



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion ABP-309037-20

Strategic Housing Development	184 no. residential units (90 no. houses, 94 no. apartments) creche and associated site works
Location	College Avenue, Breagagh Valley, Wetland, Co. Kilkenny.
Planning Authority	Kilkenny County Council
Prospective Applicant	Cairn Homes Properties Limited
Date of Consultation Meeting	29 th March 2021
Date of Site Inspection	25 th March 2021
Inspector	Ronan O'Connor

1.0 Introduction

- 1.1. 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

- 2.1.1. The site is located between the Callan Road and the Poulgour Road approximately 2km to the southwest of Kilkenny city centre. The subject site was partially developed in 2007-2008 and works involved the installation of sub-surface drainage pipes and road infrastructure.
- 2.1.2. The site is bounded to the north east by the line of the partially constructed inner relief road, to the west by existing single storey houses which access onto Poulgour Road. A further residential development known as Margaret's Field is located immediately to the southwest of the subject site. Access into Margaret's Field is provided via an estate road which connects with the N76 Callan Road at its southern end. This is currently closed off. The lands to the north and northwest of the site are primarily greenfield sites, used for agricultural purposes. A small residential development known as the Wetlands Housing Scheme is located immediately to the northeast of the subject site.
- 2.1.3. The Kilkenny Western Environs Distributor Road, which is currently under construction by Kilkenny County Council is located immediately to the east of the subject site.

3.0 Proposed Strategic Housing Development

- 3.1.1. The proposed development consists of the construction of 184 no. residential units comprising of 21 no. 1-bed apartment units, 32 no. 2-bed apartment/ duplex units, 31

no. 3-bed apartment/duplex units, 70 no. 3 bed houses and 20 no. 4 bed houses ranging in height from 2-4 no. storeys on an overall site of 5.25 ha.

The following details are noted:

Parameter	Proposed Scheme
Site Area	5.25 Ha
No. of units	184 no. residential units
Mix	90 Houses, 60 Duplexes, 34 Apartments (21 no. 1-bed apartment units, 32 no. 2-bed apartment/duplex units, 31 no. 3-bed apartment/duplex units, 70 no. 3 bed houses and 20 no. 4 bed houses)
Density	35 units/ha
Open Space Provision	Public Open Space – 0.825 Ha (15.6% of the site area)
Heights	2-4 storeys
Car Parking	283
Access	2 no. access points from the new distributor road (to the northeast of the site) and from Seville Grove (to the southwest of the site).
Dual Aspect	90.8%

4.0 National and Local Policy

4.1. National and Regional Policy

National Planning Framework 2018-2040

National Strategic Outcome 1, Compact Growth, recognises the need to deliver a greater proportion of residential development within existing built-up areas.

Activating these strategic areas and achieving effective density and consolidation, rather than sprawl of urban development, is a top priority.

Objective 2A identifies a target of half of future population growth occurring in the cities or their suburbs. Objective 3A directs delivery of at least 40% of all new housing to existing built-up areas on infill and/or brownfield sites.

Objective 13 is that, in urban areas, planning and related standards including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth.

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.

4.2. **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’).(2009)
- ‘Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities’ (Updated December 2020)
- Urban Development and Building Height, Guidelines for Planning Authorities, 2018.
- ‘Design Manual for Urban Roads and Streets’ (DMURS) (2019) / DMURS Interim Advice Note – Covid 19 (2020)
- ‘The Planning System and Flood Risk Management’ including the associated ‘Technical Appendices’.
- ‘Childcare Facilities – Guidelines for Planning Authorities’.
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities – May 2021

4.3. **Local Policy Context**

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.

4.3.1. Within the Western Environs Neighbourhood, the subject site is located in land parcel / Block P for which development criteria are set out in Table 3.5. The area is identified for medium/higher density development and the table identifies specific infrastructure to be in place before this parcel can develop. It is stated that the following non-residential facilities must be in place within the plan area before housing can be developed in this parcel: - Either open space area P2, with title transferred to the local authority, laid out and landscaped to the satisfaction of the planning authorities.

