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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Laois County Council**

**Planning Register Reference Number: 21/561**

**Appeal** by John Cowhig of 16 Lake Edge, Kilminchy, Portlaoise, County Laois and by Thomas Kelly and Sons Group Limited care of David Mulcahy Planning Consultants Limited of 67 Old Mill Race, Athgarvan, Newbridge, County Kildare against the decision made on the 6th day of May, 2022 by Laois County Council to grant subject to conditions a permission to Thomas Kelly and Sons Group Limited in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of 30 dwellinghouses, consisting of two number two-storey, detached four-bedroom houses (with single-storey returns), 10 number two-storey, three-bedroom semi-detached houses (including two number with single-storey returns), six number two and half-storey three-bedroom houses (with dormers to front), six number two-bedroom, semi-detached two-storey houses and six number two bedroom two-storey to front with single-storey to rear houses (with velux to rear of roof). The development will be accessed off an existing road and includes all access driveways, related and ancillary services and all associated site works, at Kilminchy, Portlaoise, County Laois. The proposed development was revised

by further public notices received by the planning authority on the 12<sup>th</sup> day of April, 2022.

## **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.**

## **Reasons and Considerations**

The Board considered that there will be no impact on the residential amenities of adjoining residential properties arising as a result of the proposed development and the proposed development will be adequately provided with residential amenities.

The Board also considered that that the density, mix of housing types, and the residential amenities, are acceptable in light of the Laois County Development Plan 2021-2027.

The Board concurred with the Inspector, having carried out Screening for Appropriate Assessment, 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, and Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required

The proposed development, in an area zoned for residential development, is part of the Kilminchy development impacted by servicing capacity constraints, which are being or are to be addressed by the local authority. The proposed

development would benefit from these works and should contribute to the exceptional costs. With the benefit of the remedial works the proposed development, subject to compliance with the conditions set out below, would be in accordance with the proper planning and sustainable development of the area.

## 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 documents submitted to the planning authority on the 4<sup>th</sup> day of February, 2022 and the 4<sup>th</sup> day of March 2022, 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, the developer shall enter into water and waste water connection agreements with Uisce Eireann.

**Reason:** In the interest of public health.

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3. All surface water runoff shall be collected and disposed of within the site to the surface water sewer. No such surface water run-off shall be allowed to flow onto the public roadway, foul sewer or adjacent properties. The proposed development shall not interfere with existing land or road drainage. The rate of surface water discharge from the development to the public surface water network shall be regulated taking account of existing discharges from adjacent lands and provision made for such retention and throttling/flow restriction as necessary to regulate the discharge.

**Reason:** In the interest of orderly development and public health.

4. Roadways used by residents shall be maintained by the developer in a clean state during the construction phase.

**Reason:** In the interest of orderly development.

5. (a) The site development works shall be carried out and completed at least to the construction standards set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998, The Design Manual for Urban Roads, and the planning authority's codes of practice. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

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- (b) The tie-in of the proposed access road and footpaths serving the proposed development and the adjoining infrastructure shall be to the satisfaction of the planning authority, precise details to be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (c) A stage 3 road safety audit shall be submitted for the written agreement of the planning authority prior to occupation of the development.

**Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction.

- 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. Details in this regard 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.

- 7. Public lighting in the development shall be LED technology luminaries with minimum 10 year warranty. Lighting levels in accordance with IS EN 13201. External lighting shall be cowled and directed away from the public roadway and adjoining properties.

**Reason:** In the interests of residential amenity and traffic safety.

8. (a) No part of the proposed development shall encroach, oversail or otherwise physically impinge upon any adjoining property save with the prior written agreement of the owner(s) thereof.
- (b) All public and private property shall be adequately protected at all times particularly during demolition and construction works.
- (c) Any damage caused to the adjoining public thoroughfare shall be made good at the developer's expense to the satisfaction of the planning authority.

**Reason:** In the interests of public safety, residential amenity and proper planning.

9. At least 10% 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 future 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.

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10. A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In order to screen the development, in the interest of visual amenity.

11. 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 names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed names.

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

12. 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.

13. 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 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.

14. 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.

15. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

16. 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.

17. The developer shall pay a financial contribution of € 7,500 (seven thousand five hundred euro) to the planning authority as a special contribution under Section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the completion of a survey and report of the existing surface water drainage system in Kilminchy, to establish any deficiencies in the network in order to ensure that the development does not overload or negatively impact the existing drainage system. The contribution shall be paid prior to commencement of development or in such phased payments as may be agreed prior to the commencement of the development, and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the terms of payment of this financial contribution shall be agreed in writing between the planning authority and the developer.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority in respect of public services, which are not covered in the Development Contribution Scheme or the Supplementary Development Contribution Scheme and which will benefit the proposed development.

18. 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

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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.



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**Peter Mullan**

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

Dated this *06th* day of *November*, 2023.