



An
Bord
Pleanála

Inspector's Report

ABP-306825-20

Development	Construction of 64 no. residential units.
Location	Loughminane Green, Green Road, Kildare, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19/1359
Applicant(s)	Keshmore Construction Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v. Refusal
Appellant(s)	Keshmore Construction
Observer(s)	None
Date of Site Inspection	20 th May 2020
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The eastern portion of the appeal site is located within the townland of Knockshough Glebe and the western portion of the appeal site is located in the townland of Whiteland West, approx. 500m north west of Kildare Town Centre and approx. 1km from the train station. The area is generally suburban in nature. There is also significant linear development from the site to the town centre.
- 1.2. The site is generally triangular in shape and has a stated area of 2ha. It is currently an open greenfield site and slopes slightly in a south western direction. It is bound to the north east by the existing Loughminane Green residential housing estate, to the west by an active farm and to the south by the Dublin Cork rail line and open fields.
- 1.3. Currently there is no direct vehicular or pedestrian access to the site. Pedestrian access to the site is available from Green Road via an active farm to the west of the appeal site.

2.0 Proposed Development

- 2.1. It is proposed to construct 64 no. residential units. The proposed scheme is located to the south of the existing Loughminane Green residential estate. It is proposed to remove an existing 2m high boundary wall at the end of an existing cul-de-sac within the estate to provide access to the development. The scheme is arranged around a circuitous estate road which results in the provision of 3 no. cul-de-sacs. An area of public open space (0.3ha) is provided along the southern portion of the site.
- 2.2. The proposed 64 no. units comprise 8 no. 1 bed duplex units, 14 no. 2-bed mid-terrace houses, 38 no. 3-bed semi-detached and end of terrace houses and 4 no. 4-beds detached houses. The development comprises 4 no. different dwelling types. All units are 2-storeys with a maximum height of 9.6m. The duplex units have a gross floor area of approx. 53-59sqm, the 2- bed units have a gross floor area of approx. 85sqm, the 3-bed units have a gross floor area of approx. 107sqm and the 4-bed houses have a gross floor area of approx. 130.5sqm.
- 2.3. The design of the scheme is a contemporary approach to a traditional style. The external finishes include painted selected brick cladding and render. Private open

space has been provided to the rear of each house with off-street car parking for 2 no. cars provided in a front driveway for each house. The 8 no. 1-bed units are provided in 2 no. 2 storey buildings, comprising 4 no. units each and are located at the eastern portion of the site. Communal car parking is proposed for these units and private open space is provided in the form of rear and side gardens.

- 2.4. The works also include the provision of a pumping station and a temporary construction access through the adjoining agricultural lands.
- 2.5. A Design Statement, a Planning Statement, a Traffic Impact Assessment, an Outdoor Lighting Report, a Landscaping Report and an Engineering Report were submitted with the application. A summary of correspondence with Irish Water regarding a pre-connection enquiry was also been provided.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons: -

1. Section 7.2.1 of the Kildare Town Local Area Plan 2012-2018 sets out the Councils policy in relation to 'New Housing Unit Targets, Phasing and Density'. Specifically, Policy HP2 of the Kildare Town Local Area Plan 2012-2018 seeks to ensure that new residential development is prioritised on land zoned Phase 1 and that Phase 2 will not be eligible for development until such time as Phase 1 lands are developed appropriately. A significant quantum of Phase 1 lands is yet to be developed and as such the proposed development would contravene materially the provisions of the Kildare Local Area Plan 2012-2018 and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the proximity and orientation of a number of proposed dwellings to the third-party dwellings at the northern boundary of the site, the proposed development would seriously injure the residential amenity of those dwellings, by reason of visual dominance and overshadowing. The dwellings to the eastern corner of the site are awkward in their siting and the juxtaposition

of these units would have a negative impact on the residential amenity of each other as it is considered that this area of the site is overdeveloped. Furthermore, the design of the public space is ill conceived and not integral to the overall design as its interaction with the dwellings proposed is poorly considered. As such the quality of the residential layout and design is substandard and the proposed development is considered to be in conflict with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment Heritage and Local Government in May 2009, and with the Kildare County Development Plan 2017 – 2023, it is considered that the proposed residential development would seriously injure the residential amenities of property in the vicinity and the residential amenities of future occupants and would, therefore, not be in accordance with the proper planning and sustainable development of the area.

