



An
Bord
Pleanála

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

Inspector's Report on Recommended Opinion

TC0016

Strategic Housing Development	Permission for 123 residential units, single storey crèche, vehicular connections and all ancillary site development works.
Location	Kill Hill and Earls Court, Kill, Co. Kildare
Planning Authority	Kildare County Council
Prospective Applicant	McCourt Investments Limited
Date of Consultation Meeting	6 th October 2017
Date of Site Inspection	30th September 2017
Inspector	Stephen Kay

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. The subject site is located on the eastern side of Kill Village in County Kildare. To the west, the site is bounded by the existing Earls Court residential development which comprises a mixture of terraced, semi detached and detached two storey dwellings. To the north west, the site adjoins a recently completed national school site. And to the north, the site fronts onto Kill Lane which is a private road that is currently unsurfaced.
- 2.2. The site slopes down generally from east to west and the highest part of the site is located in the south east corner. To the east, the site adjoins rising ground in the vicinity of Kill Hill and the area is characterised by archaeological features.
- 2.3. Overhead 110Kv power lines cross the site running from east to west. Site boundaries particularly along the eastern and southern boundaries of the site are characterised by mature hedgerows and there are a significant number of mature trees located within and bounding the site.
- 2.4. The stated area of the site is 6.3 ha.

3.0 Proposed Strategic Housing Development

- 3.1. The proposal comprises 123 no. residential terraced, semi-detached and detached units with the following mix: 12 no. two-bed units (10%) all of which are terraced, 28 three-bed units (23%), 32 no. three / four bed units (26%) and 51 four-bed units (41%). Units are proposed to be two storey with the exception of. House Type G (2 no.) and house Type H (5 no.) which are dormer designs.
- 3.2. The proposed development includes a crèche facility which has a floor area of 220 sq. metres. Access to the site is proposed to be from Kill Lane at the northern end of the site with two further vehicular connections and one pedestrian connection into the existing Earls Court residential development.
- 3.3. Landscaping and amenity areas amounting to a total of 1.72 ha. are proposed to be provided and this equates to approximately 27% of the site area. The site coverage figure is 15.2 percent and the plot ratio approximately 0.25. The gross density of the proposed development is c. 19.5 units per ha.

4.0 National and Local Planning Policy

4.1 National Policy

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant S.28 Ministerial Guidelines are:

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual')
- 'Design Manual for Urban Roads and Street (DMURS)'
- 'The Planning System and Flood Risk Management' (including the associated 'Technical Appendices')
- 'Childcare Facilities – Guidelines for Planning Authorities'

4.2. Local Policy

- 4.2.1 The site is within the area of the recently adopted Kill Small Town Plan which is included within the ***Kildare County Development Plan, 2017***. The site is zoned '***Objective C, New Residential***' under the provisions of this plan. There are no specific local objectives for the site identified on the zoning or objective maps included with the Kill plan.
- 4.2.2 Paragraph 1.5.7 of the Kill Small Town Plan sets out the principles governing the future development of the town. These include consolidating development within the town centre followed by the sequential development of land / sites in a logical progression from the town centre to the edge of the development boundary.
- 4.2.3 Paragraph 1.5.8.1 notes that the settlement strategy for County Kildare allocates a housing target for Kill of 422 units between 2011 and 2023. Residential development is identified as being accommodated on four sites, one of which is the site the subject of this pre application consultation. It is considered that having regard to the recommended 50% over zoning and to the extant permissions for residential development that the level of zoned lands is consistent with the Core Strategy.
- 4.2.4 Paragraph 1.5.8.1 of the Plan for Kill relates to water and wastewater and notes that future development may be impacted by limitations on the existing sewerage system and specifically the connection to the Osberstown WWTP.
- 4.2.5 Paragraph 1.5.8.8 relates to archaeology and notes the significant archaeological heritage in Kill. A zone of archaeological heritage has been identified and the subject site lies outside of this area. There are a number of identified sites in close proximity to the site of the proposed development.

