



An
Bord
Pleanála

Inspector's Report ABP 304242-19.

Development	39 no. houses, associated car parking, completion of granted landscaped areas, roads, footpaths & site development works (granted under Reg. Ref. 03/430)
Location	Ballyknockan, Leighlinbridge, Co. Carlow.
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	18/111
Applicant	Ballyknockan Homes Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant	Ballyknockan Homes Ltd.
Observer	Ella McGuinn
Date of Site Inspection	6/8/19
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 2.9ha and is located on the western side of Leighlinbridge a village which straddles the River Barrow approximately 12km south of Carlow Town. The M9 Motorway is situated 0.85km to the west of the appeal site. Junction no. 6 serves Leighlinbridge and it is situated 4.2km to the north of the village. The R448 runs immediately to the west of the site and is at a lower level than the appeal site.
- 1.2. The site comprises the Ballyknockan Manor housing estate as built it contains 28 no. dwellings predominately two-storey and semi-detached. The housing estate is served by a vehicular access off Oldleighlin Road.
- 1.3. The Barrow Lough housing estate bounds the site to the east and Friar's Lough housing estate adjoins the site to the south. Leighlinbridge cemetery is situated to the north of the site on the opposite side of Oldleighlin Road and to the entrance to Ballyknockan Manor housing estate. The River Madlin a tributary of the River Barrow is located circa 34m to the west of the site on the opposite side of the R448.
- 1.4. The areas on site where it is proposed to locate the proposed dwellings consists of grassed areas which is secured from the existing development with ibex fencing. There is a number of concrete floor slabs located on site to the south of no. 16 Ballyknockan Manor.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of 39 No. new dwellings to include; 25 No. Terraced two storey houses (2 & 3 beds), 4 No. Semi-Detached bungalow houses (2 beds) and 10 No. Semi-detached two storey houses (2 & 3 beds); with the provision of rear access into terraced houses for bin storage, and associated parking; together with the completion of all previously granted landscaped areas, roads, footpaths and site development works associated with the previously granted development under PL Reg. No. 03/430 (PL01.206855).

2.2. As revised by the further information it is proposed to construct 36 no. dwellings. The revised layout consists of – 2 no. semi-detached single storey (2 bed units), 30 no. semi-detached (2-3 bed units) and 4 no. semi-detached (2 bed units). It is also proposed to complete the site works, landscaped areas, roads and footpaths.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was refused for the following reasons;

1. Article 6(3) of the EU Habitats Directive requires that a Planning Authority shall only agree to a plan or project after having ascertained that it will not adversely effect the integrity of the European Site concerned. Based on the information submitted with the planning application, it has been concluded that a Natura Impact Assessment is required which has not been submitted. Accordingly, in the absence of same the Planning Authority is not satisfied beyond reasonable scientific doubt that the proposed development would not significantly effect the River Barrow and River Nore Special Area of Conservation (SAC Site Code 002162) in view of the qualifying interests and the conservation objectives of this European Site.
2. The Appropriate Assessment Screening has concluded that the proposed development could give rise to effects on the River Barrow and River Nore SAC (002126) and that a Natura Impact Statement is required to determine whether the impacts have a detrimental effect on the site integrity, and if so whether the impacts can be avoided or reduced sufficiently to prevent any impacts. It is an objective of the Council under Heritage Objective 5 of the Carlow County Development Plan 2015-2021 “to support the protection of habitats and species covered by the EU Habitats Directive.....” Furthermore, it is the policy of the Council “to only authorise development after the competent authority has ascertained, based on scientific evidence that the plan or project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European Site...” (Ref: Heritage – Policy 2). Based on the information submitted the Planning Authority is not satisfied that the applicant

has demonstrated that the proposed development, would not give rise to ecological impacts and would not significantly effect the River Barrow and River Nore SAC. The proposed development would therefore materially contravene the provisions of the Carlow County Development Plan 2015-2021 and would be contrary to the proper planning and sustainable development of the area.

