



An
Bord
Pleanála

Inspector's Report ABP-310408-21

Development	Retention permission for a metal clad, storage shed and permission for construction of a storey and a half dwelling served by the public sewer and all associated site works.
Location	Leggettsrath West, Kilkenny,
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	21/198
Applicant(s)	Joan and Amit Levy
Type of Application	Retention permission & permission
Planning Authority Decision	Grant retention permission and permission
Type of Appeal	Third Party
Appellant(s)	(1) John Bergin (2) James and Thomas Hughes
Observer(s)	None
Date of Site Inspection	6 th day of October 2021
Inspector	Fergal Ó Bric.

1.0 Site Location and Description

- 1.1 The site is located in the eastern part of Kilkenny city, outside (east) of the N10 ring road.
- 1.2 The site is accessed from the west by means of a narrow cul-de-sac, the L6610 which acts as the pedestrian access to a number of the Leggettsrath Cottages on the northern side of the Dublin Road, the R712. At the top (northern) end of the cul-de-sac is a one-off dwelling which is located immediately contiguous (south of) the Kilkenny/Dublin/Waterford rail line. A number of the Leggettsrath cottages (six houses) front onto the cul-de-sac but have their vehicular accesses to the rear. The appeal site is long (approximately 280 metres) and varies in width from approximately 12 metres to 17 metres. The site was originally part of a railway embankment. The site has a stone/gravel surface along its length with weeds growing up throughout same, with some trees, shrubbery and hedging along the site boundaries. There is a metal clad storage shed on site approximately 55 metres from the site entrance.
- 1.3 The site is accessed off the cul-de-sac on its eastern boundary. There is a vacant site on the opposite side of the cul-de-sac and a detached two-storey house, adjacent to the north of that site at the top of the cul-de-sac. There is a field adjoining to the north with the main Kilkenny-Dublin/Waterford railway line running parallel to the appeal site and bounds the site at its eastern end. Ground levels on site are significantly higher than those on the adjoining field. The south western area of the site is bounded by rear gardens of Leggettsrath cottages addressing both the cul-de-sac and Dublin Road and the south eastern area of the site is primarily bounded by a large car parking area associated with car showrooms which are accessed off the Dublin Road.
- 1.4 The site has a stated area of 0.49 hectares.

2.0 Proposed Development

- 2.1 The development comprises the retention of a metal storage shed, construction of a one and a half storey dwelling and access to the public sewer and associated site works.
- 2.2 The metal storage shed has a stated floor area of 38.34 square metres (sq. m.) with a stated height of 2.9 metres. The proposed house has a stated floor area of 185sqm and an indicated height of 7 metres. External finishes are cited as white lime render and stone with dark coloured recycled rubber roof tiles. The dwelling would be located approximately 100 metres east of the domestic entrance.
- 2.3 In addition to the standard planning application plans and particulars, the application was accompanied by a cover letter setting out the background to the application and a Roads Assessment Report prepared by a Consultant Engineer.
- 2.4 The appeal site is connected to the public water services infrastructure.

3.0 Planning Authority Decision

3.1 Summary of Decision

On the 12th day of May 2021, the Planning Authority issued a notification of decision to grant planning permission for the development subject to 13 conditions including development contributions, Irish Water connection, construction hours and practices, surface water management, external finishes, use of the storage shed, landscaping and a compliance condition relating to sightlines at the domestic entrance.

3.2 Planning Authority Reports

3.2.1 Planning Report

The planner's report is the basis for the Planning Authority decision. The report considers that, having regard to the provisions of the Kilkenny City and Environs Development Plan 2014-2020, the documentation submitted with the application and

the design of the proposed development that it would not detract from the visual or residential amenity of the area. Neither would the proposals result in the creation of a traffic hazard and the proposal would be in accordance with the proper planning and sustainable development of the area.

An Appropriate Assessment screening report was undertaken and concluded that there is no potential for significant effects on the Natura 2000 network.