3. In the absence of a flood risk assessment in accordance with the Planning System Flood Risk Management Guidelines for Planning Authorities 2009, the applicant has not demonstrated to the satisfaction of the Planning Authority that the proposed development is not subject to unacceptable levels of flood risk nor the potential flood risk to adjacent properties or roads. The proposed development, therefore, could lead to conditions which would be prejudicial to public health and be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. ***Planning Reports***

The area planners report raised a number of concerns regarding the proposed development and recommended that permission be refused for the reasons above.

3.2.2. ***Other Technical Reports***

Heritage Officer: recommended that an archaeological assessment of the site be requested by way of further information.

Road and Transportation recommended a traffic impact assessment, a road safety audit and details of the internal road layout, surface water arrangements, noise and public lighting be requested by way of further information.

Water Services: recommended that a flood risk assessment and details of the surface water drainage and attenuation details be requested by way of further information

Environment Section: No objection subject to conditions

Chief Fire Officer: Recommended that details of compliance with fire safety guidance would be provided, including auto-track drawings

Area Engineer: No objection subject to conditions

Housing Section: Recommended that a revised site layout be considered and details of compliance with storage space for the proposed Part V units be requested by way of further information.

3.3. Prescribed Bodies

Iarnrod Eireann noted that the existing road / rail interfaces are already under strain due to heavy usage and there are constraints on the surrounding road network, including a bridge at Green Road. Having regard to the site's proximity to the rail line it is recommended that conditions be attached to any grant of permission.

3.4. Third Party Observations

5 no. third party objections were received from residents of the existing Loughminane Green housing estate. The concerns raised included the following: -

- The area is subject to flooding;
- Sewerage system is at capacity in Kildare. There are on-going problems with the pumping station which serves the existing estate;
- Additional traffic generated by the development would result in a traffic hazard;
- noise disturbance during the construction phase would have a negative impact on the existing residential amenities;
- Schools are at capacity; and

- The proposed design is not in keeping with the character of the existing estate.

4.0 Planning History

Appeal Site

PL09.232560, Reg. Ref. 07/2273: Permission was refused in 2009 for the construction of 54 no. houses. The reasons for refusal related to (1) a potential traffic hazard due to a substandard road network and (2) the development would be prejudicial to public health due to the capacity of the proposed private pumping station.

Reg. Ref. 05/1039: Outline permission was refused in 2005 for 44 no. houses. The reasons for refusal related to (1) the location of the site in an area where it was policy of the Kildare Town LAP , 2002 not to permit development; (2) a potential traffic hazard due to a substandard road network; and (3) premature pending the construction of a waste water treatment plant in Kildare Town.

Surrounding Sites

Reg. Ref. 18/1026, Reg. Ref. 18/1027 and Reg. Ref. 18/1028 are located on one landholding located approx. 800m north east of the appeal site. The applications were lodged concurrently with the planning authority and are summarised below.

Reg. Ref. 18/1026: Permission was granted in 2019 for 99 no. residential dwellings and included the provision of the Southern Internal Link Road between Southgreen Road and Dunmurray Road.

Reg. Ref. 18/1027: Permission was granted in 2019 for 50 no. residential units and included the provision of the Southern Internal Link Road between Southgreen Road and Dunmurray Road.

Reg. Ref. 18/1028: Permission was granted in 2019 for 96 no. residential units and included the provision of the Southern Internal Link Road between Southgreen Road and Dunmurray Road.