3. Insufficient information has been submitted to enable the Planning Authority to carry out a complete assessment of the viability/feasibility or otherwise of the network infrastructure/services available to cater for the proposed development. Accordingly, to permit the proposed development in the absence of detailed considerations and agreements in relation to same would be premature, would be prejudicial to public health and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further Information was requested regarding the following matters;

1. Section 2.5.5 of the Carlow Co. Development Plan 2015-2021 refers to development in towns and villages where no LAP exists. This section requires that no one proposal should increase the existing housing stock by more than 12.5% within the lifetime of the plan. The applicant should address this in respect of Leighlinbridge.
2.
 - a. Demonstrate how the proposal addresses the provisions set out in Section 2.5.5 of the Carlow Co. Development Plan in respect of infrastructure, design and contribution to the enhancement of the village form.
 - b. Demonstrate how the proposed scheme complies with development design standards set out in Chapter 11 of the Carlow Co. Development Plan

3. The applicant should clarify the number of dwellings proposed and submit revised plans accurately numbering the dwellings.
4. Submit revised plans redesigning a number of units to form semi-detached units with side access/gardens. Omit unit 25A and 25B. Provide visitor parking
5. Submit details for a designated children's play area within the development.
6. Submit details of a programme for works.
7. Submit details in respect of proposed water supply, waste water and surface water to serve the proposed scheme.
8. Submit details of proposed piped connect to foul effluent treatment plant
9. Prepare a noise survey in respect of the proximity of the proposed development to a high trafficked/high speed road.
10. Submit revised site layout showing all services (surface water, sewage, watermains, public lighting)
11. Submit detailed drawings of road layout with the development, clearly indicated traffic calming measures within the development in accordance with DMURS, submit revised site layout plan indicating proposed footpath along the public open space along the western boundary joining onto the main public road.
12. There is a stream running c55.74m west of the site. This stream is hydrologically linked to the River Barrow and River Nore cSAC located c110m south east of the site. The applicant is requested to submit an Appropriate Assessment Screening report to assess whether the proposed development either on its own or in conjunction with other similar developments in the vicinity would result in adverse effects on water quality in the watercourse and to the integrity of the River Barrow and River Nore cSAC.
13. Address the number of objections received in respect of the application.

Clarification of Further Information was requested regarding the following matters;

1. Further to item no. 7 there is insufficient information to enable the Planning Authority to carry out a complete assessment of the viability or otherwise of

the network infrastructure to cater for the proposed development. It is noted that Irish Water have stated in the case of waste water connections that a suitably sized pumping station may be required to be installed on site.

Therefore submit proposals for a pumping station and its location on site

2. In relation to item no. 11 the applicant is requested to liaise with the Area Technician for revisions to the proposed road layout within the development site.
3. Further to item 12, it is noted that the Appropriate Assessment Screening has concluded that there could be significant effects on the River Barrow and River Nore SAC (002126) and that it is necessary to carry out a Stage 2 Appropriate Assessment to determine whether the impacts have a detrimental effect on the site integrity, and if so whether the impacts can be avoided or reduced sufficiently to prevent any impacts. The Planning Authority concurs with this conclusion. Accordingly, the applicant is requested to prepare a detailed Natura Impact Statement (NIS), to include a comprehensive Environmental Construction Management Plan (CEMP) to identify if the proposed development is likely to have direct, indirect or 'in combination' impacts on the habitats and/or species for which the SAC is designated.

Planning Report dated – 20/3/19 – A Natura Impact Statement by way of clarification of further information was not carried out. The Area Engineer's Section raised issues regarding the roads layout, the applicant was advised to liaise with the Area Technician in response the applicant stated that they are in a position to do so. No response was received from Irish Water in respect of the proposals, Water Services Section of Carlow Co. Council have recommended in the event of a grant of permission that 4 no. conditions be attached. The Planning Authority in assessing the details submitted with the clarification of further information consider that there remain a number of concerns in relation to the development and in particular the shortcomings in the documentation submitted and particularly in respect of the shortcomings in respect of the Appropriate Assessment. The Planning Authority is not satisfied that the applicant has sufficiently demonstrated that the development

would not give rise to adverse ecological impacts and would not significantly effect the SAC and its conservation objectives.

3.2.2. Other Technical Reports

Transportation Department: Report dated 1/3/19 – Having regard to the details submitted with the response to the clarification of further information the Transportation Department is satisfied with the proposals subject to these proposals being adhered to.

Muinebheag Municipal District Engineer: Report dated 4/2/19 – further information sought in respect of roads design within the development.

