



An
Bord
Pleanála

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

**Inspector's Report on
Recommended Opinion
ABP-305012-19**

Strategic Housing Development	Residential development of 110 residential units
Location	Sion Hill, Kilkenny
Planning Authority	Kilkenny County Council
Prospective Applicant	Torca Development Ltd.
Date of Consultation Meeting	9 th September 2019
Date of Site Inspection	5 th September 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 and Description

- 2.1 The development site is located on the eastern side of Kilkenny City, east of the N10 road and accessed off Sion Road. The lands comprise of c. 5.38ha and were the former residence of the Bishop of Ossary. There are existing structures on the site including a two-storey residential structure which gables the public road. There are other structures which were used as a former retreat centre.
- 2.2 There is mature landscaping/trees to the west and south of the site. A wall c. 2.5m in height is located along the northern (public road) boundary. The River Nore, a Special Area of Conservation is located to the south of the site. The lands fall from north to south with a difference of approx. 8m (as indicated on site layout plan). There is an existing wire fence to the wooded area.
- 2.3 Sion Road is characterised by ribbon development with a number of small low-density cluster type housing. There are a number of industrial/commercial business located at the junction of Sion Road with the Dublin Road to the north. There is also a local shop, pharmacy located along the Dublin Road.

3.0 Proposed Strategic Housing Development

3.1 It is proposed to construct 110 residential units on the site of c. 5.38ha.

3.2 The following table provides the breakdown of unit types based on the description of the development proposed.

Table 1: Residential Unit Types

Residential Mix	Housing Units	Apartment Units	% Mix bed type
1 bed	0	22	20%
2 bed	0	31	28%
3 bed	28	15	38%
4 bed	12	0	12%
5 bed	2	0	2%
Total	42	68	100%

4.0 Planning History

File Ref. No. P14/586 Outline permission for 27 two storey houses and an entrance from Sion Road. 19 units were permitted by way of condition.

Adjoining Lands to the west (abutting the N10)

File Ref. No. 19/242 Permission sought by Raggett Homes for a new residential development of 31 dwellings consisting of 5 No. type A/A1 174m² 4 bedroom single storey dwellings, 1 No. type B 210m² 4 bedroom two storey dwelling, 10 No type C/C1 206m² 4/5 bedroom two storey dwellings, 9 No type D/D1 227 m² 5 bedroom two storey dwellings, 3 No. type E 274 m² 5 bedroom two storey dwellings, 3 No type E1 334 m² 5 bedroom two storey over basement / lower ground floor dwellings, new site entrance to Old Sion Road plus all site services and associated site works. Application currently on further information.

5.0 National and Local Planning Policy

5.1 National

5.1.1 Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions 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’)
- ‘Sustainable Urban Housing: Design Standard for New Apartments, Guidelines for Planning Authorities, 2018’.
- ‘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’
- ‘Urban Development and Building Heights, Guidelines for Planning Authorities, 2018’

Other relevant national documents include:

- National Planning Framework: Ireland 2040 Our Plan
- Rebuilding Ireland: Action Plan for Housing and Homelessness, 2016

- Framework and Principles for the Protection of the Archaeological Heritage
Department of Arts, Heritage, Gaeltacht and the Islands 1999.

5.2 Local

5.2.1 Kilkenny City and Environs Development Plan 2014

Chapter 3 deals with the Core Strategy for the County. Section 3.3.1 which refers to land requirement set out that “in order to reflect that demand for housing on larger sites at lower than normal densities it is proposed to continue with the low-density zonings at selected locations in the environs of the City. An additional area for low density is identified at the Sion Road (1.95ha) and an additional area along the old Dublin road (0.69ha).

The lands contain two land use zonings ‘existing low residential density’ to the north and a portion of lands zoned ‘amenity/green links/ biodiversity’ to the south along the banks of the River Nore.

Figure 7.2 of the City development plan identifies a portion of lands to the south as ‘key green infrastructure’.

