



An  
Bord  
Pleanála

## Inspector's Report ABP-303736-19

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<b>Development</b>	Construction of 6 houses, vehicular entrances, parking spaces, connection to existing services and all associated site works.
<b>Location</b>	Rose Hill Court, Maidenhill, Kells Road, Kilkenny
<b>Planning Authority</b>	Kilkenny County Council
<b>Planning Authority Reg. Ref.</b>	18624
<b>Applicant(s)</b>	RFM Construction Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission.
<b>Type of Appeal</b>	Third Parties v. Decision
<b>Appellant(s)</b>	<ol style="list-style-type: none"><li>1. Rosehill Residents Committee.</li><li>2. Olive and Patrick Mullins.</li><li>3. Brendan Hoyne.</li><li>4. JJ and Aishling Delaney.</li></ol>
<b>Observer(s)</b>	Liam Barnaville.

**Date of Site Inspection**

21<sup>st</sup> May 2019.

**Inspector**

Susan McHugh

# Contents

1.0 Site Location and Description.....	5
2.0 Proposed Development.....	6
3.0 Planning Authority Decision .....	7
3.1. Decision.....	7
3.2. Planning Authority Reports.....	7
3.3. Prescribed Bodies.....	8
3.4. Third Party Observations.....	9
4.0 Planning History.....	9
5.0 Policy and Context.....	11
5.1. Kilkenny City and Environs Development Plan 2014-2020 as varied.....	11
5.2. Relevant Government Policy .....	11
5.3. Natural Heritage Designations.....	12
5.4. EIA Screening .....	12
6.0 The Appeals.....	12
6.1. Grounds of Appeal No. 1 .....	12
6.2. Grounds of Appeal No. 2 .....	13
6.3. Grounds of Appeal No. 3 .....	14
6.4. Grounds of Appeal No. 4 .....	14
6.5. Applicant Response .....	15
6.6. Planning Authority Response .....	15
6.7. Observations .....	15
6.8. Further Responses .....	16
7.0 Assessment.....	16
8.0 Recommendation.....	23

9.0 Reasons and Considerations ..... 24

10.0 Conditions ..... 24

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the Rose Hill estate in the suburb of Maiden Hill, c. 1.5km to the south west of Kilkenny City, County Kilkenny.
- 1.2. The estate is bound to the north east by Maiden Hill Housing estate, to the north west by Cootes Lane and Hotel Kilkenny, and to the south west by the Breagagh River and N76 Kilkenny Outer Ring road. The estate is accessed from the Kells Road to the south east and includes the Maiden Hill house and gardens, with existing crèche, car parking and playground located adjacent.
- 1.3. The appeal site is accessed via the main estate roads and short cul de sac and is currently a vacant greenfield site. A terrace of five no. two and three storey houses Rose Hill Court, are located to the north of the cul de sac and overlook the appeal site.
- 1.4. Another terrace of four no. two storey houses Rose Hill Crescent, are located to the west of the appeal site. These houses face onto another area of open space to the north. Both terraces are home to appellants in this appeal. Detached two storey and single storey residential houses on large plots within the Maidenhill estate bound the appeal site to east and south.
- 1.5. The appeal site is defined along its northern boundary by a number of bollards and footpath, which adjoins the end of the cul de sac. The western side boundary is defined by an existing 3m high rendered wall with house no. 1 Rose Hill Crescent. The rear southern boundary is defined by a 2m high concrete wall with the adjoining house.
- 1.6. The eastern side boundary is defined by a 2.m high concrete post and palisade timber fence before joining the north eastern side blockwork wall boundary at the end of the cul de sac. A beech tree is located in the rear garden of the adjoining house no. 12 Maiden Hill which over sails the appeal site.
- 1.7. The site has a stated area of 0.10 ha. There is a rise in site levels from 20.6mOD in the north east to 23.3mOD towards the south west of the site.

## 2.0 Proposed Development

2.1. The application was lodged with the planning authority on the 18/09/2018, with further plans and details submitted on the 21/12/2018.

