



An
Bord
Pleanála

Inspector's Report ABP-302322-18

Development	Construction of Nursing Home, with accommodation for 80 residents.
Location	Bohernatounish Road, Loughboy, Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	17/742
Applicant(s)	Ken & Marie Walsh, and Richard and Karen Norris.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party V. Decision.
Appellant(s)	Residents of Cedarwood Avenue.
Observer(s)	None.
Date of Site Inspection	7 th December 2018.
Inspector	Susan McHugh

1.0 Site Location and Description

- 1.1. The appeal site is located in the suburb of Loughboy, c. 2km to the south east of Kilkenny City, County Kilkenny. It lies to the north of the N10, Kilkenny Outer Ring Road, and west of the Bohernatounish Road and roundabout (a four-arm priority junction). The Loughboy shopping centre and local church are located approximately 400m further north of the site.
- 1.2. The area to the northwest of the roundabout is characterised by existing established low density residential development. To the north east is the 'The Watershed' sports complex and associated surface car park. To the south east are the two storey Glanbia corporate offices and to the south west lies the Kilkenny Business and Technology Park characterised by two storey office development.
- 1.3. The appeal site is bounded to the north and west by single storey detached and semi-detached houses within the Cedarwood Avenue estate. It is bounded to the south by the N10 Kilkenny Outer Ring Road, and to the east by the Kilkenny Bridge Centre, a single storey building and associated surface car park.
- 1.4. The appeal site is accessed via a short slip road from the junction with Bohernatounish Road, and is located c. 70m north of the roundabout. This slip road also serves the Kilkenny Bridge Centre. Existing footpaths and cycle paths are located along the N10 to the south and the Bohernatounish Road to the east. A pedestrian link from the eastern end of Cedarwood Avenue provides direct access from the estate, to the bus stop and pull in area located to the north along the Bohernatounish Road.
- 1.5. The appeal site is defined along its northern boundary by a 2m high wall which adjoins the end of a short cul de sac, and the southern side boundary of a detached house no. 20 Cedarwood Avenue. The boundary to the north west and west is defined by the rear boundary walls of house no's 41-44 and 13,14 Cedarwood Avenue. The boundary to the N10 comprises Leylandii trees which adjoin a public footpath and cycle lane. The boundary to the east with the Kilkenny Bridge centre is defined by a 1m high wall.

1.6. The site has a stated area of 0.49547ha is currently a vacant greenfield site, with a gradual fall in site levels from 60.93mOD in the north west to 59.15OD towards the south of the site.

2.0 Proposed Development

2.1. The application was lodged with the planning authority on the 10/11/2017, with further plans and details submitted on the 03/07/2018.

2.2. The proposed development as lodged comprises:

- The construction of a two-three storey nursing home over basement car park, to accommodate 77 bedrooms (80 bed spaces) and ancillary resident and staff facilities.
- Vehicular access and exit is via a narrow roadway from the existing access Road to the Kilkenny Bridge Centre off the Bohernatounish Road to the east.
- Provision of separate pedestrian entrance from the N10 Kilkenny Outer Ring Road to the south.
- Creation of an emergency vehicle and pedestrian access onto Cedarwood Avenue to the north.
- The development accommodates 42 no. car parking spaces at basement and surface level and 16 no. bicycle spaces.
- All associated site works, landscaping and boundary treatments to the N10.

2.3. The gross floor area of the proposed nursing home is 4,954.7sq. metres (including basement and bin store). The main elevation of the building is three storey to the south and includes a trapezoidal zinc roof. The roof is canted to transition from three to single storey at Cedarwood Avenue to the north. The blocks to the south west and northwest are two storey. The building has a roughly square form with the north-western side set at an angle. External finishes mainly comprise off white render finish and seam zinc cladding. It is detailed in the application that it is proposed to lower site levels to the north west of the site.

- 2.4. Public open space is provided within a central landscape courtyard and along the north-western boundary.
- 2.5. Existing leylandii trees along the southern boundary with the N10 are to be removed, and this boundary between the site and the public footpath will include a crash barrier between it and the ramp to the basement car park.
- 2.6. The overall site coverage is 29.5%. The plot ratio is 0.999 including the basement car park.
- 2.7. In terms of site services, a new water connection to the public mains is proposed, together with a new connection to the public foul sewer in the Bohernatounish Road
- 2.8. The site surface water attenuation tank will have a capacity of 265m³ and will be located under the entrance/exit road of the development. The storm water out fall will be via a suitable oil separator and into the existing storm sewer on the Bohernatounish Road. It is also proposed to provide rainwater harvesting as a SUDS measure.
- 2.9. The application was accompanied by the following;
 - Planning Report
 - Traffic Impact Assessment
 - Road Safety Audit
 - Engineering Services Report
- 2.10. In the interests of clarity for the Board, pursuant to further information, the applicant submitted revised plans which modified the design of the principal elevation as visible on approach from and along the N10, and the elevations to adjoining residential properties to the north, north west and west. Design modifications include the introduction of new vertical elements and new materials including zinc, and fenestration to the principal elevation, and elevations facing adjoining properties to avoid overlooking.
- 2.11. Revised plans also relate to the proposed access, which include the omission of a direct access to the site for pedestrians and cyclists from the N10. Cross section details were submitted in relation to the proposed safety barrier along the southern

boundary with the N10, access arrangements to Cedarwood Avenue, and reduced car parking to 40 spaces, boundary treatment and landscaping.

