carparking, will ensure the appropriate densification of this serviced suburban site. The provision of housing on the site is in line with national planning policy.

7.3 Zoning and Compliance with Kilcullen Local Area Plan

The subject site is zoned *New Residential – To provide for new residential development* in the Kilcullen LAP 2014-2020. The proposal is in keeping with the zoning objective for the site.

Table 10 of the Kilcullen LAP identifies sites for residential development including the subject site. The LAP specifies the subject site is developable at 15 units per hectare. The Plan notes the gradient of the site and the location on the edge of a settlement, that lower densities will apply. The proposed dwellings shall have regard to the pattern of development in the immediate vicinity and gradient of the site. In this regard the dwellings shall be restricted to single storey dwellings only.

I have assessed the layout and design of the proposed development and its compliance with relevant Development Plan standards and Planning Guidelines. Having examined the application details and all other documentation on file, I am satisfied that the proposed development generally complies with relevant Development Plan standards and Government Planning Guidelines. Key elements of the revised proposal and their compliance with these standards / requirements can be summarised as follows:

- The proposed density is stated to be 19units per hectare as opposed to the 15units per hectare prescribed by the Kilcullen LAP, which is 54No. dwellings on 2.83Ha. The overall layout creates adequate separation distances from existing and proposed dwellings. There is adequate private and public open space provision proposed, and the layout of the public open space pockets are acceptable in quantum and design. I consider 19No. units per hectare on serviced zoned land to be medium and not high density.
- The overall design and layout of the scheme is respectful of the existing pattern of development in the area, and the contiguous residential developments. The two-storey dwellings are along the northern and western

boundaries of the site. The single storey units are along the eastern axis of the site.

- The site has a steep gradient and has been filled with material in the past. The levels of the site will be reduced, and the filling will be relocated throughout the site to reduce the visual impact of the scheme.
- The design is contemporary, and it will make a positive contribution in visual terms to the character of the neighbourhood.
- The massing, proportions, façade articulation and detailing, building setbacks and roof form area acceptable.
- The internal floor plans and area conform to Residential Development Standards, and the development plan standards.
- The proposal provides good permeability and connectivity with its surrounding area.
- The parking provision for the proposed development is acceptable and in accordance with Development Plan standards.

The bulk of the proposed dwellings are single storey units. I do not regard the footnote in the Kilcullen LAP to be stated policy or a specific objective when it prescribes the proposed dwellings on the site shall be restricted to single storey units. In my opinion, this does not represent a material contravention of the Kilcullen LAP. It is a footnote associated with Table 10. Given the topography of the site and the fact there is an artificial gradient on the site created by fill, the site has capability of facilitating a variety of house types and sizes when the fill is removed and relocated throughout the site. I note the visual analysis submitted by way of further information to the planning authority, and I consider the visual impact of the two storey dwellings to be graduated in the context of the overall topography and proposed single storey units to the front of the site.. A sustainable form of new residential development on the site requires a mix of housing types. Having regard to the existing bungalows adjoining the site, I consider the introduction of a number of two storey units on the site, to be a welcome provision and not a material contravention of the plan.

7.4 Design and Impact on Character of the Area

The site is rectangular in configuration. It is proposed to provide a row of two-story dwellings along the rear site boundary and the lower northern site boundary. There is a block of single-storey houses proposed along the eastern and central axis of the site. The proposed site layout is determined by the gradients of the site. There is a significant difference in levels between the upper and lower dwellings positioned along the center of the subject site. It is noted there is a 6-7metres difference between opposing dwellings 29-40 and 45-54. However, it is noted there are generous sized garden to the rear of the lower level gardens with a small raised element to the rear. There are gabion walls proposed to the rear between the houses as a form of retaining walls. These are an attractive feature, however landscaping can be provided by future owners if they consider the gabion walls to be a stark feature.

There are significant separation distances proposed between existing houses and the proposed dwellings (33-60metres) with a large area of open space on a portion of the site adjoining dwellings to the south in order to avoid impact on The Bungalows. There will be no undue loss of privacy as a result of the proposed development to neighboring dwellings.

There was a shadow analysis prepared as part of the planning application, which demonstrates the upper and lower housing will not give rise to shadow impact.

The main vehicular access will be via The Bungalows estate. There is a pedestrian access proposed to the south of the site, which is currently an overgrown agricultural entrance to the subject site off the Naas Road. There is a bungalow to the north of the proposed pedestrian access and The Laurels housing estate is to the south. The third reason for refusal states the height, scale and location of the proposed stepped pedestrian access will impact on adjacent third-party residences due to overlooking. In my opinion, the access presents an opportunity for the proposed estate to be more accessible, and its would be a lost opportunity not to include it within the overall scheme. A wall and railing treatment can be provided

with a solid wall to screen the adjoining bungalow. Landscaping , public lighting and safety gates to restrict access by children can also be provided by condition to the pedestrian path.