Environment Section: Report dated 13/2/19 – grant of permission recommended.

3.3. Prescribed Bodies

Irish Fisheries Ireland: Report dated 14/5/18 – One of the potential impacts of the proposed development is the discharge of silt-laden waters to fisheries streams where earth moving and excavation works are on-going. It is important to incorporate best practises into construction methods and strategies to minimise discharges of silt/suspended solids to water.

Irish Water: Report dated 2/5/18 – Further information required. The existing development is served by both water, waste water and surface water system. The applicant to enter into a pre-connection agreement with IW in respect of water and waste water services to the estate and to submit certificate of feasibility from IW in respect of both water and waste water services. Applicant to submit details of existing partially constructed water and waste water services on site and confirmation from IW that they are prepared to accept these services as part of a connection agreement. The waste water serve to this estate is served by a pump station in an adjacent estate that is not in charge. The applicant to submit details in respect of the design, operation and maintenance of this station and confirmation from IW that they will accept to take in charge the station on completion. Applicant to submit details in relation to attenuation and route for surface water disposal.

Connection to the surface water system serving the R448 will not be accepted and outfall to be confirmed. All site development works to be completed to IW Standard Details. Applicant to submit confirmation from IW that they will accept non standard

site development works such as uPVC mains if necessary. Water supply and waste water treatment capacity may be an issue and IW to confirm in the Certificate of feasibility that supply and treatment capacity can be provided.

3.4. Third Party Observations

- 3.4.1. The Planning Authority received 12 no. submission/observation in relation to the application. The main issues raised referred to foul drainage, adequacies of infrastructure to accommodate the proposed development including pumping station, design and density of the proposed scheme.

4.0 Planning History

PA Reg. Ref. 03/430 & PL01.206855 – Permission was granted for the construction of 60 no. dwelling units within a residential housing estate at Ballyknockan, Leighlinbridge, Co. Carlow. including new vehicular and pedestrian access to public road, amenity landscaped parklands, and all associated site development works.

5.0 Policy Context

5.1. Project Ireland 2040 - National Planning Framework

- 5.1.1. The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. National Policy Objective 33 seeks to “prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location”.
- 5.1.2. National Policy Objective 35 seeks “to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.
- 5.1.3. National Planning Objective 13 also provides that “In urban areas, planning and related standards, including in particular 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. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected”.

5.2. Section 28 Ministerial Guidelines

5.2.1. 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.

- ‘Urban Development and Building Heights’ Guidelines for Planning Authorities
- ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ (including the associated ‘Urban Design Manual’)
- ‘Design Manual for Urban Roads and Streets’ (DMURS)
- ‘The Planning System and Flood Risk Management’ (including the associated ‘Technical Appendices’)
- ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities’

5.3. Carlow County Development Plan 2015-2021

5.3.1. Leighlinbridge is designated a smaller Town in Table 2.4 – County Settlement Hierarchy

5.3.2. **Extract from - Table 2.8 Core Strategy Table 2015-2021**

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Settlement Name	Core Strategy population allocation (Pop. Increase 2015-2021)	Housing Land requirement (Ha)	Existing Zoning (Ha)	Total No. of residential units required over period 2015-2021	Proposed zoning (Ha)	Total No. of residential units required over period 2015-2021 after adjustment * Note A	Proposed zoning (Ha) after adjustment
Leighlinbridge	135	4.2	20	84	4.2	77	3.9

5.3.3. Chapter 4 – refers to Housing

5.3.4. Chapter 11 – refers to Design and Development Standards

5.3.5. Appendix 11. – Settlement Development Boundaries

5.4. Natural Heritage Designations

5.4.1. The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The River Barrow and River Nore Special Area of Conservation (Site Code: 002162), is located approximately 82m to the south of the application site.