Section 11.4.1 pertains to ‘Density’ and sets out inter alia:

As in the preceding Development Plan it is not intended to prescribe maximum residential density standards. The emphasis will be on providing quality-housing environments based on innovation and a design led approach. A high standard of architectural design and layout will be required. The Planning Authority will seek to ensure that new developments have individuality and a sense of place, which is generated by the interaction between the physical characteristics and features of the site and its surroundings and the layout, landscaping and design of the new housing.

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's 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 Application form and cover letter; details pertaining to section 247 process; Planning report, Statement of Consistency, EIA screening report, crèche assessment report, Tree survey, archaeological assessment, Building Lifecycle report, plans and particulars.
- 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, Kilkenny County Council, submitted a note of their section 247 consultations with the prospective applicant and also submitted their opinions in relation to the proposal. These were received by An Bord Pleanála on 26th August 2019.
- 6.2.2 Kilkenny County Council's opinion included the following matters:
- Zoning of site 'Existing Low Density residential' with low density defined as not more than 10 units per hectare.
 - Southern portion of the site is zoned as 'Amenity, Green Links, Biodiversity conservation/open space / recreation'.

- Low density zoning to reflect pattern of existing development
- Concerns about high density proposed
- Site does not contain any protected structures but bounds the River Nore Special Area of Conservation and Special Protection Area. Applicant should submit a NIS.
- Parks section satisfied with landscaping proposals. Should be clarified if lands to the south of the site indicated as woodland are to be ceded to Council
- No concerns about the developable area of this site relating to flooding.
- There are concerns regarding the main route to and from this site being via the junction with Dublin/ Sion Road which is a heavily trafficked route.
- Proposals could potentially be premature pending road improvement works on the Dublin road to allow better ease of access onto the Dublin Road from the Sion Road.
- Proposal maybe premature pending crossing along the N10 route for pedestrians as many educational, childcare, retail and leisure facilities are located on the western side of the N10.
- Consideration should be given to carrying out a junction modelling analysis at the R712 Dublin Road / LP2631.
- There is a disconnect with the development site and existing pedestrian and cycle facilities.
- Development site comes within the zone of influence of the noise Mapping for Kilkenny arising from traffic on the N10 Kilkenny Ring Road and the Noise Action Plan 2019-2023 shall be taken into consideration.
- Consideration shall be required for the ecological impact of the lighting on the cSAC light spill onto adjoining properties.

With regard to internal reports the following are noted in the planner's report:

Area Engineer: Communal bin storage area for terraced houses is not acceptable.

Roads Report: TTA does not include for other committed or planning development and consideration should be given to carrying out a junction modelling analysis. There is a disconnect with the development site and existing pedestrian and cyclist facilities. The walk between the development site and Ossary pedestrian bridge comprises an unsurfaced narrow grass/woodland path which is unlit and subject to flooding.

Irish Water: No objection. It is noted section 1.3 of report Connection Issues indicates there is no capacity in the scheme.

6.3 Consultation Meeting

6.3.1 A Section 5 Consultation meeting took place at the offices of Kilkenny County Council on 9th September 2019, commencing at 11.30am. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting as follows:

- Development strategy for the site to include local policy provisions, density, layout and urban design response
- Connections and movement to include vehicular, cyclist and pedestrian movements
- Visual and Ecological Impact to include landscaping, boundary treatment and open space provision
- Water services to include surface water management and flood risk and AA considerations
- Any other matters

6.3.2 In relation to development strategy for the site to include local policy provisions, density, layout and urban design response having particular regard to adjoining lands, ABP representatives sought further elaboration/discussion on this issue in

particular the City development plan in respect of zoning and core strategy provisions.

- 6.3.3 In relation to Connections and Movement to include vehicular, cyclist and pedestrian movements, ABP representatives sought further elaboration/discussion on this issue having regard to location of public transport stops from site and connections to town centre/social facilities.
- 6.3.4 In relation to visual and ecological impact to include landscaping, boundary treatment and open space provision, ABP representatives sought further elaboration/discussion on these issues having regard to concerns regarding visual impact as set out in the planning authority's opinion, presence of bats on site, existing woodland/trees on site and hierarchy and qualitative nature of public open space.
- 6.3.5 In relation to Water services to include surface water management and Flood Risk and AA considerations, ABP representatives sought further elaboration/discussion on this issue having regard to potential for water displacement and robustness of the AA screening report having regard to the proximity of the lands to the River Nore SAC.
- 6.3.6 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-305012-19' 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.

