



An
Bord
Pleanála

Inspector's Report ABP-313709-22

Development	30 houses with associated site development works.
Location	Kilminchy , Portlaoise , Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	21561
Applicants)	Thomas Kelly and Sons Group Ltd
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First & Third Party
Appellants	Thomas Kelly and Sons Group Ltd John Cowhig
Date of Site Inspection	19 th December 2022
Inspector	Dolores McCague

Contents

1.0 Background to Addendum Report.....	3
2.0 Appropriate Assessment	3
3.0 Housing.....	6
4.0 Other Issues.....	7

1.0 Background to Addendum Report

- 1.1.1. This addendum report is required, in response of the Board Direction of 7th September 2023, (in conjunction with 313771-22) to further consider Appropriate Assessment in light of observations in relation to surface water, flooding and drainage and to further consider the mix of housing types, densities and residential amenities of the development in light of the Laois County Development Plan 2021-2027.

2.0 Appropriate Assessment

- 2.1.1. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site, there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision.
- 2.1.2. The proposed development is the construction of 30 dwelling houses, within a larger existing, incomplete development, where it will be accessed off an existing road and utilize existing public piped surface water drainage, mains sewers and mains water supply.
- 2.1.3. The natural drainage in this area is to the north-west to join the Triogue River 5km+ to the north west, eventually joining the Barrow River east of Mountmellick, a further 6km+ to the north.
- 2.1.4. A report of screening for appropriate assessment was not provided with the application.

2.2. Screening for Appropriate Assessment

- 2.2.1. The nearest Natura sites are the River Barrow and River Nore SAC (002162) located c 9km, straight line distance, and in excess of 11km downstream, to the north; and the Slieve Bloom Mountains SPA (004160) and Slieve Bloom Mountains SAC (000412) located in excess of 11km, straight line distance, to the west.

European Site	Site Code	Relevant QI & SCI	Distance
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River Barrow and River Nore SAC	002162	<p>Estuaries</p> <p>Mudflats and sandflats not covered by seawater at low tide</p> <p>Reefs</p> <p>Salicornia and other annuals colonising mud and sand</p> <p>Atlantic salt meadows</p> <p>Mediterranean salt meadows</p> <p>Water courses of plain to montane levels with the Ranunculus fluitans and Callitriche-Batrachion vegetation</p> <p>European dry heaths</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</p> <p>Petrifying springs with tufa formation</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior</p> <p>Desmoulin's Whorl Snail</p> <p>Freshwater Pearl Mussel</p> <p>White-clawed Crayfish</p> <p>Sea Lamprey</p> <p>Brook Lamprey</p> <p>River Lamprey</p> <p>Twaite Shad</p> <p>Salmon</p> <p>Otter</p> <p>Killarney Fern</p> <p>Nore Pearl Mussel</p>	c 9km, straight line distance, in excess of 11km downstream.
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Slieve Bloom Mountains SPA	004160	Hen Harrier	c11km, straight line distance. No physical or hydrological connection
Slieve Bloom Mountains SAC	000412	Northern Atlantic wet heaths with Erica tetralix Blanket bogs Alluvial forests with Alnus glutinosa and Fraxinus excelsior	c11km, straight line distance. No physical or hydrological connection

2.2.13. Having regard to the nature of the proposed development and site, the intervening distance and the lack of connectivity there is no possibility of impact on Slieve Bloom Mountains SPA/SAC.

2.2.14. Notwithstanding hydrological connection to the River Barrow and River Nore SAC, any impact the qualifying interest habitats or species of the protected site is not likely, either from construction or operation.

2.2.15. Foul effluent discharges to a municipal wastewater system which was upgraded in stages, following a process which included EIA and AA, and which the Board certified under reference PL.11.EC.2008. The previous overloaded system, for a p.e. (population equivalent) of 12,000 was increased to 39,000 p.e.

2.2.16. The issue identified in the grounds of appeal, and in the submission of Inland Fisheries Ireland in relation to 313771: overflow of the foul sewer into Kiliminchy lakes, is a local issue and is unlikely to impact on the qualifying interest habitats or species of the SAC. As stated in my inspector's report of 24th February 2023, the survey of the existing surface water drainage system, for which a contribution is required under condition no. 17 of that report, is likely to contribute to the remediation of this local issue.