5.0 Planning History

- 5.1. **Kildare County Council Ref. 06/1091**: Permission granted by the Planning Authority for a residential development comprising of 119 no. dwellings comprising a mixture of three and four bed detached and semi detached units. Permission was also granted for a 3.14 ha. site for a primary school. This site is the same as that

which is the subject of the current pre application consultation with the exception that the school site is now omitted. It is noted that permission was granted by the council on foot of a material contravention procedure and that at the time of making the decision to grant permission the majority of the site was not zoned for residential development. Condition No.46 attached to the grant of permission also restricted development to a maximum of 25 no. dwellings pending the signing of contracts for a number of wastewater upgrades and Condition No.3 requires that a part of the site would be transferred to the ownership of the Department of Education in advance of any development commencing.

- 5.2. **Kildare County Council Ref. 12/86:** Permission granted by the Planning Authority for the extension of duration of the above permission up to September, 2017.

6.0 **Forming of an 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. The following sections provide a brief overview of each of these information sources.

6.1. **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.

The information submitted included the following:

- Completed Application Form;
- Part V details,
- Site location plan and site layout plans,
- Drawings of house types including elevations,
- Public lighting layout,

- Block levels, watermain and drainage layout drawings
- Road details drawings,
- Attenuation details drawing,
- Landscape masterplan drawings.
- Schedule of areas,
- Correspondence from DoE regarding archaeology,
- Archaeological report,
- Report on potential significant effects on the environment and European sites,
- Screening statement for appropriate assessment,
- Statement of consistency with s.28 guidance,
- Tree survey of site

I have reviewed and considered all of the above mentioned documents and drawings.

6.2. Planning Authority Submission

In compliance with section 6(4)(b) of the 2016 Act the planning authority for the area in which the proposed development is located, Kildare County Council, submitted their opinion in relation to the proposed development. This document includes details of the section 247 consultations undertaken between the planning authority and the prospective applicant and also includes separate reports from the Transportation Department, Water Services Department, Heritage Office and the Housing Section of the council. The above information was received by An Bord Pleanála on 26th September, 2017.

The planning authority's 'opinion' included the following matters:

- Considered that the density figure of c. 20 per ha. is significantly lower than the 30-50 units per ha. specified in the outer suburban / greenfield lands designation however considered justified by peripheral location and the constraints resulting from the archaeological sites in close proximity.
- Considered housing mix generally acceptable but that a Statement of Housing Mix should be submitted as per Policy MD03 of the County Development Plan.

- Layout considered generally acceptable. Issues raised regarding the potential increase of the buffer strip on the eastern side and the breaking up of residential block containing Nos. 40-53.
- The impact of the removal of the hedgerow traversing the site needs to be the subject of further assessment. An ecological impact assessment is required.
- Additional photomontage views of the proposal in relating to Kill Hill are required.
- Concerns expressed regarding the appropriateness of the unit mix for Part V and the cost of units proposed under Part V.
- Potential impacts in terms of noise arising from the layout of the crèche and the proximity to the N7 identified.
- Significant wastewater constraints noted which are proposed to be removed under contract 2B of the Upper Liffey Valley Sewerage Scheme. The timeline for the resolution of these issues is stated to be Q2 2021. Noted that Irish Water require further discussions prior to the submission of an application and that a phasing restriction plan may be agreed with Irish Water.

6.3. The Consultation Meeting

A section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 6th October 2017, commencing at 3:00 pm. 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 advanced and which covered the following issues:

- Residential layout and relationship to site context and environs.
- Development density and compliance with national policy.
- Archaeology and impact on Kill Hill.
- Traffic and transportation including impact on N7 and compliance with DMURS.
- Drainage and current restrictions on wastewater capacity.
- Ecology.
- Part V issues.

In relation to **residential layout and density**, ABP representatives sought further elaboration / discussion on the proposed density and how that density would be justified in terms of quality of residential layout. Reference was made to the changed policy circumstances since the granting of permission in 2006 and specifically the publication of the Sustainable Residential Development in Urban Areas Guidelines and accompanying Urban Design Manual (UDM), and how development needed to address the 12 criteria in the UDM. Context, efficiency, distinctiveness and public realm were among the criteria specifically referenced by ABP representatives. Further elaboration / discussion was also sought on the set back to site boundaries, relationship of development to Kill Hill and location and layout of the crèche.

