



An
Bord
Pleanála

Inspector's Report

ABP-313771-22

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| Development | 85 houses with associated site development works. |
| Location | Kilminchy, Portlaoise, Co. Laois. |
| Planning Authority | Laois County Council |
| Planning Authority Reg. Ref. | 21543 |
| Applicants | Garryduff Properties Ltd |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission |
| Type of Appeal | Third Party |
| Appellant | John Cowhig |
| Date of Site Inspection | 19 December 2022 |
| Inspector | Dolores McCague |

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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 313709-22) 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 85, revised to 89 two-storey residential units, within a larger existing, incomplete development, where it will be accessed off existing roads 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. The Planning Authority (PA) carried out screening for appropriate assessment and a finding of no significant effects was made.
- 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.

2.2.2.

| European Site | Site Code | Relevant QI & SCI | Distance |
|---------------------------------|-----------|---|--|
| 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 Ranunculion fluitantis 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> | c 9km, straight line distance, in excess of 11km downstream. |

| | | | |
|----------------------------|--------|--|---|
| | | Nore Pearl Mussel | |
| 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 |

2.2.14. 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.

2.2.15. 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.

2.2.16. 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.

2.2.17. The issue identified in the grounds of appeal, and in the submission of Inland Fisheries Ireland in relation overflow of the foul sewer into Kiliminchy lakes, is a local issue and is not likely 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. The letter accompanying the application states:

The phase 1 and phase 2 lands can be constructed within the permitted timelines, however the completion of phase 3 element is not possible within the current time frame. The current application retains a lot of the features of the currently permitted development with some differences. The open spaces have been reconfigured and increased. In particular the open space along Lime Tree Avenue has been extended to 'punctuate' this long roadway and provide some open space in this location. It is proposed to omit the creche from this application as there is no current requirement for one in the area, as Kilminchy is very well served, with four existing creches which have capacity. The house types have been retained very much in line with what was granted previously, however the house sizes have been increased slightly to comply with current regulations.

3.1.2. The first planning report states that the density is 31 units per hectare and is acceptable.

3.1.3. Issues in relation to the housing layout were raised in the further information request, including a 22m distance between opposing first floor rear windows and encouragement of a 15m rear garden depth, the location of individual parking spaces, the design of the proposed roads, and provision of one and two bedroom units.

- 3.1.4. The response includes that a 22m distance between opposing first floor rear windows is provided in all cases; the proposal has been amended to include a block of duplex units: one and two bedroom units (5 x 1 bed and 5 x 2 bed), increasing the scheme from 85 to 89 units acceptable and representing over 11% of units.
- 3.1.5. This was achieved by replacing two pairs of semi-detached houses by a terrace of 10 duplex units, and a pair of semi-detached houses by a larger detached 5 bedroom house. An unrelated alteration to the layout replaced a pair of semi-detached houses by a larger detached 5 bedroom house, (net increase of 4 units).
- 3.1.6. Subject to confirmation of details in relation to open space, refuse storage and storage for these units, which were forthcoming, the planning authority found this acceptable. Issues in relation to the road layout were also satisfactorily resolved.

3.2. Density

- 3.2.1. 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 heavily influenced by the existing development.
- 3.2.2. The density stated in the first planning report provided 31 units per hectare. On the same basis the revised development, on which the PA's decision was based, is in excess of 32 units per hectare.
- 3.2.3. 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.
- 3.2.4. 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'. The proposed development provides 11% of units which are suitable for single and two person

households. This does not comply with the development plan objective. It was however found acceptable by the planning authority. Replacement of further detached or semi-detached houses, by duplexes similar to those currently proposed, would not unduly impact on the overall layout and could be conditioned.

- 3.3.2. The design is for two storey, detached and semi-detached houses and a two storey terrace of duplex units. 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’.
- 3.3.3. In my opinion this site is a situation where the receiving context is important. The site is a rectangular strip, partly to the rear of existing two-storey residential development. The site layout has two separate access points, from existing roads which run parallel to its long axis. Road layout details have been refined by the process of further information and clarification of further information.
- 3.3.4. The extent to which the design has incorporated the principles of universal design and intergenerational design is not readily apparent. Apart from the duplexes, 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.
- 3.3.5. Recommended distance between opposing first floor rear windows is achieved.
- 3.3.6. 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.
- 3.3.7. I am satisfied that the density, and residential amenities, are acceptable in light of the Laois County Development Plan 2021-2027. As noted above the mix of housing is deficient in its provision for smaller households.

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.