The proposed development as lodged comprises of:

- Construction of 6 no. dwellings:
- 2 no. semidetached, 2 storey, 3 bed units, (Type A1)
- 4 no. terraced, 3 storey, 3 bed units, (Type B1 and C1)

2.2. The ridge height of house types A1 is 8.1m and includes a relatively shallow pitched roof. They have a floor area of 85.9sq.m. with a finished floor level of 21.3mOD.

2.3. House types B1 and C1 include first floor 'juliet' windows and dormer windows to the front elevations and rooflights to the rear. The ridge height of house type B1 is 10.425m rising to 11.37m for house type C1. House types B1 and C1 have a larger floor area of 109.55sq.m, with finished floor levels of 21.6mOD rising to 22mOD respectively.

2.4. External finishes include render/dry dash with pvc to window surround to the front and roof tiles/slates.

2.5. Rear gardens range from 52.7sqm to 65sqm in area, while end houses no. 1 and 6 have larger rear garden areas of 72sqm and 74 sqm respectively. Each include a rear patio with steps to raised rear garden area.

2.6. The gable of the semidetached end house type A1 is located approx. 1.4m from the boundary with the existing house to the north east, while the gable of end house type C1, is located 0.5m from the boundary with the existing two-storey house no. 1 to the south west. The proposed houses have a depth of 10.7m and are in line with the adjoining terrace.

2.7. It is proposed to provide each house with a vehicular access and driveway from the cul de sac. Each unit will include a driveway for two car parking spaces to the front.

2.8. It is proposed to connect to the existing mains drainage and water supply.

2.9. The application was accompanied by a letter of consent from an estate agent.

2.10. Further drawings and details were submitted by way of further information, to include a letter of consent from the landowner, revised site layout plan indicating wayleaves and services, tree protection measures and construction traffic details.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The planning authority decided to **grant** permission subject to 16 no. standard conditions. Conditions of note include;

Condition No. 1 – Compliance with plans and particulars.

Condition No. 2 & 3 – Section 48 Development Contributions and Security bond.

Condition No. 4 – House numbering.

Condition No. 5-7– Waste management.

Condition No. 8 & 9 - Irish Water and surface water disposal requirements.

Condition No. 10 – Service cables requirements.

Condition No. 11 - Hours of construction requirements.

Condition No. 12-14 – Site development works, footpath and taking in charge requirements.

Condition No. 15 – Tree protection measures.

Condition No. 16 – Construction traffic requirements.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. **Planning Reports (dated 9/11/2018 and 24/01/2019)**

Basis for the planning authority decision. First planning report notes the following;

- Similar design to existing houses in the cul de sac,
- No issues in relation to overlooking and overshadowing due to ground levels, house design, sun orientation and separation distance to adjoining units.
- Cul de sac bounds a larger green area of open space which serves the larger estate, the subject site is not a designated area of open space and generally areas

of open space should be centralised and overlooked by as many houses as possible, unlike the subject site.

- Natural light will not be detracted from nearby units by this development.
- Views from existing residences may be significantly altered, but proposed development finishes off part of this unfinished element within the estate.

Further information was sought on the following:

- Letter from NAMA authorising DNG Auctioneers to issue letters of consent on their behalf.
- Revised site layout indicating wayleaves through the site and how services will be protected.
- Proposals to protect the beech tree outside the north eastern boundary.
- Mitigation measures with regards to construction traffic.

The second planners report dealt with the applicants' response to further information which was considered acceptable.

The planner recommended a grant of permission subject to conditions.

### 3.2.2. Other Technical Reports

**Road Design:** No objections subject to requirements.

**Environment:** No objections, reference in planners report to verbal report.

### 3.3. Prescribed Bodies

**Irish Water:** No objections subject to requirements.

### 3.3.1. National Parks and Wildlife Service

Having regard to an issue raised in relation to roosting bats being located in the beech tree alongside the development, the Board referred the proposal to the Development Applications Unit of the National Parks and Wildlife Service, Department of Culture, Heritage and the Gaeltacht, a referral which does not appear



to have been done by the planning authority. No report was received at the time of writing.