PL09.302145 / Reg. Ref. 17/764: The appeal related to a development contribution only. Permission was granted in 2018 for modifications to development permitted

under Reg. Ref. 07/1450 to provide 191 no. residential units with 2 no. vehicular and pedestrian access points at Green Road and Southgreen Road. The works included the development of the Southern Internal Link Road between Southgreen Road and Dunmurray Road and a new pumping station within the site adjacent to Green Road, on an overall site of c. 9.17ha at Green Road and Southgreen Road (also known as Hill Road) and Old Road and Dunmurray Road (R401). This site is located approx. 300m north of the appeal site, on the opposite side of Green Road.

ABP - 305007-19: Permission was granted in 2019 for the construction of 375 no. residential units, a creche and all associated site works at the former McGee Barracks Site approx.

5.0 Policy Context

5.1. Kildare Town Local Area Plan 2012 – 2018

The subject site is identified as being within the settlement boundary for Kildare Town. The appeal site is located in an area zoned C - New Residential (phase 2) with the associated land use objective '*to provide and improve new residential areas and for associated local shopping and other services incidental to new residential development*'. This zoning provides for new residential development and associated local services ancillary to residential development. Section 7.2 of the plan sets out of number policies relating to the phasing, density, and design of new residential areas. Of particular relevance is HP2: -

HP 2: To facilitate the phased sustainable development of lands in Kildare for residential use in accordance with Map 8.1, to ensure compliance with the core strategy and the settlement strategy set out in Kildare CDP 2011–2017. In the event that permissions expire on existing zoned residential lands designated as Phase 1 consideration may be given to development of Phase 2 lands which are sequentially close to the town centre and are adequately serviced by appropriate infrastructure. The remaining Phase 2 lands will not be eligible for development until such time as Phase 1 lands are developed appropriately or until the review of this plan through the statutory process and in the context of the core strategy set out in the County Development Plan (CDP), as may be amended. The inclusion of new residential

Phase 2 lands within this plan will not in any way infer a prior commitment on the part of the Council regarding their future zoning for residential purposes with any future amendment or review of the Kildare LAP which would also be subject to Strategic Environmental Assessment (SEA), Appropriate assessment(s) (AA) and Flood Risk Assessment (FRA) as required under the relevant legislation.

5.2. **Kildare County Development Plan 2017 – 2023**

The settlement hierarchy identifies Kildare Town as a moderate sustainable growth town. The function of a moderate sustainable growth town is to develop in a self-sufficient manner, reducing commuting levels and ensuring sustainable levels of housing growth, providing a full range of local services adequate to meet local needs at district level and for surrounding rural areas. It is envisioned that the population of Kildare town will grow by 4.7% (1,527 residential units) over the lifetime of the plan.

Chapter 2 – Core Strategy, Chapter 3 – Settlement Strategy, Chapter 4 – Housing and Chapter 17 – Development Management Standards are considered relevant. In addition, the relevant policies of the Plan are set out below: -

Policy SS 4 Review the zoning of lands in instances where there is an oversupply of land for housing and to consider alternative land use zoning objectives to reduce the quantum of housing lands in the first instance. The phased development of housing lands will be considered as a secondary solution only.

Policy MDO 1 Require that new residential developments provide for a wide variety of housing types, sizes and tenures.

Policy HU 1 Seek to ensure that sufficient zoned land continues to be available at appropriate locations to fulfil the housing requirements of the county as set out in the Core Strategy.

Policy HC 1 Support the development of sustainable communities and to ensure that new housing development is carried out in accordance with Government policy in relation to the development of housing and residential communities.

Policy CP 3 Seek the provision and suitable management of children’s play areas in new housing developments and to implement measures to find suitable sites for their provision to serve existing residential areas.

5.3. ***Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 - 2031***

It is a key principle of the strategy to promote people’s quality of life through the creation of healthy and attractive places to live, work, visit and study in. Chapter 4 – People and Place notes that the zoning of land and planning permission alone, do not necessarily guarantee delivery and population growth in accordance with projected, targeted timeframes and that attention needs to be paid to the actual delivery to implement strategic aims and housing delivery.

5.4. ***National Planning Framework (2018)***

The relevant policies of the National Planning Framework which relate to creating high quality urban places and increasing residential densities in appropriate locations are set out below.