2.12. The response to further information was accompanied by the following;

- Planning Report
- Shadow Study
- Noise Impact Assessment
- Revised Photomontages, and Traffic Impact Assessment

2.13. This assessment makes references to the plans submitted at further information stage and the original application stage.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to **grant** permission subject to 15 no. standard conditions. Conditions of note include;

Condition 11. Site and finished floor level requirements.

Condition 12. Landscaping and planting requirements.

Condition 14.

(a) Road surface requirements.

(b) Agreement of details and measures to prevent uncontrolled parking in the residential cul-de-sac at Cedarwood Estate where pedestrian access is proposed.

The pedestrian access shall be subject to review during the operational stage of the nursing home at the discretion of the Planning Authority. The review shall focus on the impact of the pedestrian access on the existing cul de sac and shall be carried out by the operator at the discretion of the Planning Authority.

(c) Construction Management Plan and Traffic Management Plan.

(d) Vehicle impact railing barrier requirements.

3.2. Planning Authority Reports

3.2.1. Planning Reports (dated 11/01/2018 and 25/07/2018)

Basis for the planning authority decision. First planning report recommends further information on the following:

- *Design and visual impact* – Concerns regarding the negative impact of a large relatively blank two storey wall on house no. 20 Cedarwood Avenue, the visual impact of a blank three storey wall at the southernmost part of the building from the approach along the N10 and house no's 41-43 Cedarwood Avenue, and the visually unappealing and monotonous design facing onto the N10.
- *Overshadowing* – Provide a shadow analysis of the proposed development on houses to the west and north.
- *Previous Refusal* – Concerned that the proposed development does not address the previous reasons for refusal under Reg. Ref. P.A. 15/372.¹
- *Noise Assessment* – Provide details and or mitigation measures in relation to potential noise from the reversing manoeuvres of trucks in close proximity to existing residential properties.
- *Road Safety Audit* – Confirm if the recommendations have been incorporated into the submitted planning drawings in full. Where the accepted details have not been incorporated, these should be included on the drawing and documentation and resubmitted, with particular reference to the proposed safety barrier.
- *Retaining wall/sheet piling* - Review detail to determine if edge protection is required at the top of the sheet-piling along access to ramp to basement car park.
- *Vehicular Access into Cedarwood Housing Estate* – Concern that direct access (although restricted by bollards) may lead to uncontrolled parking in the residential cul-de-sac. Provide a revised site layout plan showing any changes proposed at this access point.

¹ Planners Report refers to refusal reasons as set out by the P.A. and not the final decision of ABP.

- *Car Parking* – Notes a net figure of 42 spaces as one space was removed to facilitate turning movements in the basement car-park. A short-term set-down area should be provided for deliveries and ambulance/taxi, and a re-assessment of the car parking requirement.
- *Traffic Impact Assessment* - Clarify Table 14 of the TIA, as it appears to be at variance with the information provided in Tables 7 to 13.
- *Direct Access onto the N10 Ring Road* - Clarify the ramp and tactile paving to the shared surface shown on drawing K021L-101, and whether there is direct access onto the N10 Ring Road, and its impact on the proposed safety barrier and landscaping. Clarify detail of 2m high fence and retaining wall.
- *Bin Storage* – Relocate away from any boundary with a private residence and submit a revised layout plan.
- *Site as outlined in red* – Clarify the anomaly between the Urban Site Location Map which differs to all other submitted site layout plans and drawings.
- *Boundary Details* - The applicant is requested to provide a detailed site layout plan showing all existing and proposed boundary treatments, including materials and heights.
- *Parking for attending Ambulances* – Provide an indicated parking area within the basement, adjacent to the lobby serving the lift area.

The second planners report dealt with the applicants' response to further information and is summarised as follows:

- Revisions to the elevations and facades to adjoining residential properties, and the N10 are acceptable. The impact of the design and height in relation to overshadowing of neighbouring properties would not affect the amenity of houses in the vicinity.
- Provision of 40 spaces, 30 within the basement and 10 surface spaces, along with 2 additional short term set down spaces is in compliance with Development Plan standards.
- Evergreen trees along the N10 boundary will be removed and replaced with deciduous trees.

- The access from Cedarwood Avenue will be replaced with planters to prevent vehicular access. Pedestrian access through this estate is acceptable.

The planner recommended a grant of permission subject to conditions.