4.3.2. In addition, development in this parcel must contain:

Residential development at a mean density of 33-40 residential units/hectare,

A crèche or other pre-school facility,

Open Space LP7, laid out and landscaped (incorporating a play area) and with a management agreement in place to the satisfaction of the planning authority.

4.4. **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.

5.0 **Planning History**

Site/Land Parcel P

- P13/461 – Ext of duration of P06/1194 – Refused.
- P06/1194 – 64 dwellings – Grant
- 12537 – Extension of Duration for 04/1757 – Grant
- 071537 – 35 dwellings - Grant
- 04/1757 – Mixed use development comprising office, retail, residential on a site of 21.64 acres.

6.0 **Section 247 Consultation(s) with Planning Authority**

- 6.1.1. A section 247 pre-application consultation took place with Kilkenny County Council on 21st September and details of same are set out in the Planning Authority's submission on this pre-application.

7.0 **Irish Water Submission**

- 7.1.1. Irish Water has assessed and has issued the applicant a Confirmation of Feasibility for connection(s) to the Irish Water network(s) subject to the following:
- The proposed wastewater connection is via a private wastewater pumping station and that this pump station would require to be brought in line with IW Codes of Practice as part of any connection agreement. An alternative option for

connection(s) would be via delivery of a new pump station within the site which can be provided to replace the existing private pump station.

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 submissions and the discussions which took place during the tripartite consultation meeting. I shall provide brief detail on each of these elements below.

8.1. Documentation Submitted

- 8.1.1. 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 and I have had regard to same.

8.2. Planning Authority Submission

- 8.2.1. In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Kilkenny County Council have submitted a copy of the record of their section 247 consultations with the prospective applicant and their opinion in relation to the proposal.
- 8.2.2. Kilkenny County Council has also submitted a report on this pre-application submission which raises the following matters:
- Principle of development welcome at this location
 - Scheme provides a good range of units to facilitate a variety of housing stock
 - Design of the 4 storey block should be of sufficient quality
 - Open Spaces provided must be functional/dedicated pedestrian crossings within the estate to these spaces
 - Landscape design welcomes/provides a strong rational and design approach
 - Applicant is advised to provide justification to show how the development complies with the Core Strategy in the Kilkenny City & Environs Development Plan

- Justification needed for compliance with zoning/car parking provision
- Specific objective for these lands – medium/higher density (33-40 unit/ha) – proposed density of 35 units/ha acceptable.
- Specific requirement for a crèche on these lands/justification for non-provision included/acceptable to PA
- Table 3.5 of the Development Plan sets out a phasing table for these lands/compliance with same must be demonstrated
- No objection to the parking provision if sufficient justification
- Avoidance and remedial measures in the EclA must be adhered to.
- Mitigation measures in the Archaeological Assessment must be adhered to
- Welcome landscape proposals
- No concerns in relation to flooding
- Sufficient water supply capacity must be demonstrated/surface water attenuation needs to be identified/soakaways need to be indicated throughout the site
- Cycle parking for the apartments required/ev charging points/
- Layout shall be assessed for mobility issues/signage and road marking layout is required.
- Proposal must be designed to present minimal, if any, intrusion on the adjoining housing.
- Phasing, if applicable, should be outlined.

8.2.3. I have reviewed and considered all of the documentation submitted by the planning authority relating to this case.

8.3. **The Consultation Meeting**

8.3.1. A Section 5 Consultation meeting took place via Microsoft Teams on the 29th March 2021, commencing at 10:00. 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. Density/Phasing/Compliance or otherwise with the Western Environs LAP
2. Design and Layout/Visual Impact
3. Transport including infrastructure provision and parking
4. Residential Standards – open space provision etc
5. Surrounding Residential Amenity
6. Site Services
7. Environmental Screening
8. AOB

8.3.2. 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 309037-20' which is on file.

8.3.3. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

8.4. **Conclusion**

8.4.1. 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.

