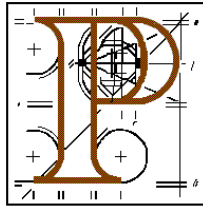


An Bord Pleanála



Inspector's Report

Development: Permission for residential development, crèche and associated and ancillary site development works including link road on lands comprising 12.443ha bounded by the M4 motorway to the south, Barton Bus depot to the west, Lidl supermarket to the north-west, Carton Court Estate to the north, Greenfield Drive and Maynooth Park to the north east and Griffin Rath manor to the east. This is a revision to the previously permitted approved development under Reg. Ref. 06/1379 (extended under Reg. Ref. 12/26) and PL.09.223355 and will consist of (a) 2 storey crèche 552sq.m. (b) 9 no. 2 bed apartment in a 3 storey block (c) 17 no. house type A 4 bed (d) 18 no. house type B 3 bed (e) 25 no. house type B1 4 bed (f) 14 no house type C 4 bed (g) 35 no. house type D 4 bed (h) 29 no. house type D1 4 bed (i) 38 no. house type F 3 bed, (j) 3 no. house type G 4 bed (k) 22 no. house type H 4 bed. Total number of dwellings 210 at Greenfield, Maynooth, Co. Kildare.

Planning Application

Planning Authority: Kildare County Council
Planning Authority Reg. Ref.: 15/200
Applicants: Kelston Properties Ltd
Type of Application: Permission
Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant: Kelston Properties Ltd
Type of Appeal: First Party V Refusal
Observers: Govindaraju and Krishnaja Jayasamraj
Carton Court Residents Association
Date of Site Inspection: 3rd May 2016

Inspector:

Joanna Kelly

Appendices:

Appendix 1 Site Location Map

Appendix 2 Photographs and Site key Plan

Appendix 3 Extracts from NPWS website, Rye Water SAC Conservation Objectives

1.0 INTRODUCTION

This appeal pertains to a First party appeal against the notification of a refusal of permission from Kildare County Council for a housing development in Maynooth.

2.0 SITE DESCRIPTION

- 2.1 The appeal site has a stated site area of c. 12.443 hectares. The site is bounded by the M4 to the south, commercial developments to the west and housing developments to the north and east. The site enjoys easy access from exit 7 junction off the M50. There are existing ESB lines that traverse the site. It was not possible to gain direct access into the site due to gates/barriers etc. however the site has been inspected from all nearby/adjacent residential/commercial areas. The established residential developments in the area are predominantly two-storey. It is noted that Griffin Rath Manor contains some three storey structures.
- 2.2 The site is currently agricultural land, the levels of which are undulating with two notable hallow areas within the site. These areas correspond with the flood areas identified in the application: the first being to the north of the site located on an area identified for public open space and the second being along the western boundary.
- 2.3 There is an existing spine/distributor road constructed within the Griffin Rath Manor housing development as far as the boundary of the appeal site. It is proposed as part of this application to construct the remaining portion of this spine road so as to link with the remaining section of the road to the west between the Lidl and Noone Motors/bus depot development.
- 2.4 With regard to existing boundary treatments, there are existing walls that bound the Carton Court and Griffin Rath Manor housing developments and the appeal site. Pursuant to site inspection, it is noted that the levels within the appeal site are lower than those of the dwellings/road levels within Carton Court. Dumping was also evident over this boundary wall at time of inspection.

3.0 DESCRIPTION OF PROPOSED DEVELOPMENT

- 3.1 The proposal involves the construction of 210 houses on a site where a residential development of 209 units has been permitted. There are 12 no. house types proposed throughout the scheme which are generally two storey and some of which are two and a half storey. The mix of dwelling types are as follows: 21 no. two bed units; 75 three bed units; 114 four bed units and 5 no. five bed units.

The proposal also provides for the delivery of a public open space area of 2.13 ha to the north of the site on lands currently zoned public open space. Public open space is also provided to the south of the residential scheme which bounds the M4 motorway.

4.0 TECHNICAL REPORTS

4.1 Planning report

The first planning report recommended a further information request in relation to design and layout; omission of apartments; open space; boundary details; details relating to the improvements to the capacity of the Lidl junction on Straffan Road and the interchange on the M4.

Submissions from third parties to the application raised concerns about flooding; impact on residential amenity; density; overshadowing etc.

The planner's report prepared in response to the further information submission recommends a refusal of permission for 6 no. reasons as cited in the Planning Authority decision below. The report specifically notes that a site specific flood risk assessment is required given the level of flooding on site. The TIA was considered inconclusive and incomplete.

4.2 Water Services

Further information required in respect of surface water sewer layout drawing giving cover levels and invert levels for manholes; longitudinal sections for all foul and surface water sewers; letters of consent in respect of outfall pipe.

The subsequent report recommended a refusal of permission as the concerns regarding the considerable recent flooding of the site as indicated in photographs were not addressed. A robust flood risk assessment report is required before any development of the site could be considered.