3.2.2. Other Technical Reports

Road Design: Report dated 09/01/2018 recommends clarification on details in the Stage 1 Safety Audit and the proposed safety barrier, the proposed retaining wall/sheet piling, omission of vehicular access into the Cedarwood estate, parking arrangements, details of the direct access onto the N10 Ring Road and landscaping. Report dated 16/07/2018 recommended no objection subject to requirements.

Environment: Report dated 09/01/2018 recommends further information in relation to the assessment of noise from refuse trucks manoeuvres in proximity to residential properties.

CFO: Report dated 13/12/2017 recommends no objection.

Environmental Health Officer: Report dated 11/01/2018 recommends no objection subject to requirements.

3.3. Prescribed Bodies

Irish Water: Report dated 02/12/2017 recommends no objection.

3.4. Transport Infrastructure Ireland

A report dated 07/01/2019 acknowledges that the subject application has been accompanied by both a Traffic and Transport Assessment and a Road Safety Audit.

The report refers to procedures outlined within TII standard DN-STR-3001 'Technical Acceptance of Road Structures and Other National Roads' applicable to all proposed structures to be constructed by third parties that could potentially affect an adjacent national road. Accordingly, the proposed contiguous piled wall associated with the proposed nursing home development requires TII Structures Technical Approval in accordance with DN-STR-03001. Such technical acceptance has not been

approved by TII Structures Section. Similarly, the temporary works required to construct the reinforced concrete box illustrated on Section B Drawing No. K021L-103 (Rev.P1) requires Type B Temporary Works Technical Acceptance Report submittal in accordance with DN-STR-03001.

The report refers to proposals to open a pedestrian access onto the N10².

The report concludes that the proposal in its current form, has the potential to negatively impact on the safety and capacity of the strategic national road network in the area, at variance with the provisions of official policy outlined in the DoECLG Spatial Planning and National Roads Guidelines (2012), pending resolution of the issues identified.

3.5. Third Party Observations

Three third-party objections were lodged with the planning authority from the following parties;

- Teresa Culleton, on behalf of the residents of Cedarwood Avenue.
- Yvonne O'Dwyer, 13, Cedarwood Avenue.
- Kathleen Ferguson, on behalf of the Kilkenny Bridge Centre, Bohernatounish Road, Loughboy, Kilkenny.

Submissions received are on file and issues raised are similar to those raised in the grounds of appeal. Issues raised are summarised in section 6.0 below.

4.0 Planning History

Appeal Site

P.A. Reg. Ref. 15/372 ABP PL10.246840: Permission **refused** 18/11/2016 for (a) construction of two storey Nursing Home, with accommodation for 60 residents, car parking, staff areas, ancillary services rooms and associated services, landscaping, with associated site works and services, (b) connection to all local

² Note: This was omitted in revised proposals submitted by way of further information.

Authority services, (c) pedestrian access to the existing footpath adjacent the N10.

Applicants were Ken & Marie Walsh, Richard & Karen Norris. (File attached)

The reason for refusal referred to the sites prominent location, inadequate response in terms of urban design and layout, which would seriously injure the visual amenities of the area, and the residential amenities of future residents.

P.A. Reg. Ref. 09/324 ABP PL10 235867: Permission **refused** 14/05/2010 for erection of 11 number terraced two-storey townhouses and 12 number apartments in a three-storey apartment block, with all associated parking facilities, bin stores, new borewell with associated pump-house, landscaping, boundary treatments and associated site development works. The development is accessed via the existing access roadway from the Bohernatounish Road, all on a site area of 0.496 hectares. Applicants were Monaco Homes & Development Ltd.

The reason for refusal referred to the layout and design, proximity to a busy road, the un-orthodox access road, loss of screening vegetation, poor level of public open space, dominant nature of surface car parking, likely traffic noise levels for future occupants, and un-coordinated layout of buildings in relation to adjoining residential properties, which would seriously injure the residential amenities of the area and of future occupants.

Kilkenny County Council Vacant Sites Register

Register No. VSR18-12, Folio Reference No. KK26398F Owner Kenneth and Marie Walsh date of entry 14/12/2017.

5.0 Policy Context

5.1. Kilkenny City and Environs Development Plan 2014-2020 as varied.

The subject site is zoned '**Existing Residential**' as identified on the zoning map as varied by Variation 6 of the plan. The objective of which is '*to protect, provide and improve residential amenities*'. See map attached.

Nursing homes are a permitted use within this zoning objective.

Chapter 5 refers to Housing and Community

Section 5.1 sets out the Housing Strategy which seeks to

‘ensure that a mixture of house types and sizes is developed to reasonably match the requirements of the different categories of households, as may be determined by the Planning Authority, including the special requirements of elderly persons and persons with disabilities.’

Section 5.10 refers to Health

‘Healthcare facilities may include health centres, day centres, community nursing units, family resource centres, nursing homes/convalescent homes, community residences, sheltered workshops, activation centres and residential facilities for children and adolescents. These facilities require locations which are integrated with new and existing communities and which are easily accessible.’

