



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-308028-20

Strategic Housing Development	112 no. residential units (62 no. houses, 50 no apartments) and associated site works.
Location	Margaret's Field, Callan Road, Kilkenny, Co. Kilkenny.
Planning Authority	Kilkenny County Council
Prospective Applicant	Denis Treacy Construction Limited
Date of Consultation Meeting	25/11/2020
Date of Site Inspection	23/11/2020
Inspector	Conor McGrath

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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

The site is located at Margaret's Field on the southwestern side of Kilkenny city with frontage to the N76 (Callan Road), within the 60kpm speed limit. The Callan Road which joins the Kilkenny Ring Road approx. 750m northeast of the site. This area is within the Western Environs of Kilkenny City. The site comprises an extension to an existing residential scheme at Margartsfield to the east and northeast, part of which remains under construction. The site is accessed via the existing residential access road. The site has been disturbed and includes a number of spoil heaps associated with the adjoining construction site. Ground levels fall generally in a northeasterly direction across the site.

The southwestern boundary is formed by the line of a proposed distributor road, beyond which there are a number of detached houses. To the southeast of the site, with independent frontage to the N76, are two single storey semi-detached cottages. To the north of the site is a detached cottage, located close to the site boundary.

3.0 Proposed Strategic Housing Development

The proposed development provides 112 no. dwelling units in a mix of 62 no. 2 & 2.5-storey houses and 50 no. apartment and duplex units of 2 to 4 storeys. The proposed development comprises phase 3 of this residential development and includes the partial reconfiguration and redesign of the permitted, and partially complete, Phase 2 development on the site (PA Ref. 06/1089 and 17/704).

3,875-sq.m. of public open space are provide as follows:

- A pocket park to the north of the apartment building of 725 m2.
- A central green area of 2,350-sq.m. in the centre of the site which will be linked to the adjacent green strip currently under construction in Phase 2.
- 800-sq.m of the open space constructed as part of Phase 2 is allocated for Phase 3, as agreed with Kilkenny County Council at further information stage on the previous application Reg Ref: 06/1089.

Key Development Parameters:

Total no. of Units	112		
Site Area	Site Area 2.9 ha		
Density	Density 38 units per ha		
Plot Ratio	Plot Ratio 0.35	Site Coverage	15.41%
Public Open Space	Total – 3875-sq.m. (c. 13.5%)		
Car Parking	173 no. parking spaces		
Cycle Parking	78 No. sheltered bicycle spaces		

Accommodation Provision:	Number	% Split
4 Bedroom Houses	5	4.46%
3 Bedroom Houses	41	36.61%
2 Bedroom Houses	16	14.29%
3 Bedroom Duplex Houses	11	9.82%
1 Bedroom Apartments	15	13.39%
2 Bedroom Apartments	23	20.54%
3 Bedroom Apartments	1	0.89%
Total Residential Units	112	100%

4.0 Planning History

PA ref. P.04/798 ABP ref. PL.10.208833: Permission granted in 2005 for Phase 1 of this overall development on a site of 2.54 hectares, comprising 32 no. houses, 24 no. duplex units, 20 no. apartments, creche (240 sqm); an office unit

(344 sqm) and a convenience retail unit (104 sqm), along with new access road to the Callan Road.

PA ref. P.06/1089: Permission granted for Phase 2 of this residential development on a site of 2.225ha, consisting of 81 No. residential units (55 No. houses, 16 No. duplex units and 10 No. apartments) and 1 no. office block, and a new entrance onto the permitted access road from the Callan Road (Pl. Reg. 04/798).

PA ref. P.12/38 and PA ref. P.17/704: An extension of duration and a further extension of duration granted for P.06/1089 until 14th March, 2022.

The planning authority opinion in this case notes that PA ref. P06/1089 has been partially completed with the construction of 32 units to comply with Part V obligations. The remainder of the permission comprises 40 no. units to be developed by Respond and 9 no. units to be developed by the current applicants.

Furthermore, documentation notes that part of the open space provided in Phase 2 of the development was intended to serve the later phase 3, the subject of this pre-application consultation request.

PA ref. P.18/575: Permission granted for change the use of shop to creche in Seville Lawns.

PA ref. VS-R19-2 ABP ref ABPP-303544: S.9 appeal against proposed entry on to the vacant site register. The notice was confirmed by the Board.

5.0 National and Local Planning Policy

5.1. Project Ireland 2040 - National Planning Framework

The framework is concerned with securing compact and sustainable growth.