8.4.2. I have examined all of the submissions before me including the documentation submitted by the prospective applicants, the submissions of the planning authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, including section 28 Ministerial Guidelines and local policy via the statutory plans for the area.

8.4.3. 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.

- 8.4.4. I would also recommend that the prospective information 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

The Board 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.

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)(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 arising from this notification:

1. Further elaboration and clarification of how the proposed development is in compliance, or otherwise, with the specific objectives of the development plan in

respect of Parcel P of the Western Environs Area, as set out in Table 3.5 of the Kilkenny City and Environs Development Plan 2014-2020. In this regard, clarity shall be provided in relation to the delivery of any proposed/required road infrastructure (i.e. phasing, delivery etc of same).

2. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective(s) concerned and why permission should, nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.
3. Further elaboration and clarification, and if necessary amended proposals, so as to demonstrate how the proposed development complies with the requirements of DMURS, in particular; (i) the relationship of the proposed corner dwellings and boundary treatments to the proposed road network, having regard to the need to avoid or minimise blank walls and fences that restrict surveillance and movement (ii) demonstration of adequate sight-lines where appropriate (iii) parking quantity and location (including compensation for any loss of existing parking, if appropriate), road hierarchy and layouts, including design and materiality of the proposed shared surfaces. To this end, matters raised in the PA submission (dated 1st February 2021) and as raised in the tri-patriate meeting, should be addressed in any report/justification relating to the outlined transport issues.
4. Further consideration and elaboration with regard to the extent of bicycle parking for the apartment/duplex units and compliance with the provisions of the Sustainable Urban Housing, Design Standards for New Apartments -Guidelines for Planning Authorities.
5. Further elaboration and clarification with regard to the relationship between the proposed development, existing residential developments, existing and proposed public open spaces, and permitted developments adjoining the site, particularly in respect of permeability/desire lines, the provision public and communal open space, car parking and pedestrian/cycle infrastructure.

6. 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, having regard to the matters raised in the PA submission (dated 1st February 2021) and as raised in the tri-patriate meeting.
7. Relevant drawings/reports that address the issue of residential amenity (both existing residents of nearby development and future occupants), specifically with regards to impacts on daylight, sunlight and overshadowing, overlooking, visual impact and noise. The application shall include full and complete drawings including levels and cross-sections showing the relationship between the proposed development and nearby residential development. The daylight/sunlight/overshadowing analysis shall address the full extent of the requirements of 'Building Research Establishment (BRE) Report 209 "Site Layout Planning for Daylight and Sunlight – a guide to good practice, 2nd Edition, 2011' and BS8206 – Part 2: 2008 Code of Practice for Daylighting, where applicable.
8. A Housing Quality Assessment (HQA) which provides the specific information regarding the proposed apartment/duplex units as required by the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December, 2020). The assessment should also demonstrate how the proposed apartments/duplexes comply with the various requirements of those guidelines, including its specific planning policy requirements.
9. A report that specifically addresses the proposed materials and finishes to the scheme including specific detailing of external finishes, the treatment of balconies and boundary treatments.
10. Drainage details, including full details of any proposed foul and surface water infrastructure, and confirmation of existing water supply capacity, such as would address and respond to comments within the Planning Authority's submission on this pre-application (dated 1st February) and having regard to the submission from Irish Water (dated 19th February 2021).
11. Additional CGIs/visualisations/3D modelling.
12. All supporting technical/environmental reports to be updated as required.

13. A plan of the proposed open spaces within the site clearly delineating public, communal and private spaces.
14. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.
15. A phasing plan, if applicable.
16. The information referred to in article 299B(1)(b)(ii)(II) and article 299B(1)(c) of the Planning and Development Regulations 2001-2018, unless it is proposed to submit an EIAR at application stage.

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. National Transport Authority
3. Transport Infrastructure Ireland
4. Kilkenny 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.

Rónán O'Connor
Senior Planning Inspector

Date: 06th July 2021