Chapter 10 refers to Transport

Table 10.2 sets out bicycle parking requirements for Nursing Homes as follows;

- 1 visitor space for every 10 residents and 1 space for every 5 members of staff.

Table 10.5 sets out car parking standards for Nursing Homes as follows;

- 1 space per 4 bedrooms.

5.2. **National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

The National Planning Framework targets a significant proportion of future urban development on infill/brownfield development sites within the built footprint of existing urban areas. National Policy Objective 13 refers to urban areas, and that planning and related standards including in particular building height and car parking will be based on performance criteria that seek to achieve well designed high-quality outcomes in order to achieve targeted growth.

5.3. **Design Manual for Urban Roads and Streets**

This manual seeks to achieve better street design in urban areas by facilitating the implementation of policy on sustainable living by achieving a better balance between all modes of transport and road users. The Guidelines set out that street networks

should be designed to maximise connectivity between destinations to promote higher levels of permeability and legibility for all users, in particular more sustainable forms of transport.

5.4. Guidelines for Treatment of Noise and Vibration in National Road Schemes (NRA, 2004)

These guidelines recommend design goals of for noise sensitive receptors such as nursing homes. They state that the noise level due to road traffic noise at the façade of a noise sensitive building must not exceed 60dB Lden.

5.5. Natural Heritage Designations

The following European sites are located in the vicinity.

Name	Designation	Site Code	Distance
River Nore	SPA	004233	800m NE
River Barrow and River Nore	SAC	002162	700m NE

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third-party appeal was submitted by Teresa Culleton on behalf of the residents of Cedarwood Avenue. The grounds of the appeal can be summarised as follows;

- *Scale* – Too large for the location.
- *Use* – Not compatible with the area.
- *Traffic* – Already congestion on roads leading to the site, and no plans for road improvements.
- *Traffic circulation within the site* – Is unworkable, will be a nuisance in terms of noise. Insufficient site area to accommodate service trucks and visitor’s cars. Concern in relation to access for emergency vehicles.

- *Excessive Density* – Previous application was for 66 units, and current proposal for 80 units on the same site area.
- *Overshadowing / Loss of Privacy* – Negative impact of three storey building height on adjoining bungalows.
- *Pedestrian Access & Parking* – Object to Condition 14 (b), concerns in relation to visitor parking throughout the estate. Already insufficient parking for residents in the area.
- *Loss of Amenity* – Negative impact on the cul-de-sac which has been in place for 40 years.
- *Permission should be refused* – The current application is even more unsuitable than the previous application which was refused by the Board in 2016.

6.2. Applicant Response

The applicant's response to the third-party appeal is summarised as follows:

- From the outset of the design process every effort has been made to address all of the concerns raised in the last decision of ABP in 2016 in terms of the impact of the development on the neighbourhood and to addressing layout and design issues.
- The form layout and design of the building was generated by a team experienced in nursing home design, in close consultation with the HSE Southeast, the Developer's own nursing home management team and nursing home consultant.
- The concept of a looped circulation route has been repeated in both areas of open space.
- The shape of the building and courtyard are not orthogonal because the wings have been orientated to line up with the neighbouring street lines and urban grain of Cedarwood Avenue.

- Each wing has been kept as narrow as possible to optimise natural daylighting and ventilation, which keeps the depth of the plan more domestic in scale and thus reducing the height of roofs.

The response includes a response to issues raised in the letters submitted with the appeal, and also a letter from Director of Care of another Nursing Home outlining the benefits for the residents of having a nursing home close to them.

6.3. **Planning Authority Response**

The planning authority confirmed its decision and had no further comments.

6.4. **Observations**

None.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment and Environmental Impact Assessment also needs to be considered. The issues are addressed under the following headings;

- Principle of Development
- Design and Visual Impact
- Impact on Adjoining Residential Amenities
- Noise Impact and Site Boundaries
- Traffic, Access and Parking
- Other Matters
- Appropriate Assessment
- Environmental Impact Assessment

7.1.1. I refer the Board to the previous history on this site under ABP PL10.246840 whereby permission was refused in 2016 for a smaller two storey nursing home development on these lands. The reason for refusal has been cited above and

relates to; the sites prominent location; inadequate response in terms of urban design and layout; which would seriously injure the visual amenities of the area, and the residential amenities of future residents.

7.1.2. The appellants have submitted that the current proposal is very similar to the previous application on site and does not address the reason for refusal under ABP PL10.246840 and that similar refusal reasons still apply to the proposed development.

7.1.3. The main differences between the previous application and this current application relate to the, provision of a basement car park, the layout, design and height of the blocks, and provision of open space. In this regard, I am satisfied that the current proposal is materially different to the previous proposal. The current application seeks to address issues raised in the previous application and reason for refusal. However, my assessment will focus on the current proposal on its own merits.