In relation to **archaeology** and the relationship of the proposed development to Kill Hill, ABP representatives sought further elaboration / discussion on the set back from site boundaries required by the DAU and how this could best be incorporated into the residential layout, the implications for the development arising from the 2004 Archaeological Impact Assessment of Kill Village commissioned by the DEHLG which identifies a significant buffer around Kill Hill and whether the recent views of the DAU have been obtained.

In relation to **traffic and transportation**, the representatives of ABP sought further elaboration / discussion on compliance with DMURS and the potential impact of the proposed development on J7 of the M7.

In relation to **drainage**, ABP representatives sought further elaboration / clarification on the constraints identified at the time of the 2006 permission, the existing constraints on the site and the likely timeline for resolution of these constraints.

In relation to **Part V** the representatives of ABP sought further elaboration / clarification on the issues raised by the Planning Authority relating to proposed size / form and location of units.

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 TC0016' which is on file. I have fully considered the responses and comments of the prospective applicant and planning authority in preparing the Recommended Opinion hereunder.

7.0 Conclusion and Recommendation

Based on the information presented, it is my opinion 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 presented including the documentation submitted by the prospective applicant, the submissions of the planning authority 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 development plan for the area.

Having regard to all of the above, I recommend that further consideration and/or possible amendment of the documents submitted are required at application stage in respect of the following elements: proposed Development Strategy including Design, Layout, Residential Mix and Open Space, relationship of development to Kill Hill and potential phasing of development having regard to infrastructural constraints.

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 requires further consideration and amendment in order to constitute 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.

8.0 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 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 requires further consideration and amendment to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could result in them constituting a reasonable basis for an application for strategic housing development:

Design, Layout and Unit Mix

1. Further consideration of documents as they relate to the layout of the proposed development particularly in relation to the 12 criteria set out in the Urban Design Manual which accompanies the above Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the Design Manual for Urban Roads and Streets. In further considering the 12 criteria, the prospective applicant may wish to focus on (i) the relationship of the development to Kill Hill (ii) the layout of roads and parking areas, (iii) the proposed unit including the mix required by the Planning Authority under Part V, (iv) the location of the proposed crèche building and relationship to adjacent residential properties and (v) the relationship of the proposed development to existing residential properties in Earls Court. Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

Public Open Space

2. Further consideration should be given to the proposed layout as outlined in the documents as it relates to the open space proposed particularly in the context of the relationship of these open space areas to Kill Hill and the usability of the open space on the site. Further consideration of this issue may require an amendment to the documents and/or design proposals submitted.

Infrastructural Constraints and Phasing of Development

3. Further consideration of documents as they relate to infrastructural constraints impacting the development potential of the site for residential use, specifically wastewater infrastructure. The Board particularly notes that servicing of the site is dependent on the undertaking of works on foot of Contract 2B of the Upper Liffey Valley Sewerage Scheme which is currently at design stage and which appears to require prior approval from 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:

1. Details of further consultation with Irish Water regarding the likely timelines for necessary infrastructural upgrades and a phasing plan which clearly indicates how development would proceed in tandem with completed and anticipated future delivery of the necessary infrastructural upgrades.
2. A site layout plan clearly indicating what areas are to be taken in charge by the Local Authority.
3. In the event that a crèche facility is not proposed a detailed assessment of the existing and likely future provision of childcare facilities in the area and how these would meet demand.
4. An assessment of the impact of traffic noise from the N7 on the proposed development.
5. Ecological assessment to include site survey, assessment of hedgerows and other vegetation proposed for removal and derogation licences if required.

6. A Construction Management Plan that would address, inter alia, the following; the protection of existing boundaries and landscape features during construction, protection of amenity of existing school and amenity of existing residential properties, measures to protect identified buffer zones to archaeological sites. Traffic impact assessment which indicates likely impact of development on existing junction 7 on N7.

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. The Minister for Culture, Heritage and the Gaeltacht (for archaeological heritage protection and nature conservation)
2. The Heritage Council
3. An Taisce
4. Inland Fisheries Ireland
5. Irish Water
6. Transport Infrastructure Ireland

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.

Stephen Kay
Senior Planning Inspector

October, 2017