



An
Bord
Pleanála

S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-305558-19

Strategic Housing Development	219 no. residential units (136 no. houses, 84 no. apartments), creche and associated site works.
Location	Lands at Kilgarron Hill, north of the L1011, Townland of Parknasilloge, Enniskerry, Co. Wicklow.
Planning Authority	Wicklow County Council
Perspective Applicant	Capami Ltd.
Date of Consultation Meeting	15 th November 2019
Date of Site Inspection	2 nd November 2019
Inspector	Karen Kenny

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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 site is located in the townland of Parknasilloge, Enniskerry, Co. Wicklow. Enniskerry lies c. 5km west of Bray in an elevated position on the slopes of the Wicklow Mountains. The village core comprises an estate village associated with the Powerscourt Demesne. The rest of the town consists of houses built around the village in the 20th century.
- 2.2. The site, with a stated area of 8.1607 hectares, is located on the outskirts of Enniskerry Village c. 1 km west of the village core. It consists of agricultural lands that slope from west to east towards the Glencullen River Valley and Knocksink Wood to the east. The Glenree Road (L1011) bounds the site to the south and west. This is a local road of c 5.4 metres in width with grass verges on either side, interspersed by bus stops and sections of footpath. A laneway to Parknasilloge House to the north, runs to the east of the site. The north eastern section of the site encroaches onto this laneway. A 10kV line crosses the site from east to west.
- 2.3. The sites frontage onto Glenree Road is interrupted over a small section by a small housing development and two separate residential properties. Parknasilloge Court, a small housing estate of recent construction occupies a rectangular site of c. 0.8 hectares. Immediately to the west there are two houses on their own plots along the road. Enniskerry GAA club is located to the east of the site and there are two twentieth century housing estates on the opposite side of the road opposite the GAA club, named Kilgarron. To the west of the site there is a cluster of houses on both

sides of the Glenree Road. There is also a new housing development under construction opposite Parknasilloge Court.

3.0 Proposed Strategic Housing Development

- 3.1. Permission is sought for 219 residential units (135 no. houses and 84 no. apartments) and a creche (373.4 sq.m).
- 3.2. The houses are 1 and 2-storey and the apartment / duplex blocks are 3-storey. The breakdown of unit types can be summarised as follows:

Unit Type	No. Houses	Apartments	TOTAL	Percentage
1 bed	3	16	19	8.6%
2 bed	8	34	42	19%
3 bed	74	34	108	49%
4 bed	48	0	50	22.7%
4+ bed	2	0	1	<1
TOTAL	135	84	219	100%

- 3.2.1. Two vehicular access points are proposed from the Glenree Road and it is proposed to upgrade drainage and pedestrian infrastructure along Glenree Road.

4.0 Planning History

- 4.1. The following planning history pertains to the subject site:

ABP-304037-19: SHD application for development comprising 218 no. residential units (134 no. houses and 84 no. apartments) and a creche on the application site. The Board refused permission for 1 no. reason as follows:

1. Having regard to the proximity of the subject development to the Knocksink Wood Special Area of Conservation (site code 000725), to the potential for impacts on the qualifying interests and conservation objectives of this European Site due to alterations to the natural hydrogeology associated with

the proposed development, and to the sensitivities of the European Site to land modification of the development site, both through diversion of groundwater from the gravel layers and the gravel layers acting as a hydrological pathway for polluted water, it is considered that the documentation submitted as part of the application, including the Natural Impact Statement dated March 2019, and accompanying engineering and hydrogeology reports, is insufficient to provide a full understanding of the hydrogeology of the lands, and fails to provide a conceptual hydrogeological model that establishes, beyond scientific doubt, that the proposed development would not adversely affect the integrity of this European Site. In particular, while the Natura Impact Statement states that the catchment zone or groundwater catchment zone for the petrifying springs within Knocksink Wood Special Area of Conservation lies outside the refined Action Area Plan (AA1) zone, as detailed in figure 2 of the Natura Impact Statement, it is considered that the submitted documentation does not provide scientific evidence to support this statement. The origin of the catchment zone and the hydrogeological information on which it was based has not been supplied, and a conceptual hydrogeological model of the site of the proposed development, and its connection to the European Site, has not been provided. In the absence of mitigation, it is accepted in the Natura Impact Statement that the natural hydrogeology within the subject lands could potentially be altered which could result in adverse impacts on the qualifying interest habitats of Knocksink Wood Special Area of Conservation (which have a high sensitivity to changes in both ground and surface water levels). Without sufficient information to inform the design and management of surface water flows and infiltration, the Board cannot be satisfied that the proposed mitigation measures would remove the potential for impact on petrifying springs with tufa formations, which is a qualifying interest habitat of this European Site. The Board, therefore, cannot be satisfied, beyond reasonable scientific doubt, that the proposed development, either individually or in combination with other plans and projects, would not adversely affect the integrity of Knocksink Wood Special Area of Conservation, in view of the site's conservation objectives and qualifying interests. The Board is, therefore, precluded from granting planning permission for the proposed development.