An Environmental Impact Assessment (EIA) screening report was undertaken and concluded that there is no potential for significant effects on the environment arising from the proposed development.

3.3 Other Technical Reports

Area Engineer: No objection, subject to conditions.

Road Design: No objection, subject to conditions.

3.4 Prescribed Bodies

Irish Water: no objection, subject to conditions.

3.4 Third Party Observations

Four observations were received by the Planning Authority. The issues raised are mainly covered within the grounds of appeal except for the following:

- Issues raised in previous refusal by the Board remain valid.
- A more comprehensive approach to developing the site and neighbouring lands is needed.
- Access to the site is restricted, sightlines cannot be achieved.
- Narrow access road would endanger safety by reason of a traffic hazard.
- The proposals should be welcomed and would not adversely impact upon neighbouring residential amenities.
- Access and traffic movement to/from the site would be acceptable.

4.0 Planning History

Appeal Site:

Planning Authority reference number 20/75, in 2020, the current applicants were granted retention planning permission for a storage shed and planning permission to construct a storey and a half dwelling and a temporary modular dwelling to be used as temporary accommodation during the construction of the main dwelling. In 2020, this decision was overturned by An Bord Pleanála under Board reference number 307161-20. Planning permission was refused for the following two reasons:

- 1) The proposed dwelling on this site, along with a temporary accommodation unit and the retention of the storage shed represents a disorderly piecemeal approach to planning on residential zoned lands, which would in turn set an unwanted precedent for haphazard, disorderly development in this urban area. The proposed development is therefore, considered prejudicial to the residential amenity and orderly development of this residentially zoned urban site.
- 2) The proposed development would endanger public safety by reason of a traffic hazard on this extremely narrow laneway with no scope to turn a vehicle, where sightlines would be restricted from the proposed entrance.

Planning Authority reference number.19/368, in 2019, Kilkenny County Council refused permission for the retention of a metal clad storage shed and planning permission for a one and a half storey dwelling house and permission for a single storey modular dwelling as temporary accommodation for two reasons as follows:

1. The proposed dwelling on this site, along with a temporary accommodation unit and the retention of the storage shed represents a disorderly piecemeal approach to planning on residential zoned lands, which would in turn set an unwanted precedent for haphazard, disorderly development in this urban area. The proposed development is therefore considered prejudicial to the residential amenity and orderly development of this residentially zoned urban site.
2. The proposed development would endanger public safety by reason of a traffic hazard on this extremely narrow laneway with no scope to turn a vehicle, where sightlines would be restricted from the proposed entrance.

The planner's report refers to Enforcement file at the site.

Planning Authority Reference number. ENF 18074 relates to a warning letter issued for the alleged unauthorised shed on site.

Part V Exemption certificate:

The Planning Report states a Certificate of Exemption from Part V was granted under C20/23.

5.0 Policy Context

5.1 Kilkenny City and County Development Plan 2021-2027

In the Kilkenny Development Plan 2021-2027, the site is located on lands zoned for "Existing Residential" purposes with the zoning objective "To protect, provide and improve residential amenity".

5.2 Quality Housing for Sustainable Communities: Best Practice Guidelines, 2007

The national planning guidelines, *Quality Housing for Sustainable Communities: Best Practice Guidelines, 2007* outlines design approach and standards for dwelling design at a national level.

In Table 5.1 of the guidelines, space provision and room sizes for typical dwellings are indicated. These are identified as being the target gross floor area and the minimum floor areas for living, bedroom, and storage areas likely to be required to satisfy requirements of normal living.

The quantitative standards for a two storey with 4 no. bedroom/ 7 no. person dwelling (i.e., with a double bedroom space) include a target gross floor area of 110 sq. m; minimum main living room is 15 sq. m; aggregate living area is 40 sq. m; aggregate bedroom area is 43 sq. m; and storage area is 6 sq. m. These are minimum standards.