4.3 Senior Executive Engineer – Transportation Department

Further information required and included details in respect of cycle /pedestrian links to Scoil Ui Fiach and Carton Court; shared surface details; clarification regarding road tie-ins; Road Safety Audit report; revisions to TIA to reflect general traffic growth; existing queuing details on Straffan Road etc.

Section 131 Consultees

The appeal was referred to The Office of Public Works

5.0 ENVIRONMENTAL IMPACT STATEMENT

The proposed development is not of a class specified in Schedule 5 of the Planning and Development Regulations. The proposal does not exceed a quantity, area or other limit specified in that schedule which would require the applicant to submit an EIS. It is also considered that the proposal would not likely have significant effects on the environment so as to warrant the submission of an EIS.

6.0 PLANNING AUTHORITY'S DECISION

The Planning Authority refused permission for the following reasons and considerations:

1. Notwithstanding the revisions to the site layoutthe planning authority considers the revisions to be inadequate, particularly with regard to plot sizes and configurations which, in some cases are irregular and awkwardly shaped and would lead to a significant appearance of bulk and massing within the site.the provision of a number of 2.5 storey dwellings along the boundary with existing 2 storey dwelling at Griffin Rath Hall is considered to be **injurious to the residential amenity of adjoining residences**, by reason of height and bulk. It is considered, therefore, that the **proposed development represents a substandard form of development** for future residents, would seriously injure the residential amenity of property in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the applicant's response to further information, the planning authority is not satisfied that the proposed development has addressed all of the relevant issues relating to roads and traffic issues. The provision of driveways requiring occupiers to reverse onto the proposed road objective TRO 2 (a) of the Maynooth Local Area Plan 2013-2019 **would endanger public safety by reason of traffic hazard** and the failure to provide a 2m wide footpath in shared surface areas would be hazardous to pedestrians. To permit the proposed development would therefore, be **prejudicial to public safety by reason of traffic hazard** and obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area.
3. Having regard to the location of the site in close proximity to the national road network, to the level of traffic in the vicinity at peak time, to existing deficiencies in the local road network and to the applicant's failure to adequately address the requirements for comprehensive traffic impact assessment of the proposal, it is considered, in the absence of such

information, that to permit the proposed development **would be premature by reference to the existing deficiency in the road network and pending the provision of an adequate road network to resolve this deficiency**, would therefore be contrary to the proper planning and sustainable development of the area.

4. Having regard to the site layout of the proposed development which includes junctions in close proximity to and opposite the Noone HGV Centre and to the contents of the submitted Road Safety Audit which identifies safety concerns for vehicles in these locations, it is considered that to permit the proposed development would **endanger road users and public safety by reason of traffic hazard** and would therefore be contrary to the proper planning and sustainable development of the area.
5. Having regard to the failure of the applicant to provide for adequate and appropriately located car parking to serve the crèche, to the lack of swept path analysis of the site, to the lack of detail on the proposed pedestrian crossing of the new roads linking the Straffan and Celbridge Area, to the lack of details regarding road tie ins at Lidl and Griffin Park Manor and to the lack of appropriate measures to mitigate noise in the vicinity, it is considered that **the proposed development would represent a substandard form of development**, with a resultant negative impact on the amenity and safety of future residents. To permit the proposed development in the absence of such details would therefore be contrary to the proper planning and sustainable development of the area.
6. Having regard to the level of flooding on site the planning authority considers that **the cause of such flooding of the site needs to be established**. A robust flood risk assessment is required. To permit the proposed development in an area which is at risk of flooding in the future would run counter to the provisions of The Planning System and Flood Risk Management Guidelines issued by the DoEHLG and the OPW in 2009 **and would be prejudicial to public health** and would therefore be contrary to the proper planning and sustainable development of the area.

7.0 APPEAL GROUNDS

7.1 The First Party appeal grounds are summarised as follows:

- Reference is made to an extant permission on the site for 209 no. residential unit development on the site. The subject application is a revision to this in response to changing housing requirements.

- Reference is made to the provisions of “established rights” as expressed in O’Hara and McGuinness v An Bord Pleanála. The applicant, while applying for a fresh consent that would have a full five years, also had made reference to the fact that the proposal was a modification to an existing live consent. The Manager’s Order DO4489 that gave effect to the refusal stated/acknowledged this. In effect the Council has breached High Court Case Law findings if not in fact, then in principle.
- The proposed development complies in full with current development plan standards and objectives, the DMURS and ‘Sustainable Residential Development in Urban Areas’ to create a high quality living environment, and it is respectfully suggested that in its refusal the Council misinterpreted the requirements of both of these guidance documents.
- With regard to the deficiency in existing road network, there is a live consent on the lands for a similar volume of development that would already have to be taken into account.
- With regard to the height, bulk and massing of units and the impact on residential amenity it is set out that a mix of house sizes has been provided in line with the development plan requirements. The variety in the plot sizes and shapes provided is part of the design strategy of the scheme and is intended to provide variety of accommodation, visual interest and contribute to a strong urban structure. All houses have separation distances of 24m to 26m between first floor windows well in excess of the 22m minimum required.
- With regard to the traffic hazard (due to driveways giving onto the public road and the lack of footpath in a shared surface area) it is set out that the development has been designed in accordance with DMURS. The new link road is not designed as a segregated distributor road; but as a street. It is designed to balance the need for greater connectivity in Maynooth by fulfilling the requirements of TRO1 with the requirement to create a pleasant atmosphere for local residents, and an environment for vulnerable road users that is both safe and perceptible safe. Shared surface areas are used exclusively where vehicular traffic is low and only required for access. No raised kerbs are provided in shared surface areas however, areas for sole use of pedestrians are demarcated in a different material.
- With regard to deficiency in the road network and peak time traffic levels in proximity to the site, is it unclear how the subject development can be premature given the long-standing nature of the zoning; the original permission on the site which was confirmed by the Board. The TIA included traffic counts for the key junctions and junction capacity analysis has been undertaken for the local road network. All junctions were found to be operating

