



An
Bord
Pleanála

Board Order ABP-305062-19

Planning and Development Acts, 2000 to 2019

Planning Authority: Kilkenny County Council

Application by Kilkenny County Council for approval under section 177AE of the Planning and Development Act 2000, as amended, in accordance with plans and particulars, including a Natura Impact Statement, lodged with An Bord Pleanála on the 2nd day of August, 2019.

Proposed Development: Demolition of existing pumphouse and shed, the construction of 86 housing units in six blocks comprising one five-bedroom terraced house, four four-bedroom terraced houses, 19 three-bedroom terraced houses, nine three-bedroom duplex apartments, two four-bedroom duplex apartments, 14 one-bedroomed apartments, 28 two-bedroomed apartments, eight three-bedroomed apartments, one five-bedroomed group home and community facility and all associated site works and service connections at Crokers Hill, Kennyswell Road, Kilkenny.

Decision

Approve the above proposed development 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

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the River Barrow and River Nore Special Area of Conservation (site code: 002162),
- (e) the policies and objectives of the Kilkenny City and Environs Development Plan, 2014-2020,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions and observations received in relation to the proposed development, and

- (i) the report and recommendation of the Inspector appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the River Barrow and River Nore Special Area of Conservation (site code: 002162) is the only European Site in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an Appropriate Assessment of the implications of the proposed development for the affected European Site, namely the River Barrow and River Nore Special Area of Conservation (site code: 002162), in view of the site's Conservation Objectives. The Board considered that the information before it was adequate to allow the carrying out of an Appropriate Assessment.

In completing the Appropriate Assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the Conservation Objectives for the European Site.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the above-mentioned European Site, having regard to the site's Conservation Objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Site, in view of the site's Conservation Objectives.

Proper Planning and Sustainable Development/Likely effects on the environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura Impact Statement or Ecological Impact Statement, or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on file and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in Step 4 of the Natura Impact Statement and in the Ecological Impact Statement, shall be implemented in full or as may be required in order to comply with the following conditions. Prior to commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. Prior to commencement of development, the local authority, or any agent acting on its behalf, shall prepare, in consultation with the relevant statutory agencies, a Construction Environmental Management Plan incorporating all mitigation measures indicated in the Natura Impact Statement and Ecological Impact Statement and demonstrate how these measures adhere to best practice and protocols.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

4. Prior to commencement of development, details of measures to protect fisheries and water quality of the river systems, consistent with the mitigation measures indicated in the Natura Impact Statement and Ecological Impact Statement, shall be set out and placed on file. Full regard shall be had to Inland Fisheries Ireland's published guidelines for construction works near waterways, namely "Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters" (2016). A programme of water quality monitoring shall be prepared in consultation with the contractor, the local authority and relevant statutory agencies and the programme shall be implemented thereafter.

Reason: In the interest of the protection of receiving water quality, fisheries and aquatic habitats.

5. A suitably-qualified ecologist shall be retained by the local authority to oversee the site set-up and construction of the proposed development and implementation of mitigation measures relating to ecology set out in the Natura Impact Statement and Ecological Impact Statement. The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interest of nature conservation and the protection of terrestrial and aquatic biodiversity.

6. The local authority, or any agent acting on its behalf, shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site, including the wayleave to the Breaghagh River. A suitably-qualified archaeologist shall be appointed by the local authority to oversee the site set-up and construction of the proposed development and the archaeologist shall be present on-site during construction works.

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.

7. Prior to commencement of development, the local authority shall enter into a water and/or wastewater connection agreement(s) with Irish Water should such connections be required.

Reason: In the interest of public health.

8. Prior to commencement of development, details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be placed on file and retained as part of the public record.

Reason: In the interest of visual amenity.

9. The two cul-de-sacs to the west and centre of the proposed development shall be treated as shared surfaces. Prior to commencement of development, revised drawings showing the re-design of these spaces, including any relocated/reconfigured car parking, soft and hard landscaping, shall be placed on file and retained as part of the public record.

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

10. Provision shall be made for pedestrian and cyclist access from the cul-de-sacs onto Kennyswell Road. Prior to commencement of development, revised drawings showing compliance with these requirements shall be placed on file and retained as part of the public record.

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

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interest of visual and residential amenity.

12. All of the communal parking areas serving the apartments shall be provided with ducting for electric vehicle charging points and, subject to nominal payment, access to EV charging points shall be provided, and all of the houses shall be provided with ducting/supply for electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Prior to commencement of development, details of how it is proposed to comply with these requirements, including details of design of, and signage for, the electrical charging points, shall be placed on file and retained as part of the public record.

Reason: In the interest of sustainable transportation.

13. Prior to commencement of development, details of the layout, height, materials and external finishes of the front and rear screen/boundary walls to dwellings and any site boundaries shall be placed on file and retained as part of the public record.

Reason: In the interest of residential and visual amenity.

14. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled/contoured, soiled, seeded and landscaped. This work shall be completed prior to any of the proposed dwellings being made available for occupation.

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

15. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company/approved housing body.

(b) Details of the management company contract/approved housing body, and drawings/particulars describing the parts of the proposed development for which the company would have responsibility, shall be placed on file and retained as part of the public record prior to any of the residential units being made available for occupation.

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

16. The construction of the proposed development shall be managed in accordance with a Construction Management Plan, which shall be placed on file and retained as part of the public record. This plan shall provide details of intended construction practice for the proposed development, including:

- (a) The location of the site and materials compound(s) including area(s) identified for the storage of construction refuse.
- (b) The location of areas for the construction site offices and staff facilities.
- (c) Details of site security fencing and hoardings.
- (d) Details of any on-site car parking facilities for site workers during the course of construction.
- (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site.
- (f) Measures to obviate queuing of construction traffic on the adjoining road network.
- (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.
- (h) Measures to ensure that all plant and machinery used during the works shall be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.
- (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works.

- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels.
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.
- (n) Hours of operation of works on the proposed development site.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the local authority.

Reason: In the interest of amenities, public health and safety and to ensure the protection of European Sites.

Dave Walsh

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

Dated this day of 2020