- Policy Objective 4
- Policy Objective 6
- Policy Objective 11
- Policy Objective 33
- Policy Objective 35

5.5. ***National Guidance***

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Area (2009).
- Urban Design Manual, A Best Practice (DOEHLG, 2009)
- Design Manual for Urban Roads and Streets

5.6. ***Natural Heritage Designations***

There are no designated areas in the vicinity of the site.

5.7. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the Planning Authority's decision to refuse permission. The submission addresses the 3 no. reasons for refusal and other items of concerns which were raised during the assessment by the Planning Authority. With regard to the second reason for refusal the applicant has submitted revised drawings with the appeal to address the concerns raised. It is proposed to omit 2 no. semi-detached houses in the eastern portion of the site and alter the layout of the duplex units. The proposed development therefore results in 62 no. residential units. In this regard 8 no. 1-beds, 14 no. 2-beds, 36 no. 3-beds and 4 no. 4-beds.

A flood risk assessment, a traffic and transportation review, a design statement, an outdoor lighting report and an archaeological assessment has also been submitted with the appeal. A letter from Cluid Housing, stating a potential interest in the development has also been submitted.

The submission addresses the 3 no. reasons for refusal and is summarised below: -

Zoning

- The proposed development is consistent with national and regional guidance, which promotes additional housing in appropriate locations.
- The site is zoned New Residential (phase 2) and dwellings are acceptable in principle under the Kildare Town LAP. Having regard to the site's proximity to the town centre it is difficult to understand the logic behind the Phase 2

residential zoning. The site is closer to the town centre and to the train station than some lands zoned phase 1.

- The council's assessment that phase 1 lands have not been appropriately developed is ambiguous and is not supported by any evidence. Many planning permissions on phase 1 lands are recent, as during the lifetime of the LAP, development in Kildare town was limited due to deficiencies in the public wastewater infrastructure and the economic climate. There are a number of recent planning permissions on phase 1 lands which are due to begin construction.
- A total of 19 no. sites in the settlement boundary for Kildare town have been zoned New Residential (phase 1). The site represents a small element of the phase 2 zoned lands and would not prejudice the development of the remaining phase 2 lands.
- The LAP allows for the development of Phase 2 lands subject to (1) the expiration of permission of Phase 1 lands, (2) Phase 2 lands being sequentially close to the town centre and adequately serviced by appropriate infrastructure and (3) to phase 2 lands being appropriately developed. The subject site is therefore an appropriate location to develop.
- The applicant has provided a breakdown of phase 1 lands in the town. It is noted that 16.8ha have not been subject to any planning permission in the past 8 years (lifetime of the plan), in this regard 9.4ha to the east of the town, 4.6ha of lands at south green to the north of the town and 2.8 ha which form part of a stud farm to the east of the town.
- Appendix B of the appeal provides a detailed planning history for Kildare Town.
- Regard should be had to the RSES for the midlands and east which notes that the zoning of lands does not guarantee delivery and population growth. This is also reiterated in Circular PL 8/2016 Rebuilding Ireland which notes that not all zoned land is available for residential development due to a variety of reasons.
- The lands are adequately serviced by appropriate infrastructure. There are no constraints to the site being developed. The development represents an appropriate housing mix and reflects a wide range of housing needs. Having

regard to national and regional guidance it is considered that the subject site which is ready to go and sequentially located to the town centre should be considered for development.

- It is also noted that the normal lifetime of an LAP is 6 years. The LAP has been in place for 8 years. It is considered that a review of the LAP would have included a review of planning permissions and phase 2 lands may of become phase 1.
- The proposed development is not a material contravention of the plan as the consideration of residential development on phase 2 lands is a matter of subjective opinion base on what is considered appropriate development of phase 1 lands.