Objective 11 favours development within existing cities, towns and villages, subject to appropriate planning standards and achieving targeted growth

Objective 33 prioritises the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

Objective 35 is to increase residential density in settlements, through a range of measures.

5.2. Regional Spatial and Economic Strategy for the Southern Region

Kilkenny City is the fourth largest settlement in the Region and is identified as a Key Town - Large population scale urban centres functioning as self-sustaining regional drivers. Strategically located urban centres with accessibility and significant influence in a sub-regional context.

RPO11: Key Towns

- a. Local Authorities are supported in targeting growth of more than 30% for each Key Town subject to capacity analysis and sustainable criteria. The appropriate level of growth is to be determined by the Core Strategy of Development Plans.
- k. To plan increasing population growth in all Key Towns on a phased basis in collaboration with Irish Water, the local authority and other stakeholders to ensure that the assimilative capacity of the receiving environment is not exceeded and that increased wastewater discharges from population growth does not contribute to degradation of water quality and avoids adverse impacts on the integrity of water dependent habitats and species within the Natura 2000 network.

RPO12: Kilkenny City

- a. To strengthen the role of Kilkenny City as a self-sustaining regional economic driver with significant zone of influence and Key Town on Dublin – Carlow-Kilkenny Waterford M9 Road/Rail Axis, links to the Eastern Corridor
- f. To seek investment in sustainable transport measures through a Local Transport Plan including development of Town Bus Services in support of the Compact ‘10-minute city’ concept.
- i. Support for the Quality of life offer in Kilkenny City which is renowned as evidenced in its population growth which has exceeded the national average over the period 2006 – 2016.

Section 8.1 identifies infrastructural investment requirements including the Western Environs Trunk Main in Kilkenny City to cater for the large future development of the Western Environs of the City.

5.3. Section 28 Ministerial Guidelines

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the Planning Authority, the following section 28 Ministerial Guidelines are considered to be relevant to the proposed development.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009, and associated Urban Design Manual.
- Sustainable Urban Housing: Design Standards for New Apartments.
- Design Manual for Urban Roads and Streets (DMURS) 2013 - 2020.
- Childcare Facilities – Guidelines for Planning Authorities.
- Guidelines for Planning Authorities on The Planning System and Flood Risk Management.
- Urban Development and Building Heights Guidelines for Planning Authorities

5.4. Kilkenny City & Environs Development Plan 2014 - 2020

Chapter 3 addresses the Core Strategy and Zoning. Section 3.2, Compact City, notes that a balanced, compact form combined with efficient transport links between employment and residential locations will facilitate easier circulation and mobility within the City and Environs. The resulting density and scale of population will support a wider range of retail, commercial, social and civic services than in a more dispersed city. By providing residential accommodation within a compact city form there are substantial economies of scale to be made in terms of the costs of service provision.

Section 3.3.2, Distribution of Housing Land, provides for the expansion of the City environs in phased blocks. Four neighbourhood areas are identified, including the Western Environs wherein the subject site is located. The plan notes that the Western Environs and Loughmacask neighbourhoods will be the focus for greenfield development over the plan period and were the subject of Local Area Plans.

The salient provisions of the Western Environs LAP 2004 are incorporated into the core strategy. The original LAP documents will be used as supplementary guidance in dealing with planning issues in the area.

Objective 3B: To implement the vision, policy and objectives of the Western Environs Local Area Plan 2004 for the development of the area.

The subject site is zoned Phase 1 Residential - Objective: To protect, provide and improve residential amenities. Section, 3.3.2.1 *Proposed Housing Land and Phasing*, states that development will be permitted in principle on all Phase 1 lands.

Within the Western Environs Neighbourhood, the subject site is located in land parcel / Block Q for which development criteria are set out in Table 5.3. The area is identified for medium density development and the table identifies specific infrastructure to be in place before this parcel can develop. In addition, development in this parcel must contain:

- Residential development at a mean density of 33-36 residential units/hectare,
- A crèche or other pre-school facility,
- Open Space LP6, laid out and landscaped (incorporating a play area) and with a management agreement in place to the satisfaction of the planning authority.

Bicycle parking required at 1 space per apartment / townhouse. Car parking is required on the basis of 2 spaces per dwellinghouse and 1.25 spaces per apartment plus 0.25 spaces per unit for visitor parking.

Figure 10.2 identifies the route of the proposed Western By-Pass running along the western boundary of the site. Roads Objective 10M seeks to reserve the proposed line of the western by-pass free from development.

