



An
Bord
Pleanála

S. 6(7) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report on Recommended Opinion ABP-303910-19

Strategic Housing Development	165 dwellings and childcare facility
Location	Whiteland East, Rathbride Road, Kildare Town, Co. Kildare
Planning Authority	Kildare County Council
Prospective Applicant	Cian and Stephen Conlan
Date of Consultation Meeting	24th April 2019
Date of Site Inspection	22 nd April 2019
Inspector	Joanna Kelly

1.0 Introduction

Having regard to the consultation that has taken place in relation to the proposed development and also having regard to the submissions from the planning authority, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

2.0 Site Location

The development land is a greenfield site with a stated area in the application form of 5.49ha. located to the northern end of Kildare town. The site is an awkwardly configured site with the eastern most section of the lands abutting the Dublin-Cork railway line. There is limited site frontage onto the Rathbride Road (R415) where access to the lands is proposed. There are hedgerows and trees within and bounding the perimeter of the lands. The lands are located approx. 400m north of the railway station. There are existing housing developments on the opposite side of the road where there is a footpath linking back to the town. It is also noted that there is a recent decision in respect of an appeal on lands that immediately about the southern portion of the development lands. Permission for a small residential development was granted on these lands.

There are greenfield lands which are within the prospective applicant's landholding to the north which are identified as G "national stud/green belt in the Kildare Local Area Plan. There are also lands further north along Rathbride road which are identified as existing residential. The Kildare Town football club is located further north of these residential lands. There are also stable complexes located on the greenfield lands which bound the Curragh lands.

3.0 Description of proposed development

The applicant is proposing 165 residential units with a childcare facility

The following details are noted:

Parameter	Site Proposal
Application Site	5.49 ha
No. of Units	165 units
Other Uses	Childcare facility
Open Space	10.66% of site area
Stated Net Density	38.9 u/ph
Net Site Area	4.238 ha
Part V	17 units

4.0 Planning History

The most relevant history associated with the site is noted as follows:

File Ref. No. 17/1018 Permission granted for 74 dwellings on site.

Lands to the south of the development site

File Ref. No. 302534-18 / 17/1271 Permission refused by Kildare County Council for residential development comprising 14 residential units to south of site and granted on appeal by the Board. The site layout submitted as part of this Section 5 Consultation request indicates a connection to this permitted scheme.

5.0 National and Local Planning Policy

5.1. National

Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion, that the directly relevant section 28 Ministerial Guidelines are:

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- 'Design Manual for Urban Roads and Streets' (DMURS)
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
- 'Childcare Facilities – Guidelines for Planning Authorities'
- 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities'
- Urban Development and Building Height, Guidelines for Planning Authorities.
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, August 2018.

Other relevant national guidelines include:

- Project Ireland 2040, National Planning Framework.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

5.2. Local Policy

5.2.1 Kildare County Development Plan 2017-2023

Kildare is identified as a Moderate Sustainable Growth Town within the Hinterland area.

Section 3.8 provides policies in respect of Settlement Strategy

It is the policy of the Council to:

SS 1 Manage the county's settlement pattern in accordance with the population and housing unit allocations set out in the RPGs, the Settlement Strategy and hierarchy of settlements set out in Table 3.1.

SS 2 Direct growth into the Large Growth Towns, followed by Moderate Sustainable Growth Towns and Small Towns, whilst also recognising the settlement requirements of rural communities.

SS 3 Ensure that the zoning of lands is in accordance with the Core Strategy and Settlement Strategy.

SS 4 Review the zoning of lands in instances where there is an oversupply of land for housing and to consider alternative land use zoning objectives to reduce the quantum of housing lands in the first instance. The phased development of housing lands will be considered as a secondary solution only.

SS 5 Implement through appropriate policies the principles and guidance set out in:

(i) The Sustainable Residential Development in Urban Areas, DEHLG

(2009) and accompanying Urban Design Manual-A Best Practice Guide (2009), and:

(ii) The Design Manual for Urban Roads and Streets, DTTS and DECLG (2013)

In the preparation and review of town, village and settlement plans.