2.3. Conclusion of Screening for Appropriate Assessment

2.3.1. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No. 002162, or any other

European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

2.3.2. This determination is based on the following:

Distance of the proposed development from European sites and lack of meaningful ecological connections to those sites.

2.3.3. This screening determination is not reliant on any measures intended to avoid or reduce potentially harmful effects of the project on a European Site.

3.0 Housing

3.1.1. Regarding the mix of housing types, densities and residential amenities of the development in light of the Laois County Development Plan 2021-2027, the layout is largely determined by existing development.

3.2. Density

3.2.1. The density stated in the application letter was 42 houses per hectare 'as the access road is provided outside of the site boundary line'. The architect responded to a further information request regarding density, stating that if the density is calculated to the centreline of the existing estate access road, the density is 33.7 units per hectare, and 31 units per hectare if the full width of the access road is included.

3.2.2. The 2009 guidelines (Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) states that net residential densities in the general range of 35-50 dwellings per hectare, involving a variety of housing types where possible, should be encouraged generally in outer suburban / greenfield sites. Circular Letter NRUP 02/2021 states that net densities of 30-35 dwellings per hectare may be regarded as acceptable in certain large town contexts, and net densities of less than 30 dwellings per hectare, although generally discouraged, are not precluded in large town locations.

3.2.3. In my opinion the density proposed is acceptable in the context of the site.

3.3. Mix of Housing Types and Residential Amenities

3.3.1. Policy Objective 1 (PO1) states: 'ensure that 35% of any residential developments (10 units or more) provides for single and two person households'.

- 3.3.2. The mix as proposed is: 12 x 2 bed, 16 x 3 bed and 2 x 4 bed. I consider this (40% 2 bed) to adequately provide for single and two person households.
- 3.3.3. The design is for twenty eight, two storey, semi-detached houses and two detached houses. The Consultation Paper – March 2023 ‘Sustainable and Compact Settlements Guidelines for Planning Authorities Proposed Policy Approach’, issued by the Department of Housing, Local Government and Heritage, states that ‘the continued application of suburban housing standards dating from the early 1900’s is hampering innovation in the housing sector in Ireland’ and advocates ‘the delivery of more compact and diverse housing typologies’. It also accepts the importance of ‘the receiving context’.
- 3.3.4. In my opinion this site is a situation where the receiving context is important. The site is a narrow strip, measuring from 30m to 35m across, with existing residential development to the rear, which limits the design of the site layout.
- 3.3.5. It is not readily apparent the extent to which the design has incorporated the principles of universal design and intergenerational design. Each dwelling has a ground floor level and all dwellings have space to the rear, such that adaptation to provide a downstairs bedroom and shower area is possible.
- 3.3.6. Where the recommended distance between opposing first floor rear windows is not achieved, first floor rear windows have been omitted and roof windows substituted.
- 3.3.7. There will be no impact on the residential amenities of adjoining residential properties arising as a result of the proposed development and the proposed development will be adequately provided with residential amenities.
- 3.3.8. I am satisfied that the density, mix of housing types, and the residential amenities, are acceptable in light of the Laois County Development Plan 2021-2027.

4.0 Other Issues

- 4.1.1. The Board should note that:
- mix of housing types, densities and residential amenities, and appropriate assessment

were not raised by the parties to the appeal and should the Board be minded to take these matters into account in their decision, section 137 of the Planning and Development Act 2000 as amended may apply.¹

Planning Inspector

5th October 2023

Appendices:

Appendix 1 Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), Guidelines for Planning Authorities 2009.

Appendix 2 Circular Letter NRUP 02/2021.

Appendix 3 Laois County Development Plan 2021-2027, extracts.

Appendix 4 Sustainable and Compact Settlements Guidelines for Planning Authorities Proposed Policy Approach, extracts.

Appendix 5 Housing For Older People – Thinking Ahead, Research Report by Amárach Research, Ronan Lyons, Lorcan SIRR and Innovation Delivery Commissioned by the Ireland Smart Ageing Exchange & the Housing Agency, October 2016.

¹ 137 (2) The Board shall give notice in writing to each of the parties and to each of the persons who have made submissions or observations in relation to the appeal or referral of the matters that it proposes to take into account.