5.3 Natural Heritage Designations

The closest heritage area is the Natura 2000 site River Barrow and River Nore SAC which is located approximately 200 metres east of the appeal site.

5.4 EIA Screening

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced urban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

6.0 The Appeal

6.1 Grounds of Appeal

Two separate grounds of appeal were received from John Bergin, Leggettsrath West (whose house is at the top of the cul-de-sac to the northwest of the appeal site) and James and Thomas Hughes, Wallslough, Co. Kilkenny (owners of lands immediately contiguous to and north of the appeal site). The main issues can be summarised as follows:

Mr. Peter Thomson Planning Consultant on behalf of Mr. John Bergin

- The current proposal is substantially the same as the proposals refused planning permission under planning Authority reference numbers 19/368 and 20/75 and refused by the Board under reference number 307161-20 but there are some key differences including: a 'potential' set back is proposed at the vehicular entrance off the cul-de-sac and a number of specific traffic management measures are set out.
- Planning Authority reference number 09/761, for the development of a single storey house to the rear of No. 7 Leggettsrath, was refused planning

permission. The Area Engineer considered that the cul-de-sac was substandard and of insufficient width to cater for an additional residential unit and would pose a potential traffic hazard.

- In the Planning Report, the Road Design Section of Kilkenny County Council (KCC) outlined satisfaction regarding the proposals to set back the entrance gates and noted that DMURS standards are achievable and therefore, overcomes the second reason for refusal Board reference number. 307161-20. However, this is at odds with the views of the Planning Officer who notes the narrow width of the cul-de-sac, restricted sightlines at the entrance and that the applicants do not own lands either side of the entrance point to improve sightlines. The applicants' justification for retaining the existing structure and constructing the main house is set out in the report but it does not explain how this overcomes the second reason for refusal as set out under 19/368 and 307161-20, regarding the narrowness of the laneway and inadequate sightlines at the entrance point.
- The previous proposals involved construction vehicles accessing the site off a back lane from the Dublin Road. All traffic would now access the appeal site off the cul-de-sac to the west of the appeal site (L6610), all of which will add considerably to traffic congestion, particularly over the construction period.
- Only the comprehensive development of the site and the adjoining lands can address the Boards previous reason for refusal in relation to haphazard and disorderly development.
- The Planning Authority are being inconsistent in their approach by not refusing planning permission given the narrow width of the access road and restricted sightlines and addressing the previous reasons for refusal as set out by the Board.
- The applicants have not submitted any evidence of engaging with neighbouring landowners in an effort to design a more comprehensive development with a safe access for all.

- The Development Management Guidelines 2007, set out guidance in terms of best practice in the planning process and highlight the importance of consistency of decision making.
- The proposals in their current form remain disorderly and piecemeal and therefore, should be refused planning permission.
- In the absence of any meaningful and comprehensive explanation of how the previous reasons for refusal have been overcome, it can only be concluded that the granting of permission is unjustifiable, and the proposal remains a disorderly, piecemeal approach to planning on residentially zoned land.
- If the existing access serving Leggettsrath Cottages is substandard in width (3.5 metres) to serve further housing as per P.A. Reg. Ref. 09/761, the cul-de-sac must be deemed substandard for further housing as it is less than 2 metres wide in parts. Any intensification of this cul-de-sac would affect the appellant's amenity. The appellant's previous house is located in the centre of land now zoned 'Business Park'. The current house is on land severed from the main landholding when the rail line was realigned and was the only area zoned residential in his ownership and this was understood by the planning authority when permitting the access. The current application does not change the previous second reason for refusal.