7.2. Principle of Development

7.2.1. The Kilkenny City and Environs Plan 2014-2020 as varied is the current statutory development plan for the area.

7.2.2. The appeal site has a land-use zoning objective 'Existing Residential' '*to protect, provide and improve residential amenities*'. The proposed development comprises the construction of a nursing home with 80 bedrooms and basement car park with a total floor area of 4,954.7sq. metres. Such uses are permitted uses, and I consider that this type of development is acceptable in principle.

7.2.3. It is also noted that the Housing Strategy as set out in Section 5.1 of the Kilkenny City and Environs Plan supports the provision of accommodation to meet the special requirements of the elderly. Section 5.10 of the Plan notes that healthcare facilities which may include nursing homes require locations which are integrated with new and existing communities and which are easily accessible. In this context, the proposed development is considered entirely appropriate.

7.2.4. Concerns have been raised in relation to the proposed use which is not compatible with the area. The subject site is located within Loughboy, an established suburb served by a wide variety of local community facilities and amenities. Loughboy

Neighbourhood Centre is a short walk from the site. I consider the site to be an appropriate location for such a facility. The site is served by public transport and cycle routes, and I consider the public footpaths to be more than adequate to serve pedestrian connections in the area.

- 7.2.5. The subject site is located adjacent to the N10. The proposed development will form a new streetscape and provide an opportunity for a high quality architectural response to this underutilised site while enhancing the built environment at this location.
- 7.2.6. I am satisfied that the development is fully in accordance with the zoning objective for the site. It will make a positive contribution to housing for the elderly in the area, which is considered appropriate from a planning perspective.
- 7.2.7. I am satisfied that the proposal is in line with Kilkenny City and Environs Plan and is acceptable in principle.

7.3. Design and Visual Impact

- 7.3.1. The subject site is located at a prominent location along the N10 and is also adjacent to single storey properties which therefore requires a considered design response.
- 7.3.2. A previous application for a nursing home on the site under ABP PL10.246840 was refused by the Board in 2016. This followed an earlier application in 2010 for a residential scheme under ABP PL10.235867 which was also refused by the Board. Both applications were refused on grounds that included poor urban design.
- 7.3.3. As noted above the principal elevation of the current proposal at its interface with the N10 is three storey in height. The blocks to the south west and northwest are two storey. The trapezoidal zinc roof is canted to transition from three to single storey at Cedarwood Avenue to the north. The building has a roughly square form and external finishes mainly comprise render and seam zinc cladding.
- 7.3.4. The planning authority had concerns in relation to the monotonous design and negative visual impact of the principal elevation facing onto the N10, the blank three storey wall backing onto house no's 41-43 Cedarwood Avenue and blank two storey wall to the side of 20 Cedarwood Avenue.

- 7.3.5. In response to these concerns revised design proposals, including revised photomontages, were submitted which modified the design of the southern elevation facing onto the N10. Revisions included a reduction in the number and reconfiguration of bay windows, resulting in four tall bays, each a three storey vertical element which will be finished in zinc sheets. I concur with the applicant and the planning authority that these interventions successfully break up this façade.
- 7.3.6. In relation to the blank three storey wall to house no's 41-43 Cedarwood Avenue, the southernmost point of the building has been redesigned to by reducing the height of the roof over the stairs and inserting clerestory windows on the corner. The blank two-storey wall to 20 Cedarwood Avenue was revised to include a clerestory window as well as a bay window that has glazing to the east and west only.
- 7.3.7. I have had regard to the photomontages submitted and amended by further information and consider that they illustrate a realistic representation of the proposal as viewed on approach from the N10 and from neighbouring properties.
- 7.3.8. I concur with the applicant that the proposal should be considered in the wider context of the site, which includes a variety of building forms and uses in proximity to the junction.
- 7.3.9. I am satisfied that the modifications to the design results in a more appropriate urban form at this location and represents a more imaginative and innovative design response compared to the two previous schemes adjudicated on by the Board. It also represents a sustainable and efficient use of the site.
- 7.3.10. I am satisfied that the proposed design responds to the sites context and is acceptable in terms of urban design and visual amenity.

7.4. Impact on Residential Amenity

- 7.4.1. It is contended that the proposed development is excessive in scale and that it will result in overshadowing and overlooking. As detailed above, the proposed development retains a relatively low density with a site coverage of 29.5%. The plot ratio is 0.999 including basement. The building blocks are set well back from adjoining boundaries and the site will be screened by proposed planting. It is also proposed to lower site levels in the northern part of the site adjacent to residential

properties. In this context, I am satisfied that the development does not constitute overdevelopment of the site and will not have an overbearing impact when viewed from adjoining properties.

