



Planning and Development Acts 2000 to 2018

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 18/427

Appeal by Marcus and Ruth Hickey of Lumper Lane, Urlingford, County Kilkenny against the decision made on the 9th day of October, 2018 by Kilkenny County Council to grant subject to conditions a permission to Thomas Kavanagh care of Larkin Associates of 1a St Canice's Court, Dean Street, Kilkenny in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of 14 terraced house units, consisting of eight number two-storey three bedroom houses, five number three bedroom dormer bungalows and one number two bedroom dormer bungalow; and all associated site works on lands at Lumper Lane and New Line. This is the same site as previously permitted under planning register reference number 05/689, all at Lumper Lane and New Line, Urlingford, County 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 location of the site within the settlement boundary of the town of Urlingford, the pattern of development in the vicinity, the proposed layout and unit mix, pedestrian permeability of the scheme, proposals to provide for school parking, and connection to an existing watermain and foul and surface water sewerage network: it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 13th day of September, 2018, 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 commencement of development, details of the materials, colours and textures of all the external finishes to the proposed houses shall be submitted to, and agreed in writing with, the planning authority.

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

3. 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. In particular, the following shall apply-
 - (a) any sewer traversing the site, which may need to be diverted to facilitate the development, shall be undertaken only with the written agreement of the planning authority, and at the expense of the developer,

- (b) a suitable wayleave agreement shall be entered into, in relation to the existing foul sewer located within the rear gardens of houses 1 - 4 prior to first occupation of any of these four houses, and
- (c) revised proposals for storm-water drainage providing for a gravity system (with no requirement for a rising main), or if this should not prove possible, the disposal of all surface water within the boundary of the site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public health and to ensure a proper standard of development.

- 4. The vehicular entrance from Lumper Lane, traffic calming and pedestrian crossing on New Line, parking spaces on New Line, new footpaths on New Line and Lumper Lane, and the internal road network serving the development, including turning bays, parking areas, footpaths, verges and kerbs, shall be in accordance with the detailed requirements of the planning authority for such works. In particular, the vehicular entrance to the rear garden of house number 1 on Lumper lane shall be omitted from the development.

Reason: In the interest of amenities and public safety.

- 5. Prior to commencement of development, proposals for a bilingual name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority. The name shall reflect the history or topography of the area.

Reason: In the interest of orderly development.

6. 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 interest of visual and residential amenity.

7. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of amenity and public safety.

8. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which 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, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of any archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

9. Overhead electricity cables traversing the site shall be removed and diverted underground at the expense of the developer.

Reason: In the interest of visual amenity.

10. 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 and for the ongoing operation of these facilities 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. In particular, all construction and demolition waste and all waste which has been tipped on this site shall be removed and disposed of to a licensed waste facility prior to commencement of development.

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

11. 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 social and affordable 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.

12. 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 and maintenance of the development until taken in charge.

13. 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.

Terry Ó Niadh
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2019.