### 3.4. Third Party Observations

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

#### *Residents within the Rose Hill Estate*

- Rosehill Residents Committee      c/o Catherine Keane, 1 Roselawn, Rosehill.
- Liam Barnaville                              1 Rosehill Court, Rosehill, Kells Road
- JJ Delaney                                        2 Rosehill Court, Rosehill, Kells Road
- Brendan Hoyne                                3 Rosehill Court, Rosehill, Kells Road.
- Sarah Quinlan                                 5 Rosehill Court, Maiden Hill, Kells Road.
- Aisling Tobin                                  17 Rosehill Avenue, Kells Road
- PJ and Niamh Delaney                      18 Rosehill Avenue, Rosehill, Kells Road.
- Olive and Patrick Mullins                1 Rosehill Crescent, Rosehill, Kells Road.
- Pat and Catherine Keane                 1 Roselawn, Rosehill, Kells Road.

#### *Residents to the east and south*

- Joe Mulhall                                      12 Maidenhill, Kells Road.
- Helen Mulhall                                 Elmira, Kells Road.
- Nicholas and Catriona Healy            Briar Lodge, Maiden Hill, Kells Road.

Objections to the proposal received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those raised in the third-party appeals summarised in section 6 below.

## 4.0 Planning History

### 4.1. Parent Permission for overall Development

**P.A. Reg. Ref. 04/1298:** Permission **granted** (January 2005) for **Phase 1** of residential development comprising (a) Estate entrance road, paths, boundary

fencing and walls, perimeter landscaping etc.; alterations to boundary to existing properties to south-east and north-east of site; (b) Estate roads, footpath network including open space amenity areas and Breaghagh Riverside landscaping; (c) General landscaping tree conservation and planting programme; (d) Childcare (creche) building and play area, set down parking bay, etc.; (e) New porch to existing Maidenhill House; (f) site services; foul drainage including pumping station, storm water drainage and attenuation system, water mains, cable ducts, etc.; (g) 101 residential units comprising; 21 no. 3 level detached units; 20 no. 3 level semi-detached units; 50 no. 3 level terraced units; 1 no. bungalow type unit; 18 no. detached garages (h) open space and infrastructure only provisions for later Phase II residential units (c.20-25 no.) and Phase III apartments (c.70-75 no. units).

Permission was granted for 100 residential units on an overall site of 4.4hectares. An overall provision of open space of 5,000sqm or 11.54% of the site area is shown on drawing P-2-02(a). Proposals were revised to include a green linear park area along the Breaghagh River and a condition was attached in respect to a contribution to the cost.

#### *Phase 2 – Including Appeal Site*

**P.A. Reg. Ref. 05/1695:** Permission **granted** (August 2006) for '**Phase 2**' of the Rosehill Residential Development to comprise; additional roads and services etc., 24 no. dwelling houses in a mix of two and three level terraced, semidetached houses and detached houses. This application included the appeal site and identified 6 no. dwellings. This permission was not implemented and expired 19/09/2011. (File attached.)

#### *Phase 3 – Apartments and Houses*

**P.A. Reg. Ref. 06/1302:** Permission **granted** (December 2006) for 'Phase 3' of the 'Rosehill' Residential Development at Maidenhill to comprise 24 No. Apartments in a four-level building over basement car park, plus surface car parking, site development works, landscaping etc; Permission sought for 20 No. three level dwelling houses, open space/amenity area, roads, paths, site services and landscaping.

**P.A. Reg. Ref. 06/1246:** Application for permission for 24 apartments, application invalid.

### *Amendment Application*

**P.A. Reg. Ref. 08/577:** Permission **granted** (July 2008) for the change of house types consisting of 4 no 5 bed house types 'O' previously permitted under Plan File 04/1298, 16 no 4 bed house types R and 4 no 3 bed house types RI previously permitted under Plan File 06/1302 (24 no. total) to 14 no. 3 bed new house types M and 13 no. 2 bed new house types N (27 no. total) and all associated site works. (Site layout attached).