- 7.4.2. Concerns have also been raised regarding the height of the development. The proposed development presents as a three storey building to the southern boundary along the N10, and has a ridge height of c. 11.5m. The northern end of the block is in line with the gable of house no. 20 Cedarwood Avenue and has an eaves height of c.7.3m rising to c.8.1m. The two storey element of the building along the northern boundary has a ridge height of c. 7.9m.
- 7.4.3. The north-western arm of the building is in line with the rear boundaries of house no's 41-44, and 13,14 Cedarwood Avenue. It has an eaves height of 6.6m and eaves height of 7.9m. These heights are not considered excessive.
- 7.4.4. I note that the predominant roof profile contiguous to the subject site is single storey, in terms of the Kilkenny Bridge Club and the dwellings of Cedarwood Avenue. Notwithstanding I consider that the proposed three and two storey heights are appropriate at this location, and is a sustainable form of development on serviced lands.
- 7.4.5. With regard to overlooking I note the bedrooms along the western block are orientated internally towards the courtyard to avoid overlooking of the rear gardens of house no's 41-44 and 13,14 Cedarwood Avenue. Instead a corridor with windows is proposed along this elevation. On the northern elevation of the development to house no.20 Cedarwood Avenue, it is proposed to include a clerestory window as well as a bay window that has glazing to the east and west only to avoid overlooking. I am therefore satisfied that there will be no adverse or negative impacts to the amenities of adjacent properties in terms of overlooking.
- 7.4.6. It is noted that the development retains generous separation distances from adjacent properties. It will be set back c.9.8 m from the gable of house no. 20 Cedarwood Avenue to the north and 13.6m from the rear garden of this property. It will be set back between c.10.9 and c.11.6 m from the rear boundaries of house no's 41-44 and 13,14 Cedarwood Avenue to the northwest. There are existing trees to be retained and further planting proposed along the western boundary of the site which will further obscure views and potential impacts. It is considered having regard to the

separation distances, that the development will have limited impact on the residential amenities of adjacent dwellings.

- 7.4.7. In relation to overshadowing I note that the development is located to the side/south and rear/east of adjoining residential properties. The applicant submitted a shadow analysis by way of further information to illustrate the impact of the development on these and surrounding properties and illustrates shadows cast by existing boundary walls fences and trees. The report concludes that the proposed development casts minimal additional shadow on neighbouring residential properties for at least half the year. I note that shadow impact does increase in some of the gardens in wintertime, with little impact on current levels of sunlight entering through windows into the houses. In this regard I note there are no windows on the side elevation of house no. 20 Cedarwood Avenue. Most notably it is proposed to remove the evergreen leylandii along the southern boundary with the N10 which would enhance sunlight levels in some of the houses and gardens. The new trees proposed to be planted are deciduous, which again would minimise overshadowing in the winter months.
- 7.4.8. In terms of future occupants of the development, the layout, orientation and design of the open space serving the development, is considered adequate and creates a high level of amenity. The landscape plan submitted with the application, details that both areas of open space will include seating, raised beds with hard and soft landscaping.
- 7.4.9. Having regard to the extent and quality of the landscape proposals, I am satisfied that the development will have adequate amenity and will be landscaped to a high standard. It is also noted that the development provides for internal amenities and facilities including, oratory, craft room/library, dining and activity rooms. I am satisfied that the current proposal provides improved internal amenities for the occupants of the nursing home from that previously proposed.
- 7.4.10. In conclusion, I am satisfied that the development will not give rise to any material impacts on the residential amenities of adjacent properties. The scale and height of the development is acceptable. I am satisfied that the setbacks retained from adjoining residential properties are sufficient.

7.5. Noise Impact and Site Boundaries

- 7.5.1. As already noted the proposed development is located adjacent to and north of the N10 Outer Ring Road. The existing southern boundary to the site comprises mature leylandii trees and is separated from the roadway by a grass verge, cycleway and footpath. The ramp to the proposed basement car park runs parallel to the site boundary with the southern elevation of the proposed nursing home located north of the ramp.
- 7.5.2. It is proposed to remove the mature trees and boundary fence along this boundary and provide a crash barrier along the boundary to the N10. It is also proposed to provide sheet piling along the southern boundary to be planted with trailing plants to minimise noise reverberation from the ramp to the car park basement. The three storey south facing elevation, therefore, is located c. 7.4m from the southern boundary of the site and c.12m from the edge of the N10.
- 7.5.3. Given the proximity of the site and nature of the use, the planning authority raised concerns in relation to the impact of noise from traffic generated from the N10. Concerns were also raised in submissions from existing residents and in the current appeal in relation to noise from traffic circulation within the site and particularly from delivery trucks manoeuvring on the northern end of the site. The applicant was requested to submit a Noise Impact Assessment (NIA) to address these concerns.
- 7.5.4. The NIA submitted states that the noise impact on the nursing home was assessed relative to the 60dB Lden goal set out by the NRA Guidelines on Noise and internal noise criteria for nursing homes, as well as construction noise and impact on nearby receptors. The noise measurements which were taken at hourly intervals show that the noise level attributable to the road at the proposed site is currently 73.3dB Lden which is above the noise limit of 60dB Lden set out by the NRA. The recommendation, therefore, is to provide noise insulation to the façade, either by way of structural elements such as blockwork and internal plasterboard lining and the use of acoustically rated glazing as well as acoustically attenuated ventilators. Examples of various products are included in the appendices.
- 7.5.5. I am satisfied that the mitigation measures proposed in the design of the proposed building facades, glazing and internal noise insulation measures will mitigate against noise from traffic along the N10 and are acceptable.