7.0 Conclusion and Recommendation

- 7.1 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.
- 7.2 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 plan for the area.

- 7.3 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 as set out in the recommended Opinion below.
- 7.4 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.
- 7.5 I would also 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.

8.0 Recommended Opinion

- 8.1 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.
- 8.2 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.**

8.3 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. Local Development Plan Policy

Further consideration of the documents as they relate to the planning rationale/ justification for the proposed increase in density on the subject lands which are zoned for 'existing low density residential' and the provisions of the core strategy as provided for in the Kilkenny City Development Plan 2014-2020.

Notwithstanding national policy, consideration should be given to the nature and scale of development relative to the local zoning and zoning objective and the materiality or otherwise of the quantum of development proposed in this context. Specific regard should be given to the provisions of Section 9 (6) (b) of the Planning and Development (Housing) and Residential Tenancies Act 2016 as amended, whereby the Board shall not grant permission under paragraph (a) of Section 9(6) where the proposed development, or part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land.

Further consideration of these issues may require amendment to the documents and/or design proposals submitted.

2. Movement and transportation including parking

Further consideration of movement (pedestrian, cyclist and vehicular) within and through the development site and to key transport routes in the vicinity of the site in particular how pedestrian movements will be facilitated in a safe manner across the Dublin Road and the N10 towards the City.

Further consideration of the provision of the Design Manual for Urban Roads and Streets and how the proposed layout and urban design response including the arrangement of parking spaces will contribute to the creation of attractive and safe

streetscapes. Consideration should be given to the ease of pedestrian movements through the site, in particularly at key crossing points.

Further consideration of these issues may require amendment to the documents and/or design proposals submitted.

3. Design and Layout

Further consideration/justification of the 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 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas', May 2009. The matters of arrangement and hierarchy of streets; configuration of layout; creation of strong urban edge with increased levels of passive surveillance to the public open space areas; provision of quality, usable open space; the creation of a sense of place; and a high-quality scheme with particular regard to the proposed materials and external finishes to the housing units and provision of street furniture should be further considered.

Further consideration of these issues may require amendment to the documents and/or design proposals submitted.

8.4 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. A clear statement as to how the proposed net density is calculated and consistency in all of the documentation as to the number of units proposed so as to avoid any ambiguity.

2. Photomontages and cross sections at appropriate intervals for the proposed development including details of how the proposed development interfaces with contiguous lands given the differences in levels.
 3. An Appropriate Assessment screening report and/or Natura Impact Statement if considered necessary, which should address, inter alia, construction activities, landscaping proposals, surface water management proposals and in-combination effects of other plans and projects that maybe relevant to Natura 2000 sites in particular the River Nore SAC. The screening report and/or NIS should identify any source-pathway-receptor connections that may exist between the proposed development and any European sites, and in doing do, should identify the zone of influence of the proposed development and any European site that may be at risk.
 4. All existing 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.
 5. A construction and demolition waste management plan should be provided.
 6. A Building Life Cycle Report as per Section 6.13 of the Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities 2018.
 7. A phasing plan for the proposed development which also considers the delivery of public realm improvements in the vicinity of the site such as pedestrian crossings, public open space and surface water management proposals for each phase.
 8. A site layout plan indicating all areas to be taken in charge.
- 8.4 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. The Minister for Arts, Heritage, Regional, Rural and Gaeltacht Affairs
3. The Heritage Council
4. An Taisce – the National Trust for Ireland
5. Transport Infrastructure Ireland
6. Córas Iompair Éireann
7. Local Childcare Committee

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 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Joanna Kelly

Senior Planning Inspector

11th September 2019