A note included in the Boards Direction concurred with concerns raised by the PA in relation to the proposed external finishes and concerns raised in submissions received in relation to the impact of the proposed layout on the potential for development of adjoining zoned lands. The note also stated that the Board accepted that issues raised by the PA regarding density, the core strategy and phasing of development, represented a material contravention of the statutory Development Plan / Local Area Plan, but also noted the submission, by the applicant, of a Material Contravention Statement.

ABP-302892-18. Pre-application request for proposed development comprising 185 no. residential units (167 no. houses and 18 no. apartments). The opinion issued in December 2018 stated that the documentation required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

ABP-300692-18 – Pre-application request for proposed development comprising 129 no. houses and a crèche. The opinion issued in March 2018 stated that the documentation required further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

5.0 National and Local Planning Policy

5.1. National Planning Framework

5.2. The NPF Chapter 6 is entitled 'People, Homes and Communities'. A number of key policy objectives are noted as follows:

- National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
- National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

- National Planning Objective 13 provides that “in urban areas, planning and related standards, including, in particular, 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. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.3. **Section 28 Ministerial Guidelines**

The following is a list of section 28 Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’).
- ‘Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities’ as updated March 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 Height, Guidelines for Planning Authorities, 2018.
- Architectural Heritage Protection – Guidelines for Planning Authorities, 2011.

5.4. **Development Plan**

The Wicklow County Development Plan 2016-2022

The core strategy designates Enniskerry as a small growth town with a projected population of 2,302 persons in 2022, with an increase in its housing stock from 642 in 2011 to 887 in 2022. The plan includes a town plan for Enniskerry which has now been superseded by the Bray Municipal District Plan 2018-2014. The view north from the Glenree Road is protected prospect 5 in the development plan – Glenree Road towards Carrigollogan.

Bray Municipal District Plan 2018-2024

This plan includes Enniskerry within its area.

- Chapter 3 deals with residential development with Policy R1 requiring all housing development accord with County Plan requirements. Enniskerry specific housing objectives are R6 and R7 which state that maximum size of any single housing estate should be 60 units and that a full range of unit sizes including 1- and 2-bedroom units shall be provided in all new housing areas with no more than 50% of the units in any development having more than 3 bedrooms or 125m² of floor area.
- The site and adjoining lands are defined as Parknasilloge Action Area Plan 2. This area is designated as a priority employment area for Enniskerry with polices EE1 and EE2 specific to Enniskerry referring to the provision of c.1ha of employment lands in AA2. Chapter 10 outlines key parameters for AAP2 including that 2ha of the area shall be reserved for active open space (equivalent to the GAA pitch), 1 ha for employment uses, 1.2 ha for education use and 0.4ha for community uses including a community centre of at least 500m² with a playground of at least 400m². A maximum of 156 houses shall be provided on the rest of the area. Only 2 vehicular access points shall be allowed onto the Glenree Road.

Action Plan 2 (non-statutory)

The prospective applicant submitted a draft action area plan to the planning authority in February 2017 which was agreed by the Council on 14th November 2017 subject to phasing controls with Phase 1 (max. 78 units) providing 50% of residential units, school site unless the Department confirms in writing it is not required and a Village Green. Phase 2 (58 units) requires employment uses, additional 75% of residential units and community uses including community centre. Phase 3 (20 units) is the remaining residential. This AAP has since been amended to suite the design proposal and approved by the Council in 2019.

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 shall provide brief detail on each of these elements hereunder.

6.1. Documentation Submitted

The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Article 285 of the Planning and Development (Strategic Housing Development) Regulations 2017. This information included, inter alia, a Cover Letter, Completed Application Form, Environmental Report, Statement of Consistency, Statement of Material Contravention, Community Audit, Action Area Plan, Architectural Drawings, Architectural Design Statement, Housing Quality Assessment and Schedule of Areas, Residential Lifecycle Report, Engineering Drawings, Engineering Assessment Report, Construction and Waste Management Plan, Site Specific Flood Risk Assessment, Traffic and Transport Assessment, Landscape Drawings, Archaeological Assessment, CGI's, NIS, Hydrological Assessment and Road Safety Audit.