- 7.5.6. In terms of aesthetics of the road safety barrier to the N10 the design includes mesh infill and a copper beech hedgerow with anti-dazzle screening proposed to the fore of this barrier. This would appear acceptable. In terms of safety and in response to the report from the TII, I recommend that the details be agreed with the planning authority in accordance with the requirements of the TII by way of condition.
- 7.5.7. In response to the issue of noise from refuse truck manoeuvres close to existing dwellings, a separate NIA was submitted. This concluded that the calculated noise level due will be marginally above the existing daytime noise level, but not likely to be perceived as excessive and this will be approximately 5 minutes per refuse truck collection on this site. It is anticipated that there will be between 2 and 5 refuse trucks serving the nursing home per week, and the level of noise will be significantly lower than the refuse trucks which serve Cedarwood Avenue itself. I consider, therefore, that the impact on residential amenity in terms of noise from truck manoeuvres is acceptable.
- 7.5.8. The NIA report notes that noise limits for construction activities are generally controlled by limiting working hours to prevent noise construction but recommends mitigation measures nonetheless. I accept the findings and recommendations which I consider robust.
- 7.5.9. I am satisfied that the noise mitigation measures and boundary treatments proposed are acceptable in terms of residential amenity of existing and proposed residents.

7.6. Traffic, Access and Parking

- 7.6.1. Objections on the grounds of traffic impact have been raised. It is noted that the Roads Section of the planning authority raised no objection to the proposed development. A detailed Traffic Impact Assessment (TIA) was submitted with the application and was updated at Further Information stage to resolve certain anomalies identified by the Roads Section. A Stage 1-2 Road Safety Audit was also submitted.
- 7.6.2. The traffic flows recorded in the TIA show that the highest volumes of traffic travels along Bohernatounish Road were recorded between 8:15 and 09:15 (AM peak hour) and between 17:00 and 18:00 (PM peak hour). The report notes a maximum increase in traffic of 1.1% during the AM peak, at the location of the existing access

junction on Bohernatounish Road, and a maximum increase in traffic of 1.0% during the PM peak. The trip generation figures for the nursing home are derived by comparing the proposed development to similar operations in Sligo and Cork and the United Kingdom. The trip generation rates set out in the report are considered reasonable having regard to the nature of the development.

- 7.6.3. The report goes on to assess the additional traffic likely to be generated by the development and the impact of the development on the local road network. To account for potential growth in background traffic, TII growth rates are used. In relation to the modelled junction, it is noted that this road is operating within capacity and that the proposed development will not have any significant impact upon the operation of this junction at opening year and design year.
- 7.6.4. Having regard to the detailed assessment undertaken by the applicants which includes updated traffic counts, which I consider to be robust, the reports of the Roads Section of the planning authority, and the nature of the development, I am satisfied that the development will not give rise to any adverse traffic impacts.
- 7.6.5. Access to the site is via a strip of land to the south of the Kilkenny Bridge Club which connects to an existing slip road from the Bohernatounish Road. Currently the access from the slip road which serves the Kilkenny Bridge House is overgrown. Similar to the previous applications, this will be cleared and widened to service the proposed development. Concern was raised in relation to the width of the access route. In this regard I would note that the width is indicated on Drawing K021L-101P2 as 5.5m. The Roads Section of the planning authority deemed the proposal acceptable.
- 7.6.6. It was unclear from the application as lodged whether it was proposed to provide a pedestrian link to the N10. However, the matter was clarified by way of further information which confirmed that this does not form part of the proposed development. I note that the report of the TII refers to the earlier proposed pedestrian link to the N10 and consequent concerns in relation to potential negative impacts on safety and capacity of the strategic national road network. I consider these concerns are thereby addressed by the proposed omission of this pedestrian link.