5.5. Environmental Impact Assessment (EIA)

5.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment 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 and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal was submitted by PMPT Ltd. Architecture on behalf of the applicant Ballyknockan Homes Ltd. The issues raised are as follows;

- In response to refusal reason no. 1 and no. 2 it is stated that a Natural Impact Statement (NIS) and Construction Environmental Management Plan (CEMP) have been submitted with the appeal to fully address the matters set out in the refusal reasons.
- In relation to refusal reason no. 3 the Planning Authority sought under further information and clarification of further information details in relation to the pumping station and foul drainage proposals. It is proposed to connect to the existing pumping station on adjacent development lands which already serves the existing houses within the subject site.
- Issues concerning surface water drainage have been addressed in the report prepared by Molony Millar Consulting Engineers.
- Regarding the matters raised in the further information and clarification of further information in relation to roads design, footpaths and parking these issues have been fully addressed in the report prepared by Molony Millar Consulting Engineers.
- Matters concerning foul drainage proposals including service pipe connections and proposed drainage layout are addressed in Appendix N in the report prepared by Molony Millar Consulting Engineers.
- The first party submit that they have fully addressed all the matters raised in the observations and submissions to the application including the provision of a construction management plan. The state that the proposed scheme seeks to complete the development and prevent the situation on site where there is incomplete development.
- In relation to concerns regarding the proximity of 4 no. semi-detached bungalows adjacent to the existing development outside the site, the proposed dwellings are now located 24m away from the existing property.

- Regarding the density of development the proposal seeks to provide 36 no. dwellings. Under Reg. Ref. 03/430 32 no. dwellings were approved within the same subject site. This is an increase of 4 no. units. It is considered that the proposal would not significantly increase the existing housing stock. Due to the economic downturn at the time of construction the scheme was not completed otherwise the remainder of the houses previously permitted would have been constructed and sold.
- The first party submit that they have met all requirements of Carlow Co. Council in respect of public and private open space.
- Regarding the issue of water pressure, this has been fully addressed in the report of Molony Millar Consulting Engineers.
- The existing site consists of a partially completed development. 28 no. two-storey houses have been completed and a further 32 no. dwellings were not completed. The applicant now wishes to construct 36 no. new dwellings as revised by the further information. The revised layout now consists of the following housing mix – 2 no. semi-detached single storey (2 bed units), 30 no. semi-detached (2-3 bed units) and 4 no. semi-detached (2 bed units). It is also proposed to complete the site works, landscaped areas, roads and footpaths.
- The applicant requests that the Board overturn the decision of Carlow County Council to refuse permission and grant permission for the proposed development.

6.2. Planning Authority Response

- The Planning Authority in their assessment of the application issued a request for further information on the 28th of May 2018. An application for a time extension under Article 33 (3) of the Planning and Development Regulations 2001 was submitted on the 24th of October 2018. A three month time extension was granted to the end of February 2019, which allowed nine months to prepare and submit a response to the further information.

- The applicant responded to the further information request on the 28th of February 2019 with a detailed Stage 1 Appropriate Assessment Screening report. The report stated that a Natura Impact Statement (NIS) is required however, one was not prepared and submitted.
- Based on the information submitted with the planning application, it has been concluded that a Natura Impact Assessment is required which had not been submitted.
- The Appropriate Assessment Screening has concluded that the proposed development could give rise to effects on the River Barrow and River Nore SAC (002126) and that a Natura Impact Statement is required to determine whether the impacts have a detrimental effect on the site integrity, and if so whether the impacts can be avoided or reduced sufficiently to prevent impacts.
- Based on the information submitted the Planning Authority was not satisfied that the applicant had demonstrated that the proposed development, would not give rise to ecological impacts and would not significantly effect the River Barrow and River Nore SAC. The proposed development if granted, would therefore materially contravene the provisions of the Carlow County Development Plan 2015-2021 and would be contrary to the proper planning and sustainable development of the area.
- The Planning Authority further considered that insufficient information was submitted to enable them to carry out a complete assessment of the viability/feasibility or otherwise of the network infrastructure/services available to cater for the proposed development. They concluded that to permit the proposed development in the absence of detailed considerations and agreements in relation to those matters would be premature and prejudicial to public health.

6.3. Observations

An observation has been submitted by Ella McGuinn. The issues raised are as follows;

- The observer is a resident of Oldleighlin Road and she objects to the proposal to construct 4 no. semi-detached single storey dwellings on an area of land adjacent to her home.
- It is submitted that the proposed development would block western light and sun light from the living area of the observer's home and that they would cause overshadowing of the dwelling and garden.
- It is considered that the proposed dwellings would be located close to the gable end of the observer's home and that they would overlook the conservatory and living rooms of the dwelling.
- The observer strenuously objects to the proposed development and submits that it would negatively impact upon the residential amenities of her property.