5.5. Kilkenny Western Environs Local Area Plan (2004)

The Western Environs Local Area Plan 2004 presents a framework for the long-term development of the area. The LAP envisages the neighbourhood as a set of distinctive character areas congregating around a well-connected village core, with a

range of retail, social, cultural and recreational facilities. The LAP is accompanied by Kilkenny Western Environs Urban Design Guidance Document.

The subject site is located within Block Q, which comprises an area of 8.25 hectares and is zoned for residential development and medium-sized local park (LP6) in the centre of the block.

6.0 S.247 Consultations with the Planning Authority

6.1. A pre-application meeting was held with Kilkenny County Council on 3rd February 2020. Issues raised in those discussions include:

- Compliance with the Core Strategy of the current Development Plan and connectivity of the site to the city.
- Provision of childcare facility and play areas.
- Bicycle parking for apartments.
- Connectivity through the site for pedestrians and cyclists.
- Relationship with adjoining development and open spaces.
- Adequacy of water supplies in the area vis committed development.
- Parking throughout the development should meet the County Council requirements.
- Inclusion of the road into the site within the red line boundary.
- Part V requirement for this entire estate is already provided, thus no additional units are required.

7.0 Submissions Received

7.1. Irish Water note that they have issued the applicant a Confirmation of Feasibility in respect of the development of 125 no. residential units for connection(s) to the Irish Water networks.

8.0 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.

The key issue to note is that the opinion relates to the documentation submitted, not the proposed development, and whether further consideration/possible amendment of the documents submitted is required in order to constitute a reasonable basis for an application. No assessment of the merits of the case takes place.

8.1. 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 includes, inter alia:

- Pre-Application Consultation Request Application Form and fee
- Planning Report
- Part V Validation Letter from Kilkenny County Council
- Pre-Connection Enquiry Response from Irish Water
- Planning Statement of Consistency
- Childcare Capacity Audit
- EIA Screening Statement
- Architectural Drawings
- Architectural Design Statement
- Housing Quality Assessment
- Building Lifecycle Report
- Photomontages and CGI's
- Engineering Drawings
- Outline Construction Traffic Management Plan
- Flood Risk Assessment Report

- Water Infrastructure Design Report
- Traffic Impact Assessment Report
- Mobility Management Plan
- Road Safety Audit
- Construction & Environmental Waste Management Plan
- Landscape Drawings
- Landscape Design Statement
- Archaeological Assessment
- Ecological Impact Assessment Report
- AA Screening Report
- Public Lighting Report and Plan
- Cover Letter to Kilkenny County Council.

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 with 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. This statement has been submitted.

The statement identifies no material contravention of the Development Plan or LAP and accordingly a statement of material contravention under Section 5(6) of the 2016 Act has not been submitted with the consultation request.

8.2. Planning Authority Submission

In accordance with section 6(4)(b) of the 2016 Act, on 21st September 2020, the planning authority submitted the following documents to the Board:

1. Copy of the Section 247 consultation record dated 03.02.2020.
2. Kilkenny County Councils opinion on the proposed development, including details of relevant planning applications in the area.

The submitted opinion makes the following points:

- The applicant is advised to provide a justification as to how the development complies with the Core Strategy of the Development Plan.
- It is an objective of the RSES to prioritise housing where it can be served by walking, cycling and public transport.
- Show public bus services, community services and other facilities proximate to the site or easily accessible by the bus. This will assist in justifying any shortfall in car parking spaces.
- This site is in the Western Environs and on Phase 1 Residential Zoned lands, where developments will be permitted in principle during the period of the plan.
- There is no objection in principle to the proposed densities given its location in the city, connectivity, existing densities in this area and capacity in the public service infrastructure.
- The scheme has a sufficient range of units to facilitate delivery of a variety of housing stock in the city.
- The visual impact is minimal.
- The housing section are satisfied that Part V requirements for this entire estate has already been satisfied, thus no additional units are required.
- The Planning Authority do not see any requirement for the applicant to prepare specialist reports regarding archaeology, heritage or ecology.
- Full Landscaping proposals throughout this site are required in any application.
- There are no concerns in relation to flooding.
- Access from Callan Road via the existing entrance raises no issues from a planning perspective. There is a bus stop within a 5-minute walk from this site.
- A Traffic Impact Assessment Report and Road Safety Audit will be required.
- The spur road into the site is not within the red line boundary.
- Bicycle parking for the apartments should be demonstrated.
- Open spaces should be functional. Passive surveillance is vital.
- Layout should address pedestrians and cycle connectivity through the site and to open spaces.
- Provide a dedicated play area due to open space deficiencies in the overall estate.
- Undertake sightline checks on all internal junctions and tight radius bends. Traffic calming measures should be identified.