- 7.6.7. Instead the applicant proposes to provide pedestrian access from the development to the cul de sac at house no. 20 Cedarmount, which will facilitate pedestrian permeability to the wider area. It is also intended that this will function as an access for emergency vehicles. The access initially included bollards but this was amended by way of further information to include large planters.
- 7.6.8. The appellants however, have concerns in relation to the use of the cul de sac as overspill parking in the adjoining cul de sacs.
- 7.6.9. It is proposed to provide parking to serve the proposed development at basement and surface level within the appeal site. The appellants are of the view that visitors to the nursing home will, however, park in the adjacent residential estate and cul de sacs where it is claimed there is already pressure on parking. In particular they object to Condition 14 (b) of the grant of permission which refers to the agreement of details and measures to prevent uncontrolled parking in the residential cul-de-sac at Cedarwood Estate where pedestrian access is proposed.
- 7.6.10. In my opinion the wording of this condition allows for the possibility of the entrance to be closed in the future. In my view this pedestrian link provides pedestrian permeability and linkages to surrounding neighbourhoods and facilities, including public transport and represents good planning practice. The issue of controlled parking within the estate is really a matter for the residents and the planning authority.
- 7.6.11. The Kilkenny City and Environs Plan (table 10.5) sets out car parking requirements for nursing homes as 1 parking space per 4 bedrooms. The application provides 77 bedrooms and provision of 40 no. car parking spaces. This is well in excess of development plan standards.
- 7.6.12. I note that each of the adjoining houses within Cedarmount Avenue have private driveways, while there is also room for on street parking. On the day of my site inspection on a weekday around midday, I noted a number of cars parked close to the pedestrian link to the Bohernatounish Road.
- 7.6.13. I note the concerns of the residents, and while the provision of a pedestrian route at the end of the cul de sac at house no. 20 Cedarmount Avenue will give rise to an increase in pedestrian movement through the estate to the nursing home and vice

versa, it is desirable and acceptable in planning terms to provide pedestrian permeability in the wider area.

7.6.14. Having regard to the nature of the proposed use and its likely parking requirements, the standards set out in the County Development Plan, the availability of public transport infrastructure and the reports of the Roads Section, I am satisfied that the proposed access is acceptable and parking provision is adequate.

7.6.15. I am satisfied therefore, that there is insufficient basis to refuse permission on these grounds.

7.7. Other Matters

Bin storage – The bin storage area was relocated away from all boundaries with private residences in response to issues raised. A revised site layout plan was submitted, Drawing No. A.03.04.5., which indicates the location of the bin storage area instead internally within the scheme adjacent to the area of open space.

7.8. Appropriate Assessment

7.8.1. The appeal site forms part of the urban lands identified in the Kilkenny City and Environs Plan identified for development. The site itself is adjacent to the N10, and there are no streams or water channels on the site.

7.8.2. Having regard to the nature and scale of the proposed development comprising a nursing home within an established urban area on zoned and serviced land, the nature of the receiving environment and proximity to the nearest European site, it is reasonable to conclude that no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.9. Environmental Impact Assessment

7.9.1. Having regard to the nature of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development.

The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

- 8.1. I recommend a grant of permission subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 10.0 Having regard to the nature and scale of the proposed development, to the zoning of the site and its location within the development boundary of Kilkenny in the Kilkenny City and Environs Plan 2014-2020, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would be acceptable in terms of traffic safety and convenience and would be in accordance with the provisions of the Kilkenny City and Environs Plan 2014-2020. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 to the planning authority on the 3rd day of July, 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. The landscaping scheme submitted to the planning authority on the 3rd day of July, 2018 shall be carried out within the first planting season following

substantial completion of external construction works. 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 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 interest of visual amenity.

3. Details of the materials, colours and textures of all the external finishes 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.

4. Prior to the commencement of development, the developer shall retain the professional services of a qualified Landscape Architect as Landscape Consultant throughout the life of the site development works and shall notify the planning authority of that appointment in writing. The developer shall engage the Landscape Consultant to procure, oversee and supervise the landscape contract for the implementation of the permitted landscape proposals. When all landscape works are inspected and completed to the satisfaction of the Landscape Consultant, he/she shall submit a Practical Completion Certificate (PCC) to the planning authority for written agreement, as verification that the approved landscape plans and specification have been fully implemented.

Reason: To ensure full and verifiable implementation of the approved landscape design proposals for the permitted development, to the approved standards and specification.

5. Details of the proposed southern boundary treatment with the N10, including crash barrier and planting, shall be in accordance with the detailed standards and requirements of Transport Infrastructure Ireland for such works and submitted to the Planning Authority for written agreement before the commencement of development.

Reason: In the interest of traffic safety, residential and visual amenity.

6. Details of noise mitigation measures shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The agreed measures shall be implemented before the nursing home is made available for occupation.

Reason: In the interest of residential amenity.

7. Pedestrian and cycle access shall be provided from the proposed development to Cedarwood estate as indicated on Drawing A.03.04.5. Details and measures to prevent uncontrolled parking in the residential cul-de-sac at Cedarwood Estate shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of clarity.

8. 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 measures to prevent and mitigate the spillage or deposit of debris, soil or other material on the adjoining public road network, noise management measures and off-site disposal of construction/demolition waste.

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

9. The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, between 0800 to 1400 hours on Saturdays and not at all on Sundays and Public Holidays. Deviation from these times will 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 adjoining property in the vicinity.

10. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual 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. Details of 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 interests of residential amenity and legibility.

13. Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

14. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

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

15. 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. Public lighting within the proposed development shall be directed and cowled such as to reduce as far as possible the light scatter to adjacent properties and the public road.

Reason: In the interests of amenity and public safety.

16. 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 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.

Susan McHugh
Planning Inspector

14th January 2019