6.2. Statement of Consistency

Section 5(5)(b) of the Act of 2016 requires the submission of a statement that, in the prospective applicant's opinion, the proposal is consistent both the relevant objectives of the development plan or local area plan concerned, and the relevant guidelines issued by the Minister under section 28 of the Act of 2000. These statements have been submitted, as required. The applicant's case is summarised as follows:

- In terms of the NPF and RSES, the site is a natural extension to Enniskerry Village and is zoned for development.
- In terms of the Sustainable Residential Development in Urban Areas, Guidelines, the proposal complies with the 12 criteria in the Urban Design Manual. The layout addresses the site context including the sloped topography and views; connectivity, variety of house types, distinctive character areas and the layout creates people friendly streets and spaces and a safe and secure public realm.

- The Housing Quality Assessment demonstrates compliance with housing standards detailed in the Apartment Guidelines and the County Development Plan.
- Key design principles of DMURS are met through the design principles of connectivity, enclosure, active edge and pedestrian activity / facilities.
- The requirements of the Childcare Facilities Guidelines are met through the provision of a creche.
- The requirements of the Transport Strategy for the GDA are met. The site is serviced by bus route 185 (2) which provides access to Bray DART Station and commuter buses from Enniskerry to Dublin City Centre.
- A Site-Specific Flood Risk Assessment is submitted.
- In terms of the County Development Plan and LAP the R20 zoning provides for residential development of up to 20 units per hectare. The proposed development provides for 30 units per hectare gross. The density is in accordance with the Sustainable Residential Development Guidelines (Section 28) standard of 20-35 per ha.
- The LAP zoning for Action Area Plan 2 lands is deemed to be indicative. The AAP 2019 document revised the location of the land use zonings (swapped employment and residential) having regard to the ABP Opinion issued under Ref. ABP-300692-18. Legal opinion submitted.
- The development would not undermine the objectives for AAP2 lands. The AAP states that the school site shall be provided in Phase 1 accompanied by no more than 50% of the residential development and the employment facilities shall be provided no later than Phase 2 accompanied by no more than 75% of the residential units. The Dept of Education have indicated that they have no current requirement for the school site, nonetheless the school site is reserved. A 1 ha area is reserved for employment use and will be made available to a developer. The submitted phasing plan indicates that a childcare facility would be provided in Phase 1 along with pro-rata open space and a playground. WCC have indicated that there is no immediate need for a

Community Centre, nonetheless, lands will be reserved for community use within the landholding.

- The LAP / AAP specifies 156 residential units on 8.8 ha's within the AAP2 area. Having regard to the need to provide an appropriate density in accordance with guidance, the proposal provides for in excess of this quantum.
- Development Plan standards in relation to residential development; open space provision; water services; woodlands, trees and hedgerows; and views and prospects are met.
- A material contravention statement is submitted in relation to density and the divergence from the density objective and unit cap set out for Action Area 2 lands in the LAP.

6.3. Planning Authority Submission

A submission was received by An Bord Pleanála on the 30th October 2019 from Wicklow County Council. The 'opinion' of the planning authority included, inter alia, the following:

- Under the Bray LAP Enniskerry has a housing growth allocation of 472 no. units to 2025. The proposed development represents 46% of this allocation.
- The Bray MD LAP land use zoning for the site indicates that the lands are zoned for a density of 20 units per hectare. The criteria for AAP2 lands stipulate a maximum of 156 units on the 8.8 ha AAP2 lands. This would equate to a density of 17.7 units per ha. The scheme exceeds the permitted quantum of development. In terms of Core Strategy, the site has an allocation of c. 128 residential units equating to 27% of the required housing stock for the settlement. The proposed development amounts to 46% of the required housing stock. The applicant has failed to adequately demonstrate how the development will impact on the population targets for the settlement and on the development potential of the remaining zoned lands within the settlement.
- The proposed phasing plan does not comply with controls specified in the AAP.

- The site encompasses 3 no. land use zonings (Residential, Employment and Community). Land use zoning within AAP areas is indicative only and may be altered via AAP's subject to compliance with criteria set out in the LAP. The AAP approved in March 2019 allows for lands within the red line to be developed solely for residential uses – subject to compliance with AAP criteria.
- It is considered that the scheme fails to meet the requirements of the approved AAP and that the scheme would be contrary to the zoning objectives of the LAP. The density exceeds the maximum permitted density on these lands and would materially contravene the zoning objectives for the area and be out of character with the established pattern and character of development in Enniskerry.
- The applicant has failed to demonstrate that the development is to be phased in accordance with the AAP.
- The layout is similar to that previously proposed under SHD ABP-304037-19 and is generally acceptable.
- The development fails to meet design criteria in relation to visual diversity – there is no clear distinction between each of the 4 no. character areas. A greater sense of place could be achieved with more varied design and architectural detailing. 3 storey residential blocks fronting onto the public road are not considered appropriate for this location.
- The development of the site will have a significant impact on listed views from Glencree Road towards Carrigollogan, however, it is acknowledged that this impact may be an unavoidable consequence of the development of the lands as envisaged in the LAP.
- The mix of units is generally considered acceptable. Suggested that larger 3-bed bungalows should be provided to accommodate members of the community who may wish to downsize.
- There is a shortfall of open space provision. The distribution of open space is generally considered acceptable.