James and Thomas Hughes

- No objection to the development of a residential unit on the site, but rather to the piecemeal approach to residential land in an urban setting.
- In the previous planning decisions on the site, the decision makers clearly stated that a single house on this site would represent piecemeal, haphazard, and disorderly development and that the narrow access laneway would endanger public safety. The appellants would like the Board to note these items could have been addressed in a joint review and masterplan of the overall block of residential zoned land.
- The previous reasons for refusal by the Planning Authority (PA) and the Board remain valid. There is little or no change between the current proposals and those previously refused planning permission and there is no explanation as to

why proper planning principles have been abandoned. The previous refusal decision was valid and cannot simply be overturned.

- This block of residential zoned land should be master planned for an appropriate density of development and an appropriate highways strategy presented to alleviate any traffic hazard.
- If the development is to be permitted, it will sterilise the balance of the block of residential zoned land (approx. 0.7 hectares) and result in one house being developed on a site area of approximately 1.2 hectares, which cannot be deemed compatible with the requirement to maximise the use of zoned serviced land.
- Proposals to raise site levels on the appeal site would result in overlooking of any future residential development on neighbouring lands.
- Surface water could run off the appeal site, if built up, onto the neighbouring lands.
- There is an opportunity to access these lands from another development to the east which can address access issues identified in previous refusals of planning permission and allow all lands to be appropriately developed in accordance with Development Plan standards and national planning guidance.
- The density proposed at 2 dwelling units per hectare would not be sustainable and contrary to the Planning Authority's policy in terms of the sustainable use of zoned serviced lands.

6.2 Applicants' Response

The main points made can be summarised as follows:

- The intensive development of the Hughes lands with the applicants' site using the back lane (the existing access road serving the rear of Nos. 1-22 Leggettsrath Cottages) or any potential access route is not viable in the short to medium term, if at all.

- There is no need for intensive development of the land to the north or in combination with the applicants' site and there is no potential to intensively develop these lands in the short to medium term.
- Current access infrastructure is inadequate to support a multi-unit residential development. It cannot be enhanced without direct intervention by the County Council who have repeatedly stated to the applicants that intensive development of these lands is not envisaged and would be inappropriate. An alternative access may be possible at the eastern end of the site which would require a minimum of five landowners to reach agreement. Discussions between these landowners have been ongoing for years without success. If a future agreement is to be reached, the only area of the site critical for development is on an 8.9 metre section at the eastern end which would enable connection of these lands to the Harrowville residential development. The site would likely not be included in this development due to ground level differences and extent of groundworks required to integrate the sites. If the current proposal is to be permitted by the Board, it would not negate the possibility of the Harrowville Development connection to occur in the future.
- The potential extension of the Harrowville Development into this land is referenced in P.A. Reg. Ref. 19/462 where it stated that the layout makes provision for future access to the north and west. Any consideration of this access route must take into account that it is dependent on agreement being reached between up to five private landowners, including the applicants, and numerous failed attempts have been made over the past number of years. Neither has there been a planning application made for the development of the lands to the north. The current application would not limit the ability to facilitate this route, The significant difference in levels between the site and land to the north would likely pose a prohibitive cost if they were to be developed in tandem.
- With regard to the previous refusals of planning permission on the site. pre-planning meetings took place after those decisions were made. The reasons for refusal were discussed and detailed synopses of the meetings are set out in the applicants' cover letter. The current application contains a sufficient level

of supporting information to explain the background to the development and how the reasons for refusal as set out by the PA and the Board are overcome. The unique challenges of the site are set out along with a site-specific design rationale for the house and site to the exclusion of other layouts and site access options.