Section 4.4 of the Housing section includes policies and objectives in respect of Housing Urban Design. Section 4.5 deals with Location and Density. Densities should take account of the location of a site, the proposed mix of dwelling types and the availability of public transport services. As a general principle, higher densities should be located within walking distance of town and district centres and high capacity public transport facilities.

5.2.2 Kildare Town Local Area Plan 2012-2018

The site has two land use zoning objectives 'C1- New Residential' and 'C1* - New Residential' - "to provide and improve new residential areas and for associated local shopping and other services incidental to new residential development". The C1* zoning provides for low density residential development at a maximum of 4 units per acre (10 units per hectare).

HP1: To facilitate sustainable development in Kildare in line with its designation as a Moderate Sustainable Growth Town in the RPGs and in accordance with the settlement strategy set out in Kildare CDP 2011-2017.

HP 2: To facilitate the phased sustainable development of lands in Kildare for residential use in accordance with Map 8.1, to ensure compliance with the core strategy and the settlement strategy set out in Kildare CDP 2011-2017. In the event that permissions expire on existing zoned residential lands designated as Phase 1 consideration may be given to development on Phase 2 lands which are sequentially close to the town centre and are adequately serviced by appropriate infrastructure. The remaining Phase 2 lands will not be eligible for development until such time as Phase 1 lands are developed appropriately or until the review of this plan through the statutory process and in the context of the core strategy set out in the CDP, as may be amended.

Section 7.2.2 refers to Housing Mix and Community Development. A key aim in the provision of new housing in Kildare is to encourage diversity rather than uniformity and as far as possible to relate the type of proposed new housing to the varying needs of the population.

6.0 **Forming of the Opinion**

Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant; the planning authority submission and the discussions which took place during the tripartite

consultation meeting. I will provide a brief detail on each of these elements hereunder.

6.1 Documentation Submitted

6.1.1 The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and article 285 of the Planning and of the Planning and Development (Strategic Housing Development) Regulations 2017.

6.1.2 The information submitted included *inter alia*: a completed SHD Application form and cover letter including but not limited to, Schedule of documents; Statement of Consistency, Design Statement, Social Infrastructure Assessment, Appropriate Assessment Screening, DMURS Design Statement and Landscaping proposals.

6.1.3 I have reviewed and considered all of the documents and drawings submitted.

6.2 Planning Authority Submission

6.2.1 In compliance with section 6(4)(b) of the Act of 2016 the planning authority for the area in which the proposed development is located, Kildare County Council, submitted a note of their section 247 consultations with the prospective applicant and also submitted their opinion in relation to the proposal. These were received by An Bord Pleanála on April 2019.

6.2.2 The planning authority's opinion refers to key planning considerations as follows:

- Lands zoned C1 and C1* – to provide for new residential areas. Zoning C1* provides for low density residential development at a maximum of 4 units per acre (10 units per hectare).
- Principle of residential development is acceptable.
- A net density of c. 35 units per hectare is proposed and is acceptable.
- The lower density limitation was imposed on these lands as they function as a transition from the urban centre of Kildare Town to the greenbelt lands which extend to the Curragh.

- The Curragh is a High Amenity Area and a Class 5 Sensitivity landscape.
- The areas of land designated C1* was intended for low density residential development at a maximum of 10 units per hectare, has an area of 3.75ha which would represent a development of 37 units. The remainder of the site equates to an area of 1.74ha which considering a zoning density of 20-35 units per hectare equates to a development ranging from 34 to 61 units.
- The previously permitted scheme was for 74 units which equates to 13.5 units per hectare.
- It is considered that the proposed density is excessively high and does not accord with the Kildare Town Local Area Plan 2012-2018. As such the density should be reduced to the lower end of the residential density parameters (20) as set out in the LAP to reflect this transition and the proximity of the High Amenity Area of the Curragh.
- The percentage of open space provided is 10.6% and does not comply with the minimum standards of 15% as set out in the CDP.
- Prospective applicant should be requested to submit a statement of housing mix, which should demonstrate a need for such accommodation based on local demand and the demographic profile of the area.
- 17 units are proposed under Part V comprising of 5 no. houses and 12 no. duplexes which the Housing Section indicates is not acceptable. Duplex units are not acceptable.
- The proposed creche will accommodate 51 child places. Concerns regarding open space to creche.
- A qualitative assessment is provided under each of the 12 criteria set out in the section 28 guidelines. Of note it is set out that the majority of public open space to the east of the site which denies the majority of proposed dwellings direct access to or view of open space.
- Roads and Transportation Department require further details regarding off street parking and lack of visitor parking; swept path analysis demonstrating movement on internal roads, provision of footpath along site frontage, lighting, signage and cycle parking.