## **5.0 Policy and Context**

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

- 5.1.1. 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).

**Chapter 5** refers to Housing and Community.

**Chapter 10** refers to Transport.

Section 10.4.8 refers to Car parking - Table 10.5 refers to car parking standards with a requirement for 2 car parking spaces per dwelling unit.

**Chapter 11** refers to Requirements for Developments.

Section 11.4. refers to Urban Design.

Section 11.7 refers to Open Space - Table 11.5 refers to private open space requirements for 3- and 4-bedroom houses of 60-75sqm.

Section 11.8.5 refers to Parking in Front Gardens.

Section 11.8.9 refers to Infill Development.

### **5.2. Relevant Government Policy**

- The National Planning Framework – Project Ireland 2040, DoHP&LG 2018
- The Regional Planning Guidelines for the Greater Dublin Area 2010-2022.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, Department of the Environment, Heritage, and Local Government, 2009.
- Quality Housing for Sustainable Communities – Best Practice Guidelines 2007.
- Urban Design Manual.
- Design Manual for Urban Roads and Streets 2013.
- Site layout Planning for Sunlight and Daylight.

### 5.3. Natural Heritage Designations

The following European sites are located in the vicinity.

Description	Designation	Site Code	Distance
River Barrow and River Nore	SAC	002162	1.2km NE
River Nore	SPA	004233	1.6km NE

### 5.4. EIA Screening

- 5.4.1. Having regard to the nature of the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, 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.

## 6.0 The Appeals

### 6.1. Grounds of Appeal No. 1

A Third-Party appeal was lodged by Rosehill Residents Committee, C/o Committee Secretary Catherine Keane. The grounds of appeal can be summarised as follows;

- *Loss of amenity space* – negative impact on the character of the area and adverse impact on the community by severely limiting play space for children and

green space for residents to enjoy. A number of planning applications have been granted permission which have reduced the green space and increased the density of Rose Hill Estate, which is at capacity. Concern in relation biodiversity, to the existing beech tree outside the north eastern boundary of the site, and in relation to a roost of bats.

- *Parking* – insufficient parking provided, two no. cars do not comfortably fit on driveways as proposed.
- *Visitors parking* – none provided, and consequently cars are being parked on the roads and footpaths. Existing visitors' spaces are being used by staff and parents associated with the oversubscribed creche.
- *Construction traffic* – safety of children.
- *Loss of privacy and overshadowing* – overlooking of adjacent residential properties. Developer did not consult with residents living adjacent to the site. Issues raised in submissions were disregarded by the P.A. Development will seriously detract from the residential amenities of adjoining properties and the value of these homes.
- *P.A. assessment* – failure to consider existing densities in the adjoining residential areas, within Rose Hill Court and the entire Rose Hill Estate, quality of life of existing residents, the biodiversity of the site, capacity of the infrastructure to absorb the development, parking, privacy and overshadowing factors.

## 6.2. **Grounds of Appeal No. 2**

A Third-Party appeal was lodged by Olive and Patrick Mullins, 1 Rosehill Crescent. The grounds of appeal can be summarised as follows;

- *Loss of privacy and natural sunlight* – only side window which serves the hallway will be blocked and will be overlooked
- *Density of houses in the estate* – already at capacity, loss of two green spaces to 26 houses and plan to build 24 apartments.
- *Increased volume of traffic* – increase from 10 houses with approx. 20 cars to 16 houses with 32 cars in a tiny cul de sac concern in relation to children's safety.