Design and Layout

- The second reason for refusal related to the negative impact the design and layout of the proposed scheme. The first element of the reason for refusal related to a negative impact on the existing residential amenities. This is vague and ambiguous and does not specify which dwellings the concerns relate to. It is assumed that this concern relates to the 3 no. dwellings (no. 18, 41 and 42) which present a gable end to the rear gardens of existing gardens in Loughminane Green. The ground floor level of the residential units in the appeal site is lower than the ground floor level of the existing houses in Loughminane Green. Having regard to the level differences and the existing boundary wall the houses would not face an entire blank gable wall as only the first-floor level would be visible.
- It is unclear how the proposed development could have any negative impact in terms of overbearing or overshadowing as the gardens of houses in Loughminane Green are approx. 13.5m in length. A cross section drawing has been submitted which shows the sun path during summer and winter. It is considered that the development would result in a minimal impact in the summer and while the impact is greater in the winter, it would not result in undue overshadowing of the existing properties.
- The second element of the reason for refusal related to the overdevelopment of the eastern portion of the site. To address this concern the applicant has

submitted a revised layout with the appeal which reduces the number of units on site from 64 to 62. The revised layout also takes account of concerns raised regarding access for emergency vehicles. It is considered that any concerns regarding the layout of the development could be dealt with by way of condition.

- The final element of the reason for refusal related to the design of the public space. The public open space is provided along the southern boundary of the site to provide an additional buffer to the rail line. The vast majority of residential units face onto the area of public open space. While it is noted that the proposed dwellings in the north west portion of the site do not front direction onto the area of public open space, it is considered that there is no housing estate where all houses front directly onto the green area. The objective is to ensure that all dwellings are conveniently accessible to public open space. The furthest dwelling to the open spaces is approx. 94m or 1 minute walk. This is considered a reasonable distance.
- It is also noted that similar housing estate layouts with similar distances from areas of public open space have been recently granted by the council, in particular Reg. Ref. 17/764 which is located at Southgreen, north of the subject site.
- The applicant disagrees that the quality of the residential layout is substandard and would seriously injure the residential amenities of property in the vicinity and of future occupants. The proposed development would provide much needed high standard accommodation close to existing established schools, amenities and residential communities. It would be a positive contribution to surrounding areas and to Kildare town.

Flood Risk

- The third reason for refusal related to flood risk. The site is not located in an area where a site specific flood risk assessment is required under the LAP. To address concerns a flood risk assessment has been submitted with the appeal. It is noted that the site is associated with a small area of pluvial flooding in the south-west corner, at the lowest part of the site. The drainage system proposed for the site would ensure that all surface water is collected and managed within the site and would not result in an increased risk of pluvial flooding elsewhere.

Legal Issues

- A solicitors letter has been submitted with the appeal which states that the applicant has a sufficient legal interest to avail of access through Loughminane Green.

Boundary Treatment

- There is no objection to the provision of a 2.4 m high wall along the southern boundary of the site as requested by Iarnrod Eireann. This could easily be screened by the provision of a new hedgerow. The applicant does not consider that the provision of a 2.4m high wall would have a negative impact on the amenities of future occupants of the development.
- The applicant has stated that the removal of a hedgerow to accommodate a residential development is not uncommon. The revised drawing submitted indicate that sections of the hedgerow could be retained adjacent to the proposed car parking areas. It is proposed that a replacement hedgerow could be provided along the southern boundary of the site.

Storage Space

- There is no reference in any guidance to attic space being excluded with regard to storage area. It is also considered likely that the residents would purchase sheds to provide any additional storage needs.

Private Open Space

- The revised layout submitted with the appeal ensures that all dwellings reach and exceed the private open space requirements.

Traffic

- Concerns raised by Iarnrod Eireann regarding the increased potential for collisions and or bridge strikes is unfounded. The proposed development would not result in a significant increase in traffic movements on the surrounding road network to result in a traffic hazard. These concerns have not been raised by the planning authority for recently approved residential developments in Kildare Town.

- A Traffic and Transportation Review has been submitted which addresses concerns raised by the planning authority. It is considered that the proposed development would not result in a traffic hazard and all matters can be addressed during the detailed design stage in agreement with the local authority.

