

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2016

Kilkenny County

Planning Register Reference Number: 16/429

An Bord Pleanála Reference Number: PL 10.247668

APPEAL by Gearoid McNamara of Bennettsbridge Road, Kilkenny against the decision made on the 9th day of November, 2016 by Kilkenny County Council to grant subject to conditions a permission to Torca Developments Limited care of Gittens Murray Architects Limited of 5 William Street, Kilkenny in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: The construction of a 52-unit residential estate as follows: 26 number two, three and four bedroom, two-storey terraced houses, two number three bedroom, two-storey semi-detached houses and two number three-storey apartment blocks each containing 11 number one and two bedroom apartments, new vehicular and pedestrian access to public road, amenity landscaped pocket park with children's play area, demolition of existing single storey changing rooms and all associated site development works and boundary treatments. The development site adjoins:

1. Saint Joseph's Convent which is a protected structure (National Inventory Reference Number 12002001).
2. Saint Joseph's Convent School which is a protected structure (National Inventory Reference Number 12002002).

All at the former James Stephens Gaelic Athletic Association Club practice pitch at Nuncio Road, Deansground, Kilkenny.

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.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the site's location close to Kilkenny city centre on lands with a 'Z5' specific zoning objective for residential development in the Kilkenny City and Environs Development Plan 2014-2020, the nature, scale and design of the proposed development, the availability in the area of a wide range of social infrastructure, to the pattern of existing and permitted development in the area, and to the provisions of the Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May, 2009, the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in December, 2015 and the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March, 2013, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board adopted the Inspector's report in relation to Appropriate Assessment screening and concluded that the proposed development, either individually or in combination with other plans or projects, would not be likely to have a significant effect on the River Barrow and River Nore Special Area of Conservation (Site Code 002162), the River Nore Special Protection Area (Site Code 004233) or any other European Site in view of the sites' conservation objectives.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 14th day of October, 2016, 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. The proposed development shall be amended as follows:
 - (a) houses numbers 17 and 18 shall be omitted and replaced with a single detached two-storey house,
 - (b) the side elevation of house number 16 shall be amended such that there is more visual interest at ground floor level, and
 - (c) disabled parking spaces as shown on the submitted drawings shall be evenly spaced throughout the scheme.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Prior to commencement of development, the developer shall agree in writing with the planning authority, proposals for facilitating a pedestrian connection to the adjoining laneway to the rear of housing within Saint Fiacre's Place.

Reason: In the interests of residential amenity and pedestrian permeability.

4. For the purpose of clarity, this order grants permission for 50 units as follows – Units 1 through to 52, with no number 13 as shown on drawing number A1-001 received by the planning authority on the 14th day of October, 2016, and with units numbers 17 and 18 replaced with a single house.

Reason: In the interest of clarity.

5. Details of the materials, colours and textures of all the external finishes and boundary treatments 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 site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing -
 - (i) the species, variety, number, size and locations of all proposed trees and shrubs,
 - (ii) details of screen planting,
 - (iii) details of roadside/street planting, and
 - (iv) hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels,

- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment,
- (c) A detailed layout and specification for the play area, and
- (d) A timescale for implementation.

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 or until the development is taken in charge by the local authority, whichever is the sooner, 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 interests of residential and visual amenity.

- 7. The developer shall retain the services of a suitably qualified Landscape Architect throughout the life of the site development works. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are completed to the satisfaction of the planning authority in consultation with the Parks and Landscape Services Department, and in accordance with the permitted landscape proposals.

Reason: In the interest of visual amenity.

- 8. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots.

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

- 9. 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.

Reason: In the interests of amenity and public safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

11. 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.

Reason: In the interest of public health.

12. Proposals for a name, numbering scheme and associated signage for 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 orderly development.

13. (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) 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.
- (c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.

- (d) The materials used, including tactile paving, in any roads/footpaths provided by the developer shall comply with the detailed standards of the planning authority for such road works.
- (e) The developer shall provide footpaths and a toucan crossing on Nuncio Road as detailed on drawing number 141107/PL/002 received by the planning authority on the 14th day of October, 2016 and as agreed final detailed design with the planning authority.
- (f) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for written agreement and shall carry out and cover all costs of all agreed recommendations contained in the audit.

Reason: In the interests of traffic, cyclist and pedestrian safety.

14. 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 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.

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

15. Site development and building works shall be carried out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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.

16. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

17. 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 interests of public safety and residential amenity.

18. (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 dwellings are made available for occupation.

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

19. 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 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.

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.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

21. 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 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.

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

Dated this day of 2017.