- *Lack of adequate parking* – already serious lack of parking, and it is not possible to fit 2 cars into the driveways of the 5 houses which will only result in on-street parking.
- *Loss of amenity space* – area maintained and used by the residents important for building community spirit. The slope and incline of the site and questions over subsidence lead to belief that the area was not for future development.
- *Ratio of green space to housing* – already exceeds national guidelines.
- *Potential impact on residents during construction* – noise pollution, dust and dirt and visual eyesore will be extremely stressful. Limited space within the cul de sac for construction traffic and risk to children safety in crossing the road to access another area of open space.
- *Negative impact on property prices/value of homes.*

### 6.3. Grounds of Appeal No. 3

A Third-Party appeal was lodged by Brendan Hoyne, 3 Rosehill Court. The grounds of appeal can be summarised as follows;

- *Loss of light and overlooking* - to the ground and first floor windows.
- *Increase in traffic.*
- *Disruption during construction* – restricted site area for builders' compound and workers parking.
- *Loss of communal open space* – reduction to 3 the number of green spaces within the estate taking account of permitted apartment development. The long narrow stretch of open space with Cootes Lane on one side is cut into with parking bays and the playground next to the crèche is closed to the general population for a large proportion of the time.

### 6.4. Grounds of Appeal No. 4

A Third-Party appeal was lodged by JJ Delaney, 2 Rosehill Court. The grounds of appeal can be summarised as follows;

- *Capacity of existing community facilities* – Crèche within Rose Hill estate is already at capacity, as are other childcare facilities within the Kilkenny city catchment area. Proposed development and already approved apartment development will add further strains and issues to childcare facilities.
- *Communal public open space* – established recreational and community use of open space. Incremental increase in the number of dwellings since the original permission, placing more pressure on existing areas of open space.
- *Traffic safety* – concern for children and adult safety given single access into the estate and conflict with creche traffic, also note the narrow width of the cul de sac, and conflict during construction,
- *Traffic congestion* - increase in number of cars.
- *Reduction in natural light.*
- *Layout* – does not respect the houses opposite.

#### 6.5. Applicant Response

None.

#### 6.6. Planning Authority Response

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

#### 6.7. Observations

A third-party observation was lodged by Liam Barnaville, 1 Rosehill Court, Kells Road. The issues raised can be summarised as follows;

- Health and safety concerns.
- Loss of sunlight to ground floor extension.
- Waste and waste management – impact on road network and surrounding residents.
- Noise and air emissions during construction.

- Already pressure on parking within the estate.

## 6.8. Further Responses

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
- Density
- Open Space
- Impact on Adjoining Residential Amenities
- Access, Traffic and Parking
- Other Matters
- Appropriate Assessment

7.1.1. I refer the Board to the previous history within the overall residential development. The parent application granted permission under P.A. Reg. Ref. 04/1298 identified areas for future Phases of development as Phase 2 and Phase 3.

7.1.2. Phase 2 was granted permission under P.A. Reg. Ref. 05/1695 and includes the appeal site. Subsequent applications for the development of Phase 3 also provided for amendments to Phase 2 under P.A. Reg. Ref. 08/577.

7.1.3. This amendment permission relating to Phase 2 was not implemented in full and this permission has subsequently expired. I would note however that in all applications subsequent to the parent application for Phase 1 the appeal site is clearly identified for the development of 6 no. houses.



## 7.2. Principle of Development

- 7.2.1. As per the Kilkenny City and Environs Development Plan 2014-2020 the subject site is zoned 'Existing Residential'. In principle the proposed residential development accords with the said objective.
- 7.2.2. Concern has been raised by the appellants within the estate in relation to principle of development on an area of existing open space. While I do accept that the site is currently in use as open space, I would note from the outset that the subject site is not zoned for this purpose. Also, of note is the fact that the subject site has consistently been included in planning applications indicating the site layout to include 6 no. houses.
- 7.2.3. The subject site now constitutes an unfinished element of the development and infill development site within an established residential development. Section 5.9 of the Guidelines on Sustainable Residential Development in Urban Areas refers to infill residential development and notes that *'in residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.'*
- 7.3. I note that 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.
- 7.4. The proposed development of six no. houses represents a modest infill development, and I am satisfied, therefore, that the proposed development accords with planning policy and is acceptable in principle.