- Both grounds of appeal suggest the residentially zoned land should be intensively developed. The Road Section in P.A. Reg. Ref. 09/761 stated a grant of permission would set an undesirable precedent for similar development at the rear of other houses and that the access laneway would be substandard and of insufficient width to cater for multiple residential development. In addition, this intensive development is not viable for reasons including:
 - significant residential development permitted and proposed elsewhere in the vicinity,
 - the existing access route is not appropriate for expansion and its use as an estate road would not be suitable given its proximity to the ring road roundabout,
 - the existing access and back lane are currently inadequate in standard and width for a new multi-housing development and development of back gardens and would also require footpaths, lighting etc. Demolition of a house would be required for a proper junction with the Dublin Road and other land would have to be subject of a Compulsory Purchase Order.
 - Junctions with Dublin Road are in close proximity to the ring road roundabout and entrances to other commercial premises and would pose a significant impact on traffic, pedestrians, and residents.
 - There would likely be significant opposition from Leggettsrath Cottages residents.
- The Roads Section has not opposed the use of the existing cul-de-sac for the construction and occupation of the proposed dwelling. The applicants' intention regarding construction traffic access has been misinterpreted by the appellant. It is not proposed to use the back lane for construction traffic. The cul-de-sac

(west of the appeal site) is a minimum 2.9 metres wide, not less than 2 metres as stated by the appellants.

- The access road is a public road for use by all members of the public and Mr. Bergin has no more rights than any other property owner on the road. With regard to impact on the amenity of Mr. Bergin's property; the site is not opposite his property, there is evergreen hedging around Mr. Bergin's property, and additional screening is provided by mature trees between both properties and once the site is landscaped the proposed internal road and buildings will not be easily visible.

6.3 Planning Authority Response

The Planning Authority responded to the first party appeal and set out the following:

- The Planning Authority has no further comment to make on this appeal.

6.3 Observations

None received.

7.0 Assessment

7.1 At the time the Planning Authority made its planning decision on the 12th day of May 2021, a residential zoning objective pertained to the appeal site. However, the Kilkenny City and Environs Development Plan (KDP) 2014-2020 has since been superseded by the Kilkenny City and County Development Plan (KDP) 2021-2027, operational since the 15th day of October 2021, where the zoning objective for the appeal site remains as existing residential.

The main issues are those raised in the grounds of appeal and the Planning Report, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning & Principle of Development
- Access

- Haphazard/Piecemeal Development.
- Appropriate Assessment

7.2 Zoning and Principle of Development

7.2.1 The proposed development is located in an area zoned for residential use where housing is permitted in principle in the Kilkenny City and County Development Plan 2021-2027. The principle of development is therefore acceptable, subject to the detailed considerations below.

7.3 Access

7.3.1 The inadequate site access and restricted sightlines was a reason for refusal under P.A. Reg. Ref. 2075 and under Board reference number 37161-20 and an alternative access was suggested within the grounds of appeal.

7.3.2 The site is currently accessed by way of a narrow cul-de-sac which serves as a vehicular access for an existing house as well as pedestrian access to the front of Nos. 17-22 Leggettsrath Cottages. It can only cater for one car at a time along much of its length of approximately 130 metres and there is limited turning potential along it. The gates of the site are constructed in close proximity to the edge of the carriageway of the cul-de-sac. The application is very similar to that refused planning permission under Bord reference ABP 307161-20. The second reason for refusal of that application stated that the proposed development would endanger public safety by reason of a traffic hazard on this extremely narrow laneway, with no scope to turn a vehicle, and where sightlines would be restricted.

7.3.3 An alternative site access was suggested from the existing laneway serving the rear of Nos. 1-22 Leggettsrath Cottages (the back lane) from Dublin Road under Planning Authority reference number 20/75. The back lane was not put forward as the proposed access to the site in the current application. The current proposal is for access off the L6610 (cul-de-sac), west of the appeal site

7.3.4 The applicants submitted a Roads Assessment Report (RAR) prepared by Coakley Consulting Engineers as part of their planning documentation. It is set out within the RAR that the forward sightline requirements are between 7 and 14 metres given that average design speeds are expected to be in the range of 10-

20 kilometres per hour. This allows vehicles using the lane time to yield safely. It is stated that the traffic generated during construction and upon occupation of the proposed dwelling would be negligible in terms of capacity impact on the local road network. It is stated that the construction would generate between 1-3 delivery vehicles per week. The site access would be widened and set back from the carriageway which would provide for sightlines of between 7 and 23 metres in accordance with DMURS standards where vehicle speeds are between 10-30 kilometres per hour.