7.0 Assessment

I consider that the main planning issues in the assessment of the proposed development can be dealt with under the following headings:

- Development Plan policy and context
- Design and impact upon residential amenity
- Services
- Appropriate Assessment

7.1. Development Plan policy and context

- 7.1.1. This appeal relates to the development of a residential scheme as originally proposed comprising 39 no. dwellings. The design of the scheme was revised on foot of request for further information by the Planning Authority. The revised scheme comprises 36 no. dwellings. The appeal site comprises the 28 no. existing houses which have been development within Ballyknockan Manor the permission was granted under PA Reg. Ref. PA Reg. Ref. 03/430 & PL01.206855. The permitted scheme comprised 60 no. dwellings however the remaining 32 no. units were not

completed. The current proposal seeks to complete the development of the scheme including the completion of all previously granted landscaped areas, roads, footpaths and site development works.

7.1.2. In the assessment of the application the Planning Authority raised the matter of how the proposal would comply with Section 2.5.5 of the Carlow Co. Development Plan 2015-2021 refers to development in towns and villages where no LAP exists. This section requires that no one proposal should increase the existing housing stock by more than 12.5% within the lifetime of the plan. The previous Leighlinbridge Local Area Plan x is no longer in force. The subject site was zoned residential under the provisions of that LAP. As per Table 2.8 Core Strategy Table 2015-2021 in the County Development Plan a total no. of 77 residential units within Leighlinbridge is required over period 2015-2021 after adjustment taking into account the number of unoccupied units in unfinished estates and extant planning permissions for residential development.

7.1.3. The applicant in response to the matter stated that the proposal represents an increase of 4 no. dwelling units above the 32 no. dwellings which were previously approved within the same subject site. The Planning Authority accepted that the principle of residential development on the site in the context of the parent permission.

7.1.4. Accordingly, I would consider that the principle of the proposed development would be acceptable having regard to the provisions of Section 2.5.5 of the Carlow County Development Plan 2015-2021 and the planning history on the site.

7.2. Design and impact upon residential amenity

7.2.1. Chapter 11 of the Carlow County Development Plan 2015-2021 refers to development standards for residential schemes. The Planning Authority in their assessment of the proposed scheme considered that the design and layout should be revised in order to provide satisfactory private amenity space, adequate back to back separation between dwellings and adequate car parking.

7.2.2. Proposed unit 25A and unit 25B both semi-detached single storey dwellings were sited close to the adjacent dwelling the observer's property to the east on Oldleighlin Road. The dwellings had a setback of circa 8m to the boundary of the neighbouring

property. The omission of these units will serve to protect the residential amenities of the adjacent dwelling.

- 7.2.3. The revised site plan submitted to the Planning Authority on the 28/1/19 indicates proposed unit 25A and unit 25B omitted from the proposed scheme and the area forming part of the open space.
- 7.2.4. The applicants have proposed a number of different layouts and configuration of house types in terms of the drawings submitted with the application, in response to the further information and clarification of further information and also with the appeal. As detailed in the appeal submission as revised by the further information it is proposed to construct 36 no. dwellings. The revised layout consists of 2 no. semi-detached single storey (2 bed units), 30 no. semi-detached (2-3 bed units) and 4 no. semi-detached (2 bed units). This description of the houses types in the proposed scheme accords with the Site Layout Plan Drawing No: 3.2.100 submitted to the Planning Authority on 28/1/19. This proposal provides all dwellings with adequate private amenity space and two car parking spaces per dwelling. I would consider this an acceptable layout. However, should the Board decide to grant permission and consider that an alternative layout and configuration of house types would be more appropriate to provide a different mix of house types then layout proposed by the applicant with the appeal on 17/4/19 on Drawing No: 3.3.101 with unit 25A and unit 25B omitted could be considered.
- 7.2.5. Accordingly, having regard to the revised plans submitted on foot of the further information request by the Planning Authority, I consider that the design and layout of the proposed scheme is acceptable and in accordance with the provisions of Carlow County Development Plan 2015-2021.