## 7.5. Density

- 7.5.1. Permission was originally granted under P.A. Reg. Ref. 04/1298 for 100 no. residential units with a crèche as part of phase 1 of the Rose Hill estate

development. This (excluding the areas of open space) resulted in a residential density of approx. 26 units/ha.

- 7.5.2. The current proposal for the development of this infill site (accessed via phase1) for the construction of 6 no. residential units equates to a density of 60 unit/ha. I note that this density is high but somewhat comparable with the residential density of the 5 no. terraced houses directly opposite, and the 4 no. terraced houses to the west.
- 7.5.3. Since the previous permissions on the overall site the policy context has changed in terms of the adoption of the Kildare County Development Plan 2017-2023, the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued in 2009, and the National Planning Framework to which regard must be had.
- 7.5.4. I am satisfied therefore, that the proposed development does not constitute overdevelopment of the site.

## 7.6. **Open Space**

- 7.6.1. The appellants have referred to the reduction in the number of areas of open space within the overall development, and more recent permissions which have resulted in an overall reduction of open space within the overall development. In particular reference is made to the permitted apartments under P.A. Reg. Ref. 06/1302 as part of Phase 3 of the overall development. These apartments however were never constructed.
- 7.6.2. I would note that in the original parent permission under P.A. Reg. Ref. 04/1298 the quantum of open space provided to serve the permitted 100 residential units was approx. 5,000sqm or 11.54% of the site area as shown on drawing P-2-02(a). This included seven separate areas including; the green area diagonally opposite the appeal site, the playground beside the crèche, an area adjacent to Cootes Lane to the north, and an area adjoining the Brehagh River to the west. This was considered acceptable by the P.A. who in addition required a further contribution to the development of a linear park along the river by way of condition.
- 7.6.3. The appellants note that the appeal site has been planted and is maintained and used by the residents. I would note that the site certainly contributes to the visual

amenities of the immediate residents most notably the resident's opposite. However, given the sloping nature of the site, I am of the opinion that it has limited value in terms of its use as an active area of open space.

- 7.6.4. I note also the proximity of the designated area of open space immediately adjacent to both terraces. I also have had regard to the quality of the active open spaces within the development for younger children namely the playground and consider that the estate is well served in terms of open space.

#### *Private Open Space*

- 7.6.5. The proposed dwellings each include a patio area with steps up to private open space to the rear. The Development Plan requires the provision of 75sqm of private open space for 3-bedroom units. As already noted the proposed rear garden areas range from 52.7sqm to 65sqm in area, while end houses no. 1 and 6 have larger rear garden areas of 72sqm and 74 sqm respectively. There is however, a shortfall in the provision of private open space for two of the mid terrace units and taken in conjunction with the change in levels in my view significantly reduces the usability of the space which I consider to be unacceptable.
- 7.6.6. On balance therefore, I consider it necessary to omit one of the proposed houses. A consequent reconfiguration of the units and gardens to accommodate five no. units, will allow the provision of an increased area of private open space to the rear of each dwelling. This can be dealt with by way of an appropriately worded condition.
- 7.6.7. I am satisfied, therefore, that the appeal should not be upheld on the grounds of insufficient public open space, and subject to modifications the provision of private open space is acceptable.

#### **7.7. Impact on Adjoining Residential Amenities**

- 7.7.1. Concern has been raised by all four of the appellants in relation to the negative impact the proposed development will have on the residential amenity and value of their properties.
- 7.7.2. As already noted the appeal site is located opposite, and to the south of a terrace of 5 no. dwellings, and to the east of a terrace of 4 no. dwellings and specifically end of

terrace house no. 1 Rose Hill Crescent . The appeal site is also located to the north and east of adjoining detached dwellings in adjacent residential developments.