Archaeology

- An Archaeological Impact Assessment has been submitted with the appeal. There are no known items of archaeological heritage in the appeal site or in the surrounding area.

6.2. Planning Authority Response

No further comments

7.0 Assessment

7.1. To address the 3 no. reasons for refusal and other items of concerns which were raised during the assessment by the Planning Authority the applicant submitted a revised scheme which omitted 2 no. semi-detached houses in the eastern portion of the site and altered the layout of the duplex units. As indicated, the appeal refers to this revised scheme as submitted with the appeal on the 5th March 2020. The main issues in this appeal relate to the principle of the development, design and layout and flood risk. Traffic and Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Principle of Development
- Design and Layout
- Flood Risk
- Traffic
- Appropriate Assessment

7.2. ***Principle of Development***

- 7.2.1. The subject site is located within the settlement boundary for Kildare Town and is zoned C - New Residential (phase 2) with the associated land use objective '*to provide and improve new residential areas and for associated local shopping and other services incidental to new residential development*'. This zoning provides for new residential development and associated local services ancillary to residential development.
- 7.2.2. The planning authority's first reason for refusal related to non-compliance with Policy HP2 of the Kildare Town LAP, 2012-2018, which seeks to ensure that new residential development is prioritised on land zoned Phase 1 and that Phase 2 would not be eligible for development until such time as Phase 1 lands are developed appropriately.
- 7.2.3. Policy HP2 seeks to facilitate the phased development of land to ensure compliance with the core strategy and the settlement strategy set out in Kildare County Development Plan. Variation no. 1 of the Kildare County Development Plan 2017-2023 revised the core strategy to reflect the objectives of the Regional Social and Economic Strategy and the National Planning Framework. The current plan sets a target of 283 no. additional dwellings by 2023 and a total of 661 no. housing units by 2026 for Kildare Town. As noted above, in Section 4, there have been 4 no. recent planning permissions for residential developments, which would provide a total of 436 no. new residential units. These development sites are located to the north east of the appeal site, on lands zoned Residential Phase 1. Permission has also been granted for the redevelopment of McGee Barracks, which would provide 375 no. additional units. This site is located in the town centre, on lands zoned for regeneration. Therefore, there is currently permission for a total of 811 no. residential units within the town. The quantum of residential units already permitted is significantly above the number of units permissible in the core strategy, for both 2023 and 2026.
- 7.2.4. In the appeal, the applicant states that Policy HP2 is subjective and that Phase 1 lands have been appropriately developed. A detailed planning history for Phase 1 lands has been provided, which indicates that the remaining undeveloped Phase 1 lands are unlikely to be developed. The applicant argues that the appeal site is in accordance with Policy HP2 and is an appropriate location for residential development as Phase

1 lands have been adequately developed, the site is located sequentially close to the town centre and is adequately serviced by appropriate infrastructure.

- 7.2.5. It is noted that subject to certain criteria Policy HP2 does allow for the consideration of Phase 2 lands to be developed, however, having regard to the quantum of extant permissions for residential development within Kildare Town, it is my view that the proposed development would contravene the core strategy of the Kildare County Development Plan, 2017 – 2023 and, therefore, Policy HP2 of the Kildare Town LAP, 2012-2018 (as extended) and would be contrary to the proper planning and sustainable development of the area. It is recommended that permission be refused on this basis.