7.3. **Services**

Foul Drainage

- 7.3.1. The proposed scheme features 36 no. residential units. As detailed in the report from Irish Water. The existing housing development Ballykockan Manor is served by both water, waste water and surface water systems. Regarding the existing foul drainage serving Ballykockan Manor, I note that there is an existing 225mm foul sewer which drains by gravity to a pumping station in the adjoining site. It is proposed that the piping will be re-laid at house no. 64 to provide a 6.0m wayleave.

- 7.3.2. In relation to matters concerning foul drainage proposals the first party submit that the report prepared by Molony Millar Consulting Engineers and supporting documentation and drawings provides sufficient information.
- 7.3.3. Drawing No: 930-248-C02 indicates the existing as built foul sewer. The applicant's consultant engineers confirm that they have legal title to use the pumping station and sewers in the adjoining Friars Lough development. The report from Irish Water dated 2/5/18 states that the pumping station in an adjacent estate that is not taken in charge.
- 7.3.4. In a correspondence from Irish Water to the Molony Millar Consulting Engineers dated 18/1/19, Irish Water confirmed that subject to confirmation that the pumping station meets the standards required by Irish Water, they would take it in charge following completion. Irish Water require that the applicant to submit details in respect of the design, operation and maintenance of this station and confirmation from IW that they will accept to take in charge the station on completion.
- 7.3.5. Having regard to the fact that the existing foul drainage system at Ballykockan Manor was constructed to serve the originally permitted 60 no. dwellings and that only 28 no. dwellings are completed, including connection to the pumping station at the adjoining Friars Lough development, I consider subject to the foul drainage proposals being carried out in accordance with the requirements of Irish Water that the proposal to connect 36 no. dwellings to the existing foul drainage system would be acceptable. Furthermore, I note the report of the Environment Section dated 13/2/19 which recommends a grant permission.

Surface water drainage

- 7.3.6. The surface water drainage system serving Ballykockan Manor comprises a 300mm diameter pipe which crosses the R448 and discharges to an open stream. Under the proposed scheme a new surface water attenuation tank is proposed to be located under the open space. The maximum discharge rate is proposed at 5.97 l/sec. This will discharge to the existing a 300mm diameter surface water drainage pipe.
- 7.3.7. Irish Water in the report dated 2/5/18 stated that connection of the surface water system to the surface water system serving the R448 will not be accepted and that an alternative outfall should be agreed. I consider that this matter can be addressed

by condition should the Board decide to grant permission for the proposed development.

Water supply

7.3.8. It is proposed to connect to the public mains. There is an existing 100mm diameter watermain on site with looped termination. It is proposed to extend the watermain to the remainder of the site. The existing and proposed watermain layout is indicated on Drawing No. 930-248-C03. The applicant's consultant engineers confirm that there is existing capacity in the public water supply to accommodate the proposed development.

7.4. Appropriate Assessment

7.4.1. Stage 2 Appropriate Assessment

7.4.2. A Natura Impact Statement (dated April 2019) was prepared by JBA Consulting and was submitted by the first party with the appeal.

7.4.3. Under Stage 2 Appropriate Assessment it is necessary to establish will the proposed development individually or in combination with other plans or projects adversely affect the integrity of the European sites in view of the sites' conservation objectives.

7.4.4. Having regard to the 'source-pathway-receptor' model the submitted NIS identified potential impacts on River Barrow and River Nore SAC (002162). The European site is located circa 82m to the south of the development site. A drainage ditch runs to the west of the proposed site and is connected by culvert to Parknakyle Stream located to the west of the R448. This stream flows into the Madlin River (Old Leighlin Stream) which is within the SAC and joins the River Barrow 1km downstream.

7.4.5. The qualifying interests/special conservation interests of the designated sites referenced above, are summarised as follows:

River Barrow and River Nore SAC
Estuaries [1130]
Mudflats and sandflats not covered by seawater at low tide [1140]
Reefs [1170]
Salicornia and other annuals colonising mud and sand [1310]

Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]

European dry heaths [4030]

Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]

Petrifying springs with tufa formation (*Cratoneurion*) [7220]

Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]

Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]

Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]

Austropotamobius pallipes (White-clawed Crayfish) [1092]

Petromyzon marinus (Sea Lamprey) [1095]

Lampetra planeri (Brook Lamprey) [1096]