- 7.7.3. There are section 28 Ministerial guidelines which should be considered in conjunction with the provisions of the Kilkenny City and Environs Development Plan 2014-2020 with regard to the overall design and layout of the proposed scheme. The most relevant of these are 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) 2009'. These Ministerial Guidelines advocate high quality sustainable development that are well designed and built so as to integrate with the existing or new communities. The Design Manual which accompanies the Sustainable Residential Development Guidelines provide best practice design manual criteria such as context, connections, inclusivity, variety, efficiency, layout etc.

*Relationship with Rose Hill Court*

- 7.7.4. I note that the design and height of the proposed terrace is as was previously granted and is similar to Rose Hill Court terrace directly opposite. The proposed two storey houses are located opposite house 5 Rose Hill Court a two-storey house with large side garden. The two pairs of dormers proposed are located opposite the existing 3 storey houses. I am satisfied that the design and height of the terrace which is lower than the terrace opposite is appropriate for the site.
- 7.7.5. Concern has been raised in relation to the negative impact of the proposed terrace on the amenity of Rose Hill Court in terms of loss of light, overshadowing and overlooking. I would note however, the separation distance from the proposed terrace which is set back approx.3.5m from the inner edge of the footpath and approx. 11m from the front elevations of this terrace. I also note the southern orientation of the front elevations of the existing terrace and consider that these concerns in relation to residential amenity are overstated.

*Relationship with Rose Hill Crescent*

- 7.7.6. The proposed houses are in line with the terrace to the west. I also note that the design has taken account of the changes in levels and provides a gradual increase in finished floor levels and ridge height, with the end dormer set below the ridge height of house no. 1 Rose Hill Crescent.

7.7.7. The end dormer unit is set off the eastern boundary by approx. 0.5m and 1m from the side gable of house no. 1 Rose Hill Crescent. The appellants have raised concern in terms of loss of light to the existing first floor gable stairs window. Having regard to the limited size and purpose of the window I am not convinced that there will be a significant loss of light to the stairwell.

*Summary*

7.7.8. I am of the opinion, that the delivery of residential development on this infill, underutilised site, in a compact form comprising well-designed, medium density units would be consistent with policies and intended outcomes of the National Planning Framework and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness. The site is within easy walking distance of adjoining amenities, in an existing serviced area. The proposal serves to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community.

7.7.9. I am satisfied therefore that the proposed design and layout takes account of the local context, allows the most efficient use of the site, will contribute positively to the streetscape and is an appropriate form of infill development on this site.

7.7.10. As outlined in section 7.5 above which recommends the omission of one unit in addressing a shortfall in private open space, I suggest that house type C1 the higher of the units be omitted and revised plans be submitted illustrating a reconfiguration of the remaining five units on the site.

7.7.11. I am also satisfied that the remaining five no. units would have a better relationship with the five no. units opposite, which may also alleviate some of the other concerns raised by the residents in terms of residential amenity.

7.7.12. I consider that the proposed development is acceptable with regard to adjoining residential amenity and would not result in any significant overshadowing or overlooking of adjoining properties, and that the appeal should not be upheld on this basis.

## 7.8. Access, Traffic and Parking

- 7.8.1. It is proposed to provide vehicular access to the site via the existing residential development and cul de sac. The main vehicular route through the estate connects to a number of cul de sacs which include footpaths on either side.
- 7.8.2. Concern has been raised by the appellants in relation to the volume of traffic which will be generated by the development both at construction stage and when completed and occupied. In particular, they note the potential traffic safety issues and potential conflict with traffic associated with the existing crèche which is located in the centre of the estate.
- 7.8.3. I would note that the proposed development is relatively modest and in my opinion will not result in a significant increase in the volume of traffic. I also note that the crèche which primarily serves the residents of the estate is within easy walking distance of resident's properties.
- 7.8.4. The Transport section of the planning authority had no concerns subject to standard requirements. Indeed, Condition Nos 12-14 refer to site development works, footpath and taking in charge requirements and Condition No. 16 refers specifically to Construction traffic requirements.
- 7.8.5. The appellants have noted the restricted site area which does not allow for a construction site compound and are concerned in relation to the management of parking.
- 7.8.6. I accept that the cul de sac is narrow with a width of 5m however it does have the benefit of 2m wide footpaths on either side. I also fully accept that there will be considerable nuisance for residents during construction and particularly along the cul de sac. However, I am confident that this will be relatively short term and can be addressed by way of an appropriate condition in relation to a Construction Management Plan.
- 7.8.7. The issue of insufficient parking has also been raised. I would note that all of the proposed houses include driveways and are generally 6m in width with the exception of the two mid terrace unit driveways and the end semidetached unit which are 5m in width.

