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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Carlow County Council**

**Planning Register Reference Number: 20/294**

**APPEAL** by Derek Devoy Limited care of Erms Planning and Development Consultants of 34 The Crescent, Castle Oaks, County Carlow against the decision made on the 5<sup>th</sup> day of October, 2021 by Carlow County Council to refuse permission for the proposed development.

**Proposed Development:** To develop 78 number apartments and associated landscaping, drainage, bin enclosure, boundary treatments, roads, lighting and site works, including an ESB sub-station. The apartments are accommodated in three blocks (A, B & C) ranging in height from four to six storeys. The intermediate public spaces between each block and associated landscaping link the communal amenity spaces of the site to the Barrow Track. 38 number surface car parking spaces are provided to the rear (north west) of the site and are screened from Hazel Court to the north with a boundary wall and tree screening. There is also provision for 40 number bicycle parking spaces distributed around the site. Block A to the South has a gross internal floor area of 2,040 square metres and is comprised of three number one bedroom units, 16 number two bedroom units and two number three bedroom units and ancillary circulation and plant room spaces and ranges in height from four to five storeys. Block B in the middle of the site has a gross internal floor area of 2,589 square metres and is comprised of three number one bedroom units, 22 number two bedroom units and two number

three bedroom units and ancillary circulation and plant room spaces and is six storeys in height. Block C to the north of the site has a gross internal floor area of 2,842 square metres and is comprised of eight number one bedroom units and 22 number two bedroom units and ancillary circulation and plant room spaces and ranges in height from four to six storeys, all at the Former Greenvale site on Montgomery Street, Carlow Town, County Carlow. The site is bordered by Montgomery Street to the south and the Barrow Track to the west and a rear boundary wall adjacent to Hazel Court to the north and west. A further public notice was received by the planning authority on the 11<sup>th</sup> day of August, 2021.

## **Decision**

**REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.**

## **Reasons and Considerations**

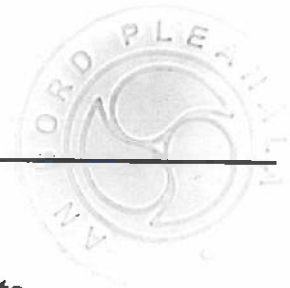
1. On the basis of the information provided with the planning application and the appeal and in the Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects, would not be likely to have a significant effect on the River Barrow and River Nore Special Area of Conservation (Site Code: 002162), or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.
2. Having regard to the category "K" land use zoning of the site, as set out in the Carlow County Development Plan 2022-2028, the objective of which is to provide for open space and recreation, and where residential use is neither permitted in principle nor open for consideration, it is considered that the proposed development would contravene materially the zoning objective and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the residential nature of the proposed development, the location of the subject site on lands zoned Open Space and Amenity under the provisions of the Carlow County Development Plan 2022-2028 and the location of the site in an undefended area, primarily within Flood Zone A, the Board is not satisfied that the proposal would be in accordance with the provisions of The Planning System and Flood Risk Management Guidelines issued by the Department of Environment, Heritage and Local Government/Office of Public Works in 2009. On the basis of the submissions made in connection with the planning application and the appeal and despite the Site Specific Flood Risk Assessment and Justification Test carried out, the Board concluded that the proposed development failed the Justification Test as set out in Box 5.1 of the Guidelines. Accordingly, the proposed development would constitute an unacceptable risk of flooding, would conflict with the Ministerial Guidelines and would, therefore, be contrary to the proper planning and sustainable development of the area.



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



Dated this 11<sup>th</sup> day of January 2023.