Lampetra fluviatilis (River Lamprey) [1099]

Alosa fallax fallax (Twaite Shad) [1103]

Salmo salar (Salmon) [1106]

Lutra lutra (Otter) [1355]

Trichomanes speciosum (Killarney Fern) [1421]

Margaritifera durrovensis (Nore Pearl Mussel) [1990]

7.4.6. It is noted in the NIS that not all the qualifying features listed occur in the Zone of Influence of the development site. It is set out in the NIS that the qualifying features that could be potentially significantly impacted through water quality and water quality include:

- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]
- *Austropotamobius pallipes* (White-clawed Crayfish) [1092]
- *Lampetra planeri* (Brook Lamprey) [1096]

- Lampetra fluviatilis (River Lamprey) [1099]
- Petromyzon marinus (Sea Lamprey) [1095]
- Salmo salar (Salmon) [1106]
- Lutra lutra (Otter) [1355]

7.4.7. The Conservation Objectives for the above qualifying features of River Barrow and River Nore SAC are as follows;

- **Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachium vegetation [3260]** – to maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculus fluitantis and Callitriche-Batrachium vegetation in the River Barrow and River Nore SAC, which are defined by a list of attributes and targets.
- **Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]** – to maintain the favourable conservation condition of Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels in the River Barrow and River Nore SAC, which are defined by a list of attributes and targets.
- **Austropotamobius pallipes (White-clawed Crayfish) [1092]** – to maintain the favourable conservation condition of the White-clawed crayfish in the River Barrow and River Nore SAC, which are defined by a list of attributes and targets.
- **Lampetra planeri (Brook Lamprey) [1096]** – to restore the favourable conservation condition of Brook Lamprey in the River Barrow and River Nore SAC, which are defined by a list of attributes and targets.
- **Lampetra fluviatilis (River Lamprey) [1099]** – to restore the favourable conservation condition of the River Lamprey in the River Barrow and River Nore SAC, which are defined by a list of attributes and targets.
- **Petromyzon marinus (Sea Lamprey) [1095]** – to restore the favourable conservation condition of the Sea Lamprey in the River Barrow and River Nore SAC, which are defined by a list of attributes and targets.

- **Salmo salar (Salmon) [1106]** – to restore the favourable conservation condition of Salmon in the River Barrow and River Nore SAC, which are defined by a list of attributes and targets.
- **Lutra lutra (Otter) [1355]** – to restore the favourable conservation condition of the Otter in the River Barrow and River Nore SAC, which are defined by a list of attributes and targets.

7.5. It is set out in the NIS that there would be no direct effects upon River Barrow and River Nore SAC. There would be no direct habitat loss or fragmentation as a result of the proposed project. The only potential indirect adverse effects on the integrity of the European site arise from potential construction-related surface water discharges from the proposed development via surface water and groundwater pathways and the potential for these effects to reach downstream European sites.

7.6. In the absence of mitigation, accidental spillage of oils, cement or other potential pollutants, during construction works could potentially be released into the surface/storm water drainage network and ultimately to River Barrow via the Parknakyle Stream and Madlin River.

7.7. It was identified in the NIS that having regard to the source-pathway-receptor model, that potential effects could arise if considering a worst case scenario whereby the project may result in a significant detrimental change in water quality in the River Barrow either alone or in combination with other projects or plans as a result of indirect pollution. The effect would have to be considered in terms of changes in water quality which would significantly affect the habitats or food sources for which the River Barrow and Nore are designated including impact on food supply available to Otter, a qualifying interest of River Barrow and River Nore SAC.

7.8. The only potential adverse effects on the integrity of the European site arises from potential construction-related surface water discharges from the proposed development and the potential for these effects to reach downstream in the European site. It is submitted that standard best practice construction methodology will be carried out in accordance with a Construction Management Plan to be implemented during the construction phase. Management measures will include appropriate site-specific measures from the CIRIA Report C532 Control of Water Pollution from Construction Sites.