- 7.3.5 A Swept path analysis has also been submitted demonstrating that a 10 metre long, 20-ton truck could arrive and depart within the bounds of the appeal site with ease. The entrance would need to be widened using additional hardcore especially during the construction period to cater for delivery trucks.
- 7.3.6 I do not consider that there is any undue concern with the use of the existing cul-de-sac or the proposed vehicular entrance off the L6610. While the laneway cannot cater for two-way traffic over a section, it is only over a relatively short distance. In addition, the cul-de-sac only serves one other dwelling, at the end of the cul-de-sac, therefore, traffic levels are low. I do not consider that a second house would have any adverse impact in terms of the capacity of the cul-de-sac. The Road Design Section (of Kilkenny County Council) report outlined no objections to the proposed development, acknowledged that DMURS standards can be provided and that a Construction Traffic Management Plan be submitted and agreed with the local Area Engineer prior to the commencement of development. I consider that this can be included as a condition to any grant of planning permission. Given the low-speed traffic environment at this location, and the revised entrance layout to be agreed with the planning authority, I consider adequate sightlines can be achieved and that the construction period will be temporary and therefore, will not adversely impact upon other road users in the long term.
- 7.3.7 In conclusion, I am satisfied that the existing cul-de-sac road can accommodate the modest intensification of use associated with an additional house, that sightlines in accordance with DMURS standards are achievable and therefore the proposals would not result in the creation of a traffic hazard.

7.4 Haphazard/Piecemeal Development

- 7.4.1 The first reason for refusal under Planning Authority reference number 19/368 stated the house and other structures represented a disorderly piecemeal approach to planning on residential zoned lands. The current application layout is effectively the same as that previously refused. The grounds of appeal contend that the development would impact the ability to develop the appeal site and the residential zoned land to the north of the site, in a comprehensive manner.
- 7.4.2 The site is long and narrow and there is limited scope in terms of the site layout to accommodate a house. The applicants' response to the grounds of appeal states the Boards first reason for refusal under Board reference number 307161-20 was issued due to there being insufficient supporting information had been submitted with the appeal explaining the design rationale and the proposed site layout. The applicants' state that this site layout, with the dwelling centrally located within the site, was progressed because the site is widest (17 metres) at this location, shading from trees to the south of the site is minimised at this location which would maximise solar gain for the proposed house, where proximity to and visual impact upon neighbouring residents is insignificant. The width of the site (at approximately 17 metres) at this location allows a vehicle to pass the house and access the rear/east of the site which would not be possible if the house was located elsewhere on site and the private amenity areas are balanced to the east and west of the dwelling.
- 7.4.3 The density proposed at approximately 2 dwellings per hectare is significantly less than what would normally be expected to be provided on an urban residentially zoned site area of approximately 0.49 hectares. However, in order to address the site access issues and provide a decent turning area for construction traffic and provide for service vehicles (bin/oil trucks) into the future, and the narrow configuration of the site results in substantial constraints being present. In addition, I note that residential development in the immediate vicinity of the appeal site comprises houses on large, relatively narrow sites (Leggettsrath Cottages) and the only existing house accessed by way of the cul-de-sac is also a detached house on a generous site area. Therefore, I do

not consider that the proposed development would be out of character with the existing pattern of development in the area.