- Water services Department have noted concerns regarding site specific flood risk assessment which requires more details. Further engagement with IW required regarding upgrade works to increase the capacity of the existing water main.
- Clarification also required regarding waste water connection, consent for connection and maintenance arrangements and capacity to accommodate proposed development.
- Parks Department seek preparation of an Arboricultural assessment report and details of protective measures to retain existing hedges/trees.
- The report concludes that the proposed development would be acceptable in principle and would generally accord with the policies and objectives of the Kildare CDP and the LAP. However, there are some outstanding issues that require further information which have been outlined in this summary.

6.2 Submission from Irish Water

IW has issued a Confirmation of Feasibility for this development of 152 residential units. The applicant must upgrade approx. 200m of 100mm water main to a 150mm water main to facilitate the connection of the development to IW infrastructure. No statutory or this party consents are required for this upgrade other than a road opening licence from the local authority. Subject to a compliant water and waste water layout and a valid connection agreement being put in place the proposed connection can be facilitated.

7.0 Consultation Meeting

7.1 A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on 24th April 2019, commencing at 10.00 am. Representatives of the prospective applicant, Kildare County Council and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

7.2 The main topics raised for discussion at the tripartite meeting were as follows:

1. Development Strategy to include layout, density, unit mix and typology, open space and proximity to High Amenity Lands to the north-east of the development site
2. Movement and Legibility to include consideration of principles of Design Manual for Urban Roads and Streets
3. Water and Waste Water having regard to comments set out in the planning authority's opinion from the Water Services Department.
4. Surface water and Flood Risk to include comments set out in the planning authority's opinion from the Water Services Department.
5. Part V
6. Any other Matters

7.3 In relation to the development strategy to include layout, density, unit mix and typology, open space and proximity to High Amenity Lands to the north-east of the development site, ABP representatives sought further discussion/elaboration on this issue including how proposal addresses 12 criteria of Urban Design Manual, whether any discussions with adjoining landowners took place regarding access to adjoining lands and density having regard to proximity of train station to the site.

7.4 In relation Movement and Legibility to include consideration of principles of Design Manual for Urban Roads and Streets, ABP representatives sought further discussion/elaboration on this issue. The need for greater street hierarchy, creation of attractive streets and consistency in plans submitted was emphasised.

7.5 In relation to Water and Waste Water having regard to comments set out in the planning authority's opinion from the Water Services Department, ABP representatives sought further discussion/elaboration on this issue.

7.6 In relation to Surface water and Flood Risk to include comments set out in the planning authority's opinion from the Water Services Department, ABP sought further elaboration/discussion on this issue.

- 7.7 In relation to Part V, ABP representatives sought further elaboration/discussion on this issue having regard to comments in the Planning Authority's opinion.
- 7.8 In relation to Any other matters, ABP representatives sought further elaboration/discussion on landscaping proposals and elevational/contextual plans.
- 7.9 Both the prospective applicant and the planning authority were given an opportunity to comment and respond to the issues raised by the representatives of ABP. Those comments and responses are recorded in the 'Record of Meeting ABP-303910-19' which is on file. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

8.0 Conclusion and Recommendation

- 8.1 Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and as amended by Section 50 of the Planning and Development (Amendment) Act 2018.
- 8.2 I have examined all of the information and submissions before me including the documentation submitted by the prospective applicant, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the section 28 Ministerial Guidelines, and local policy via the statutory plans for the area.
- 8.3 Having regard to all of the above, I recommend that further consideration and/or possible amendment of the documents submitted are required at application stage in respect of the elements that are set out in the Recommended Opinion below.
- 8.4 Having regard to the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that

the documentation submitted with the consultation request under section 5(5) of the Act **requires further consideration and amendment** in order to constitute a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