7.5 Traffic, Access, Road Layout

Unfortunately the Traffic Report submitted by the applicant to the planning authority on the 16th of March 2020, relates to a residential development at Woolpack, Craddockstown West, Naas.

The further information includes a revised layout design to include additional carparking spaces to serve The Bungalows housing estate. The service road to the Bungalows is providing the vehicular access to the proposed development. On - street parking does occur along the service road, and I consider the provision of visitor or additional surface parking is a welcome provision. There was a swept path analysis carried out to cater for emergency and refuse trucks. The Roads Department and the Area Engineer had no objection to the proposed development subject to certain conditions been applied.

7.6 Other Matters

The ecology report on file finds the ecological impact as a result of the proposed development to be low. I note the site has been previously filled and contains a lot of scrub.

Due to the steep gradient of the southern/ pedestrian access, a ramp is not possible, and a stepped access path is not proposed.

Part V condition is applicable.

7.7 Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular its location in a serviced settlement, and having regard to its separation distance from any European site, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that no appropriate assessment issues

arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend the Board overturn the planning authority's decision to refuse and grant planning permission for the proposed development.

9.0 Reasons and Considerations

Having regard:

- the objectives of the National Planning Framework
- to the provisions of the Kildare County Development Plan 2017-2023
- the Kilcullen LAP 2014-2020
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009
- the zoning of the site for new residential development,
- to the location of the site in an established urban area within walking distance of Kilcullen town centre
- to the nature, form, scale, density and design 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 zoning, layout and design, would be of an appropriate density and would be acceptable in terms of pedestrian and traffic safety and convenience.. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 information submitted on the 16th of March 2020 and as amended by the further plans and particulars submitted to the Board on 26th of June 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.

Reason: In the interest of clarity.

2. Prior to the commencement of the development the developer shall agree in writing with the planning authority full details of the final treatment of the southern permeability link. The final treatment shall include, public lighting, landscaping, gates to restrict access to children, boundaries to maximise inter-visibility and provide adequate security to existing residents.

Reason: In the interests of proper planning of the area

3. Prior to the commencement of development, the developer shall provide, for the written agreement of the planning authority, full details of the proposed external design/ finishes in the form of samples and on-site mock-ups. These details shall include photomontages, colours, textures and specifications.

Reason: In the interests of visual amenity

- 4
- a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed standards of the Planning Authority for such works.
 - b) A Stage 3 Road Safety Audit in relation to all road works including the junction with the public road, shall be prepared and submitted for the

written agreement of the Planning Authority prior to the commencement of development. Any necessary revisions to comply with the Stage 2 recommendations and/ or additions shall be agreed in writing with the Planning Authority.

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

5. Footpaths shall be dished at road junctions in accordance with the requirements of the Planning Authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason : In the interest of pedestrian safety

6. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, 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 dwelling unit.

Reason: In the interests of amenity and public safety

7. Prior to the commencement of the development, the developer shall submit and agree in writing proposals to comply with the requirements of the Roads and Transportation Department of the planning authority as regards, parking, stops signs, road markings, specifications, turning radii, drainage, footpaths and lighting.

Reason: In the interests of traffic and pedestrian safety.

8. Proposals for an estate/street name, house 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 place names for new residential areas.

9. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Full details of all surface water disposal, surface water management and all necessary legal entitlements to carry out works to adequately service the proposed development shall be agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of public health.

10. The applicant or developer shall enter into water and/or wastewater connection agreement(s) with Irish Water, prior to commencement of development.

Reason: In the interest of public health

11. To ensure full implementation of the proposed landscape plan, the developer is required to retain the services of a Landscape Consultant throughout the life of the site development works. A completion certificate shall be signed off by the Landscape Consultant when all works are completed and in line with the submitted landscape drawings. This completion certificate shall be submitted to the planning authority for written agreement upon completion of works.

Reason: In the interest of amenity.

12. 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,

(c) shall carry out licenced metal detection surveys (including the field boundaries to be removed), develop an archaeological and artefact strategy on the basis of the results and in consultation with the Department of Culture, Heritage and the Gaeltacht and the National Museum of Ireland, agree protective measures in advance of site preparation and construction works to ensure the preservation/ protection of archaeological features (burnt mound material) and archaeological monitoring of topsoil stripping (licenced under the National Monuments Acts 1930 to present), and

(d) a detailed final report describing the results of all archaeological work carried out on site, including any subsequent archaeological excavation by hand and required specialist post excavation reports, shall be submitted to the relevant authorities following the completion of all archaeological assessment. All costs shall be borne by the developer in this regard.

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.

13.Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between the hours of 0800 to 1400 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 amenities of property in the vicinity

14.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, noise management measures and off-site disposal of construction/demolition waste.

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

15.Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted

to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

16.All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

17.(a) All areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

18.All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

19.All of 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

further 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.

20. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

21. 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 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 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 of the development.

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

Caryn Coogan
Planning Inspector

6th of October 2020