- 7.4.4 Even if all the residential zoned land between Leggettsrath Cottages and the railway line was in single ownership, it would be difficult to provide a suitable and safe access as it would have to be provided off the cul-de-sac (L6610) or the back lane serving the rears of Leggettsrath Cottages. A third access option is set out in the grounds of appeal via land to the southeast. P.A. Reg. Ref. 19/462 (granted to Raggett Construction Ltd.) refers to a grant of permission for two houses with six other houses within the scheme under construction as per P.A. Reg. Ref. 18/174 (granted to Paddy Raggett Homes Ltd.). The internal road network of this scheme allows for an extension towards the residential zoned land between Leggettsrath Cottages and the railway line, but there are up to five landowners involved, including the applicants which would make it problematic to reach a consensus. Nonetheless, permitting the current proposal does not preclude any development of the land to the north into the future, though there are significant issues to be addressed before that could happen, in terms of access and site levels which vary considerably between the appeal site and the neighbouring lands to the north.
- 7.4.5 Assessing the site on its own merits, I consider that the specific constraints of the site militate against the provision of multiple housing units, and it would be unreasonable to refuse permission on the basis that the site must be developed in conjunction with the adjoining land to the north. There are a number of constraints which would make the comprehensive development of the full block of lands, comprising 1.2 hectares difficult. Safe access remains problematic, given the constraints of the narrow width of the cul-de-sac to the west and also the narrowness of the back access through Leggettsrath cottages which would require removal of some rear garden spaces and demolition of parts of either numbers 8 or 9. Other constraints such as the differences in ground levels between both sites exist. The final constraint is that of land ownership and the comprehensive development of the relatively modest plot of residential zoned land and would require agreement between at least five different landowners.
- 7.4.6 It is noted that the character of the area is not for a dense form of development, but the existing built form in Leggettsrath comprises dwellings on generous plot

sizes. Granting planning permission for the current proposal would not preclude development of the neighbouring lands to the north. It is possible these could be accessed from the southeast. Having regard to the foregoing, I am satisfied that the applicants have set out sufficient planning grounds to demonstrate that the proposal would not represent a disorderly piecemeal approach to planning on residential zoned and serviced lands. I consider the proposals represent an appropriate form of development, having regard to the numerous constraints that preclude the comprehensive development of the residential zoned land in this instance.

8.0 Appropriate Assessment

8.1 The closest Natura 2000 site is the River Barrow and River Nore SAC which is located approximately 200 metres east of the appeal site. There is no hydrological pathway linking the appeal site to the European site.

8.2 Having regard to the nature and scale of the development and to the nature of the receiving environment, namely an urban and fully serviced location with no hydrological pathway to any European site, no appropriate assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

I recommend that permission be granted.

10.0 Reasons and Considerations

1.0 Having regard to the provisions of the Kilkenny City and County Development Plan 2021-2027 and the nature and scale of the development, it is considered that, subject to compliance with the conditions as set out below, the development would be consistent with the provisions of the plan in terms of the resi-

dential land use zoning objective, would represent an appropriate form of development consistent with the character of residential development in this area and would not result in the creation of a traffic hazard nor seriously injure the amenities of the area nor property in the vicinity. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

- 1 The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as submitted on the 19th day of March 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

- 2 Details of the materials, colours, and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

- 3 A detailed entrance layout, which shall be suitably designed to facilitate vehicle turning movements on the cul-de-sac, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety.

- 4 The metal clad storage shed shall be used solely for uses incidental to the residential enjoyment of the house on site and shall not be used for habitable purposes, the housing of animals or any commercial purpose. It shall not be sold, let, or otherwise transferred or conveyed, save as part of the house.

Reason: In the interests of clarity, the amenity of property in the vicinity and the proper planning and sustainable development of the area.

- 5 Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 6 Prior to commencement of development, the applicant or developer shall enter into a water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

- 7 The site shall be landscaped in accordance with the landscaping scheme which shall be submitted and agreed in writing with the Planning Authority prior to the commencement of development.

All planting shall be adequately protected from damage until established. Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

- 8 (a) Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1500 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

(b) The construction of the development shall be managed in accordance with a Construction Traffic Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development including traffic management, noise management measures and off-site disposal of construction waste.

Reason: In order to safeguard the residential amenities of property in the vicinity.

- 9 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Fergal Ó Bric.

Planning Inspectorate

4th day of April 2022