8.5 I would recommend that the prospective applicant be notified, pursuant to article 285(5)(b) of the 2017 Regulations, that specified information (as outlined hereunder) be submitted with any application for permission that may follow. I believe the specified information will assist the Board at application stage in its decision-making process. I am also recommending that a number of prescribed bodies (as listed hereunder) be notified by the prospective applicant of the making of the application.

9.0 Recommended Opinion

9.1 An Bord Pleanála refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

9.2 Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, An Bord Pleanála is of the opinion, that the documentation submitted **requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.**

9.3 In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

1. Layout and Density

Further consideration of documents as they relate to the layout of the proposed development particularly in relation to the 12 criteria set out in the Urban Design Manual which accompanies the Sustainable Residential Development in Urban

Areas Guidelines for Planning Authorities, and the Design Manual for Urban Roads and Streets.

Further consideration of documents as they relate to the residential density of the site. This consideration and justification should have regard to, inter alia, the minimum densities provided for in the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' and the provisions of SPPR 4 of the Urban Development and Building Heights Guidelines for Planning Authorities, 2018. Particular regard should be had to the need to develop at a sufficiently high density to underpin the efficiency of existing or planned public transport service. The further consideration of these issues may require an amendment to the documents and/or design proposals submitted. Consideration should also be given to how the net site density is calculated having regard to the provisions of Appendix A of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' and justification for exclusion of particular areas should be provided in the documentation with any such areas clearly identified on the site layout plan.

Consideration should also be given to the integration of the proposed development with the permitted residential scheme on lands to the south-west of the development lands and with other lands greenfield lands to the south-east to ensure an appropriate and cohesive approach to development of sustainable communities.

2. Public and Communal Open Space

Further consideration should be given to the design rationale/justification outlined in the documents as it relates to the public and communal open space provision particularly in the context of the disposition and usability of the public and communal open space areas relative to the proposed housing units it is intended to serve. Details of public open space hierarchy, ease of access, the qualitative nature and passive surveillance to all open space areas should be further considered. The further consideration of this issue may require an amendment to the documents and/or design proposals submitted.

3. Flood Risk and Surface water management

Further consideration of documents as they relate to flood risk, surface and storm water management for the development lands. Regard should be given to the requirements of the Local Authority in respect of flood risk, surface water treatment and disposal and SUDS measures proposed for the scheme having particular regard to the comments raised in the Water Services report submitted with the Planning Authority's report dated 5th April 2019. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

9.3 Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission

1. Photomontages and cross sections at appropriate intervals for the proposed development including how the development will interface with contiguous lands.
2. All existing watercourses and utilities that may traverse the site including any proposal to culvert/re-route/underground existing drains/utilities should be clearly identified on a site layout plan.
3. A site layout plan which clearly identifies the full extent of areas to be taken in charge. Relevant consents to carry out works on lands that are not included within the red-line boundary. The prospective applicant is advised that all works should as far as possible be included within the red-line boundary.
4. Landscaping details to include layout plan which identifies existing trees/hedgerows to be retained and details of tree protection measures during the construction period.

5. Additional water and waste water details to address matters raised in the planning authority's opinion dated 5th April 2019 in particular the Water Services Department's comments.

6. A statement setting out how the proposed layout is consistent with the principles of Design Manual for Urban Roads and Streets.

Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. Irish Water
2. Minister for Culture, Heritage, and the Gaeltacht
3. Heritage Council
4. An Taisce – the National trust for Ireland
5. Fáilte Ireland
6. Chomhairle Ealaíon
7. Transport Infrastructure Ireland
8. Íarnród Éireann
9. Commission for Railway Regulation

PLEASE NOTE:

Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions

under the Planning and Development Acts 2000 to 2018 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Joanna Kelly

Senior Planning Inspector
2nd May 2019