- The requirements of the Roads Authority should be met. Applicant should clarify works to the farm access.
- There appears to be a shortfall in car parking. Given the location on the periphery of Enniskerry Village it is considered that this development will be heavily car dependent, therefore the quantum should accord with minimum Development Plan standards.

6.4. Response from Prescribed Bodies

6.4.1. A submission was received from Irish Water on 18th October 2019. The submission states that a connection to the network can be facilitated.

6.4.2. A submission was received from the Department of Culture, Heritage and the Gaeltacht (DAHG) National Monuments Service on 29th October 2019. The submission states that the Department is in agreement with the findings and recommendations of the submitted Archaeological Impact Assessment Report.

6.4.3. A submission was received from the Department of Culture, Heritage and the Gaeltacht (DAHG) Natural Parks and Wildlife Service on 25th November 2019. The points raised in the submission are summarised as follows:

- The proposed development is located close to Knocksink Wood SAC and there is potential for hydrological impacts to the SAC.
- The potential impact of the proposed development on petrifying springs in the SAC is dependent on understanding the gradient and direction of groundwater flow in the supporting aquifer system and its hydrological properties.
- The Department has concerns in relation to the groundwater delineation detailed on Figure J (p22) of the submitted Hydrological Assessment Report. The submission questions the methodology used in site investigations; the timing of the investigations; and seeks clarity in relation to whether all springs have been accounted for in the assessment - including a petrifying spring located c. 500 m north of the site that is within the SAC boundary.
- The area presented in the hydrological report is considered to be the minimum area required to sustain the observed spring discharges. The actual groundwater catchment area may be far bigger.

- Overall, the Department considers it likely that the groundwater catchment area to the petrifying springs arises in at least part of the proposed development area, from its eastern section and that this matter needs to be addressed as part of any hydrogeological assessment and NIS for the proposed development. In addition, the hydrologic connection with a northern spring that is within the SAC site boundary must also be assessed, as this may intersect a northerly flowing groundwater flow path.

6.5. Consultation Meeting

A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 15th November 2019, commencing at 11.30. 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.

The main topics raised for discussion at the tripartite meeting were based on the agenda that issued in advance and contained the following issues:

1. Natural Heritage - Hydrological Assessment.
 2. Any other matters
- In relation to natural heritage / hydrological assessment, An Bord Pleanála sought further elaboration / discussion / consideration in relation to the issues raised in the previous application and refusal.
 - In relation to any other matters, An Bord Pleanála sought further elaboration / discussion / consideration in relation to issues raised in the PA submission.

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 305558' 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 s.28 Ministerial Guidelines, and local policy, via the statutory plan for the area.
- 7.3. 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: constitutes a reasonable basis for an application under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 7.4. 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 constitutes a reasonable basis for an application to An Bord Pleanála under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.
- 8.3. 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. An updated Hydrological Assessment Report and Natura Impact Statement that satisfactorily addresses the points raised by the Department of Culture, Heritage and the Gaeltacht (National Parks and Wildlife Services) in their submission dated 25th November 2019. In addition, the reasons for refusal and notes attached by the Board in the previous planning application should be satisfactorily addressed.
 2. Likewise, updated Engineering Reports that satisfactorily addresses the points raised by the Department of Culture, Heritage and the Gaeltacht (National Parks and Wildlife Services) and the reasons for refusal under the previous planning application.
 3. Proposals for the long-term management and maintenance of drainage provisions to include the taking-in-charge of services in the development. The proposals should have due regard to section 180 of the Planning and Development Act, 2000 (as amended), the taking-in-charge policy of the planning authority and any relevant ministerial policies.
 4. The submitted architectural design statement should address the creation of character areas within the scheme.
- 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 Department of Culture, Heritage and the Gaeltacht
3. The Heritage Council
4. An Chomhairle Ealaíon
5. Fáilte Ireland
6. An Taisce
5. Inland Fisheries Ireland
6. The Wicklow County 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.

Karen Kenny

Senior Planning Inspector

29th November 2019