- The applicant should consider electric charging points within the development.
- Details and finishes of roads footpaths and shared spaces to be confirmed.
- Surface Water attenuation and soakaways need to be indicated.
- Water supply may be a concern given the extent of committed development in the area.
- Construction, Environmental and Traffic Management Plans will be required and road opening licences will be required.
- Communal bin storage for apartments needs to be designed in an architecturally sensitive manner. Separate bin storage should be provided for each house.
- A detailed lighting proposal lighting will be required for the development.
- The proposal must present minimal, if any, intrusion on the adjoining houses.

8.3. Consultation Meeting

A Section 5 Consultation meeting on the 25th November 2020, commencing at 2pm, via Microsoft Teams. I refer to the record of the meeting in respect thereof.

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 as follows:

1. Compliance with Core Strategy and objectives for the Western Environs – overall strategy for Block Q and open space provision.
2. Clarity regard proposed modifications to the permitted development:
 - Changes to internal roads and car parking provision.
 - Changes to open space.
 - Childcare provision
3. Extent of car parking and relationship with Callan Road and public open space.
4. Open space strategy and connectivity of pedestrians and cyclists
5. Relationship with adjoining residential properties.
6. Clarity on surface water drainage.
7. AOB

In relation to compliance with the Core Strategy and objectives for the Western Environs, An Bord Pleanála sought further elaboration/discussion/consideration on the following:

- The position of the planning authority with regard to compliance with the core strategy.
- Compliance of the development with the specific objectives for Block Q as part of the Western Environs area.

In relation to the relationship with permitted development, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- The relationship between the proposed development and permitted and constructed development, in relation to roads and parking, open space and childcare facilities.
- Clear identification of modifications proposed as part of this development.
- Potential overlap in the provision of communal open space with permitted development.

In relation to the extent of car parking and relationship with Callan Road and public open space, An Bord Pleanála sought further elaboration/discussion/consideration on the following:

- Identification of parking serving permitted / constructed units.
- The extent of surface car parking and relationship with adjoining open spaces.
- Consideration of the treatment of Houses no. 21-24 and relationship with Callan Road.
- Consideration of the extent of bicycle parking provision.
- Requirement for a robust DMURS compliance statement.

In relation to the open space strategy and connectivity of pedestrians and cyclists, An Bord Pleanála sought further elaboration/discussion/consideration on the following:

- Further consideration to the treatment of the existing linear open space and inclusion with the application site boundary.
- Details of pedestrian and cycle connectivity through the site.

In relation to the relationship with adjoining housing, An Bord Pleanála sought further elaboration/discussion/consideration on the following:

- The protection of adjoining residential amenities to the north and south.
- The requirement for adequate detail to allow the Board to assess potential impacts thereon.

In relation to surface water drainage, An Bord Pleanála sought further elaboration/discussion/consideration on the following:

- The outfall for attenuated surface water and compliance with the objectives for Parcel Q of the Western Environs Area.

In relation to Any Other Business, An Bord Pleanála advised that proposed areas to be taken in charge should be agreed with the planning authority.

9.0 Conclusion and Recommendation

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.

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, the submission of Irish Water 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.

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.**

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.

10.0 Recommended Opinion

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 S.4.

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 would constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála

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. Transport Infrastructure Ireland

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. Further elaboration and clarification of how the proposed development is in compliance with the specific objectives of the development plan in respect of Parcel Q of the Western Environs Area, as set out in Table 3.5 of the Kilkenny City and Environs Development Plan 2014-2020.
2. Further elaboration and clarification with regard to the relationship between the proposed development and existing and permitted phase 2 development on the lands, particularly in respect of the provision of public and communal open space and car parking.
3. Further consideration and justification for the extent and layout of surface car parking within the development and the relationship of surface car parking with adjoining areas of public open space.
4. Further consideration of the treatment and landscaping of open spaces, to provide consistency of design and high levels of residential amenity across the overall development.
5. Further consideration and elaboration with regard to the design and layout of houses no. 21 – 24, and the achievement of adequate levels of amenity for future residents thereof, having regard to the adjacent surface car parking arrangements and their relationship with the Callan Road (N76).

6. Further consideration and elaboration with regard to the extent of bicycle parking for apartment units and compliance with the provisions of the Sustainable Urban Housing, Design Standards for New Apartments - Guidelines for Planning Authorities.
7. Further elaboration on the relationship with adjoining residential properties and the measures to protect adjacent amenities.

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.

Conor McGrath
Planning Inspector

26/11/2020