7.3. ***Design and Layout***

- 7.3.1. The development is located to the south of the existing Loughminane Green residential estate and is accessed via the existing estate road. Due to the access arrangements it is my opinion that the development is effectively an extension to the existing residential estate. The proposed scheme is arranged around a circuitous estate road which results in the provision of 3 no. cul-de-sacs and a large area (0.3ha) of public open spaces located along the southern boundary of the site.
- 7.3.2. The second reason for refusal comprised 3 no. elements which related to the design and layout of the scheme. To address these concerns the applicant submitted a revised scheme with the appeal which resulted in minor alterations to the layout and reduced the number of units on site from 64 to 62. The proposed development comprises 8 no. 1-beds, 14 no. 2-beds, 36 no. 3-beds and 4 no. 4-beds. Policy MDO 1 requires that new residential developments provide for a wide variety of housing types, sizes and tenures. It is my view that the proposed housing mix is in accordance with development plan standards. Table 4.2 of the development plan sets out indicative density levels. With regard to outer suburban / greenfield sites in large towns as density of 30 – 50 units per hectare is recommended. Excluding the area of open space (0.3ha) the proposed site has a density of 36 units per ha.
- 7.3.3. The first element of the refusal related to the proximity and orientation the proposed dwellings and the potential for overbearing impact and overshadowing of existing properties at the northern boundary of the site. The proposed residential on the

eastern portion of the site have a southern orientation. The rear garden of these units varies from approx. 9m to approx. 10m and the rear building lines of the units are a minimum of approx. 13m from the gable end of the existing houses. The proposed duplex unit located in the eastern corner of the site has an eastern orientation. The gable end of this building is located approx. 4m from the gable end of an existing house. The proposed houses on the western portion of the site have an eastern and western orientation. The rear garden of the existing houses in Loughminane Green are approx. 12m in length. The rear building line of these houses are a minimum of approx. 15m from the gable end of the proposed dwellings. It is also noted that there is an existing 2m high boundary wall along the northern boundary of the site.

- 7.3.4. A site cross section was submitted (drawing no. 4301-04) with the appeal which shows the proposed development in the context of the existing houses along the northern site boundary. Having regard to the orientation of the existing and proposed dwellings and the separation distances, it is my opinion that the proposed development would not result in any negative impacts on the existing residential amenities in terms of overlooking, overshadowing or overbearing impact of existing houses located to the north and west of the appeal site.
- 7.3.5. The second element of the reason for refusal considered that the dwellings in the eastern portion of the site were awkward in their siting and the juxtaposition of these units would have a negative impact on the residential amenity of each other as it is considered that this area of the site is overdeveloped. To address this concern 2 no. semi-detached units have been omitted from the eastern portion of the site and the siting of the duplex units has been altered. In this regard, one of the duplex buildings has been re-orientated to provide a continuous row of units with a generally southern orientation. The second block has also been relocated further east within the site and reoriented to provide a western orientation. The buildings are separated by the internal access road and communal car parking. There is a separation distance of approx. 25m between the buildings. In my view, the revised layout addresses the concerns raised by the planning authority and does not result in overdevelopment of the site.
- 7.3.6. The final element of this reason for refusal related to the design of the public space. It considered that the public space was ill conceived and not integral to the overall design and its interaction with the dwellings proposed is poorly considered. In response the

applicant has stated that the majority of units within the scheme front directly onto the area of open space and that the location of the public open space along the southern boundary of the site provides an additional buffer to the rail line.

- 7.3.7. The planning authority's concern regarding the overall layout of the scheme, in particular the location of the open space, are acknowledged. However, having regard to the constraints of the site, in this regard the triangular shape of the site and the proximity to the railway line, and to the pattern of the development in the adjoining Loughminane Green residential estate it is my view that the proposed design and layout is acceptable and would not negatively impact on the existing residential and visual amenities of the area.

7.4. **Flood Risk**

- 7.4.1. The planning authority's third reason for refusal considered that in the absence of a flood risk assessment, the applicant had not demonstrated that the proposed development is not subject to unacceptable levels of flood risk nor the potential flood risk to adjacent properties or roads. To address this reason for refusal a Site Specific Flood Risk Assessment was submitted with the appeal.
- 7.4.2. The FRA notes that the Tully Stream is located approx. 2.4km south east of the site and is not considered to pose a flood risk to the site. The OPW maps indicate that a small portion of the south western corner of the site, which is the lowest part of the site, was subject to pluvial flooding. It is noted that the site is located outside of a flood zone and is not at risk of fluvial or groundwater flooding.
- 7.4.3. The potential flood risk to the site can, therefore, be attributed to pluvial flooding and from a potential surcharge / failure of the urban drainage infrastructure within the vicinity of the site.
- 7.4.4. The low-lying area in the south west corner of the site is adjacent to a railway embankment. The FRA considered that ponding could occur in this area during periods of prolonged or heavy rain. The FRA notes that there is a farm underpass beneath the railway embankment on the adjoining site, which allows for any potential pluvial flood waters to spill to the southern side of the railway. Therefore, it is considered that pluvial flooding does not pose a significant risk to the site. However, it