- 7.8.8. I have examined the site layout plans and would have concerns in relation to width and area of the driveways. Following on from section 7.5 above I consider that subject to the omission of one of the units, there is scope to widen these driveways. This would reduce the number of cars generated by the development and allow the opportunity for some planting and storage.
- 7.8.9. In summary, I am satisfied that the proposed development is acceptable, subject to the requirements of the Transport section of the P.A., and modifications as outlined, and will not give rise to a traffic hazard.

## 7.9. Other Matters

- 7.9.1. *Tree Protection* – Concern has been raised in relation to the protection of the existing beech tree which adjoins the site to the north west. I am reasonably confident that the omission of one unit and reconfiguration of the remaining five will facilitate an increase in the separation distance thereby safeguarding the roots of this tree in particular.

## 7.10. Appropriate Assessment

- 7.10.1. The planning authority carried out a screening assessment and concluded that a stage 2 Appropriate Assessment was not required.
- 7.10.2. An issue was raised in the appeal relating to the use of the adjoining Beech tree by roosting bats. From my inspection of the site I saw no evidence of a bat activity or of a roost. I also note that no report was received from the National Parks and Wildlife Service.
- 7.10.3. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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.

## 8.0 Recommendation

- 8.1. I recommend a **grant** of permission subject to the following conditions.

## 9.0 Reasons and Considerations

9.1. Having regard to the location of the site on residential zoned lands in the Kilkenny City and Environs Plan 2014-2020, the 'Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government in May, 2009, and to the design and layout of the proposed development, 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, and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The 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 such conditions require details to be agreed in writing 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 proposed development shall be for five houses only.

**Reason:** In the interest of clarity.

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. Roof colour shall be blue black or slate grey in colour only, and ridge tiles shall be the same colour as the roof.



**Reason:** In the interest of visual amenity.

4. Prior to commencement of development, revised plans and particulars showing compliance with the following requirements shall be submitted to, and agreed in writing with, the planning authority:
  - (a) the omission of one unit, house type C1,
  - (b) a reconfiguration of the remaining 5 units,
  - (c) a reconfiguration of the rear garden/private open space areas for the remaining 5 units which ensures a minimum 75 square metres private open space is provided to each, and increased separation distances to existing side boundaries with adjoining residential properties to the east and west.

**Reason:** In the interest of residential amenity.

5. Prior to commencement of development, a revised site layout plan indicating the reconfiguration of front driveways to each dwelling and proposals for landscaping shall be submitted to, and agreed in writing with, the planning authority.

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

6. Footpath reinstatement and public lighting shall comply with the detailed standards of the planning authority for such works.

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

7. Prior to commencement of development, details of the following shall be submitted to, and agreed in writing with, the planning authority:
  - (a) a hard landscaping plan with delineation and specification of site boundary details including the external finishes, and
  - (b) a soft landscaping plan incorporating native/indigenous species.

**Reason:** In the interest of visual amenity.

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 noise management measures, measures to ensure the safe removal, handling and disposal of asbestos and any other hazardous waste and off-site disposal of other construction/demolition waste.

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

9. Water supply and drainage arrangements, including 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.

10. A plan containing details for the management of waste (and in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

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

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

**Reason:** In the interest of visual and residential amenity.

12. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, 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 property in the vicinity.

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

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

14. 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.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning

and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Susan McHugh  
Planning Inspectorate

25<sup>th</sup> June 2019