7.9. Mitigation measures have been outlined in section 6.3 of the submitted NIS, which state that a construction management plan will be carried out in order to avoid indirect pollution of the water course during construction. Mitigation measures include:

- The provision of a Construction and Environmental Management Plan (CEMP) to be submitted to Carlow Co. Council for agreement prior to site works commencing.
- There shall be no water abstraction from or discharges to Parknakyle Stream from the construction activities on the site.
- The site compound will be located within the site boundary and will be sites as far from the Parknakyle Stream as possible.
- Bunded storage of all fuels and refuelling area. Bunds shall be 110% capacity of the largest vessel contained within the bunded area.
- A separate container will be located in the Contractors compound to store absorbents used to contain spillages of hazardous materials.
- A maintenance programme for the bunded areas will be managed by the site environmental manager.
- Drainage collection system for washing area to prevent run-off into surface water system
- Provision of spill kits
- Provision of a water and sediment management plan to ensure no discharge to the ditch which connects to Parknakyle Stream including any suspended solids or other deleterious matter to the watercourses. All site runoff to be controlled and if necessary diversion to a sediment tank and the contents to be removed off site by a licenced waste contractor.

7.10. In my opinion, these are considered to be essentially best practice construction measures.

7.11. In relation to 'in combination' effects it is concluded in the NIS that given the inclusion of best practice construction measures to be implemented during the construction phase, there are no predicted in-combination effects.

- 7.12. The submitted NIS reviewed the predicted effects arising from the project and found that with the implementation of appropriate mitigation measures specifically in relation to surface water that adverse effects upon the integrity of the River Barrow and River Nore SAC can be ruled out.
- 7.13. It is concluded in the NIS that the implementation or operation of the project under the conditions of appropriate planning will not result in adverse effects to the conservation objectives or integrity of the River Barrow and River Nore SAC, or any other European Site, either alone or in combination with other plans and projects.
- 7.14. Having regard to all of the above and having examined the information before me, I am satisfied that the mitigation measures to be put in place, which are essentially best practice construction measures, will ensure that the conservation objectives and integrity of the Natura 2000 site identified above will not be adversely affected by construction-related surface water discharges from the proposed development. I consider that the proposed measures are clearly described, are reasonable, practical and enforceable. I also consider that they fully address the potential impacts arising from the proposed development such that it will not give rise to significant impacts either alone or in combination with other potential impact sources. I consider it reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site, in view of their Conservation Objectives.

8.0 Recommendation

- 8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the Carlow County Development Plan 2015–2021, the National Planning Framework, 2018–2040, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in May, 2009, Urban Development and Building Heights - Guidelines for Planning Authorities issued by the Department of Housing, Planning and Local Government in August, 2018, the planning history on site and the overall design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 28th day of January, 2019 and received by An Bord Pleanála on the 17th day of April, 2019, 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. This permission relates to the construction of 36 dwellings only, in accordance with the revised plans and particulars submitted to Planning Authority on the 28th day of January, 2019.

Reason: In the interest of clarity.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Surface water outfall connection to the surface water system serving the R448 will not be accepted. Prior to the commencement of development the applicant shall submit surface water outfall proposals for the written agreement of the Planning Authority.

Reason: In the interest of public health.

4. The applicant or developer shall enter into water and/or waste water connection agreement(s) with Irish Water prior to the commencement of this development.

Reason: In the interest of public health.

5. The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, and the basement car park, shall be in accordance with the detailed requirements of the planning authority for such works. All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points with a minimum 10% of spaces to be fitted with functional electric vehicle charging points.

Reason: In the interests of amenity and of pedestrian and traffic safety.

6. 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.

7. Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

8. The developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement of development. A practical completion certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.

Reason: To ensure full and verifiable implementation of the approved landscape design.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables crossing or bounding the site shall be relocated underground as part of the site development works, at the developer's expense.

Reason: In the interests of visual and residential amenity.

10. Proposals for the development name and numbering scheme and associated signage shall be submitted to and agreed in writing with the planning authority prior to commencement of development. Thereafter, signs and numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility, and to ensure the use of locally appropriate place names for new residential areas.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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.

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

12. The construction of the development shall be managed in accordance with a Construction 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 noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

13. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery (which shall not be within the areas designated for tree protection) and for storage of deliveries to the site.

Reason: In the interests of public safety and residential amenity.

14. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of residential amenity and public safety.

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and 3 (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended and of the housing strategy in the development plan for the area.

16. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting 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.

Siobhan Carroll
Planning Inspector

30th of August 2019