is recommended that houses 58 – 62 in the south western corner of the site be constructed at a minimum level of 0.5m above the existing ground level.

- 7.4.5. With regard to potential flood risk from surcharge / failure of the urban drainage system is the FRA recommends that the sites surface water management system take into account any potential additional surface water run off that may enter the site.
- 7.4.6. Having regard to the information submitted within the FRA and to the proposed mitigation measures, I am satisfied that the proposed arrangements are sufficient to cater for surface water run-off relating to the site and would not result in flooding of the appeal site or of adjoining properties.

7.5. **Traffic**

- 7.5.1. Under both Reg. Ref. 07/2273 and Reg. Ref. 05/1039 one of the reasons for refusal for the residential development of the subject site related to the potential for a traffic hazard. The planning authority's Road and Transportation section raised concerns regarding the proposed development and recommended that further information be sought. However, this concern did not form part of a reason for refusal.
- 7.5.2. A Traffic Impact Assessment was submitted with the application and a Traffic and Transportation Review was submitted with the appeal to address the concerns raised by the planning authority.
- 7.5.3. A traffic survey carried out in October 2019 as part of the TIA indicated that vehicular movements at the junction of Green Road and Loughminane Green are low, in both the AM and PM peak and that traffic is generally free flowing. It is also noted that traffic is restricted by a one-way system over a railway bridge on Green Road. The TRICS database was used to estimate the potential number of trips generated by the proposed development. It found that the proposed development has the potential to generate an additional 35 no. trips (9 no. arrivals and 26 no. departures) in the AM peak and 35 no. trips (23 no. arrivals and 12 no. departures) in the PM peak. To assess the capacity of the junction of Green Road and Loughminane estate the computer modelling program PICADY was used. The assessment indicates that the proposed development would not impact on the capacity of the surrounding road network.

- 7.5.4. The information submitted with the appeal notes that the internal road layout has been designed in accordance with DMURS and that it has been designed to accommodate the required turning movements of fire and refuse trucks.
- 7.5.5. Iarnrod Eireann submission to the planning authority raised concerns that the existing road / rail interfaces are already under strain, due to heavy usage and there are constraints on the surrounding road network, including a bridge at Green Road. While it is acknowledged that there may be constraints on the surrounding road network having regard to the evidence submitted, it is my view that the potential number of trips generated by the proposed development would not have a significant impact on the capacity of the network and that the proposed development would not result in a traffic hazard or generate any road safety issues.
- 7.5.6. The submission from Iarnrod Eireann also requested that due to the site's proximity to the rail line that a condition be attached to any grant of permission that the site's southern boundary with the railway line comprises a 2.4m high wall. The applicant has stated that they have no objection to the boundary treatment.

7.6. ***Appropriate Assessment***

Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

I recommend that permission be refused for the reasons stated in the attached schedule.

9.0 **Reasons and Considerations**

1. The site is located in an area zoned C - New Residential (Phase 2). Policy HP2 of the Kildare Town Local Area Plan 2012-2018 (as extended) aims to facilitate the phased sustainable development of lands in compliance with the core strategy and the settlement strategy set out in Kildare County Development Plan and seeks to ensure that new residential development is prioritised on land

zoned Phase 1. Having regard to the residential Phase 2 zoning objective of the site, the provisions of the core strategy and the quantum of extant permissions for residential development within the boundary of Kildare Town, the proposed development would contravene Policy HP2 of the Kildare Town Plan 2012-2018 (as extended). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Elaine Power

Planning Inspector

22nd September 2020