well within capacity at both AM and PM peak. All junctions have sufficient reserve capacity to accommodate the traffic demand from the proposed development, both on completion and for the 2033 design horizon. In addition, it is anticipated that the New Link Street between the Straffan Road and the Celbridge Road will have a positive impact on traffic flows along the Celbridge Road.

- With regard to the new road junctions in proximity to the Noone HGV centre it is submitted that the provision of perpendicular parking spaces are in line with DMURS design guidelines and purposely designed to create an environment to positively affect driver behaviour. The detailed design of these junctions to ensure safety would typically be part of a Stage 2 Road Safety Audit normally carried out as part of compliance post grant of planning permission. This issue could have been dealt with by way of condition.
- With regard to car parking provisions it is set out that 30 spaces has been provided for the crèche and 7 cycle spaces. It is envisaged given the layout that many people would walk to crèche including staff. The Trics model demonstrated a requirement for 23 spaces. With regard to the swept path analysis it is noted that there will be very few movements of large vehicles within roads off the link road. The path analysis has been shown on Pinnacle Drawing P140702-P110 to P140702-P110. With regard to road tie-ins this fine detail is typically agreed with the local authority as part of a compliance detail. It is noted that Griffin Rath Manor was designed before DMURS took effect, and consists of a long almost unbroken distributor road designed to minimise inconvenience to the flow of motor traffic. It therefore has a faster design speed than the proposed new link road, which is purposely designed to create a pleasant environment for residents and vulnerable road users. The transition zone between the two will be indicated by a gradual build out of the kerb in combination with a speed table, and visual indicators including a change in surface finish.
- Noise mitigation measures were detailed in the specialist consultant's report and could have been adequately dealt with by way of condition.
- With regard to flooding risk, it is noted that due to its current undeveloped nature, the site does develop pocket ponding during heavy periods of rainfall. No flood events are noted on site or within 500m of the site. The development of the site is to include tanked permeable paving, rainwater harvesting, swales and an attenuation structure, to provide for a sustainable development. The proposal also provides for public open space, with large areas of green spaces and a fully detailed plating scheme which will aid permeability and soakage. The local authority accepted that this site was not a flooding risk by extending the permission in 2012. A flood risk assessment carried out by

Pinnacle Consultants has been submitted and concludes that the proposed development will not pose any flooding issues.

- The submission concludes that there is no fundamental basis under which the Board cannot permit the development. The development has been carefully designed to create a new residential neighbourhood with high amenity, while providing additional connectivity and permeability to the surrounding area.

8.0 OBSERVORS

8.1 Govindaraju and Krishnaja Jayasamraj

The contents of this observation is summarised as follows:

- Object to the plans as there is a 2.5 storey house directly behind their house (141 Griffin Rath Hall) which would result in loss of privacy.
- Their house has a south facing garden and proposed house will result in the garden being covered for most part of the day during summer.
- When the initial planning application was submitted and approved most part of Griffin Rath Hall was in a construction phase and current owners were not aware of planning application.

8.2 Carton Court Residents Association

- The land between the estate and the M4 motorway floods every year. The land adjacent to Maynooth Park and Greenfield Drive and the public open space which is opposite no. 74 Carton Court was seriously flooded. There are concerns that in the future flooding will affect their properties and make their homes uninhabitable.
- The noise levels from the M4 motorway have reached serious levels. Proper barriers must be erected to protect residents. Spoil from the site should be used to create a mound between the new houses and the 91m motorway exclusion zone.
- All apartments and 2.5 storey dwelling should be removed from the plans. The height would dwarf Carton Court.
- A boundary wall, capped and rendered, should be built between Carton Court and the new development.
- The proposed pedestrian access between Carton Court and the development should be removed. It is believed this access will lead to anti-social behaviour.

- At peak times is it extremely difficult and dangerous to exit Carton Court on to the Straffan Road whether one is heading towards the M4 or towards Maynooth village.
- Construction hours is raised as a concern and residents do not want weekend works due to the fact that they will be faced with years of noise, pollution and disturbance from the development.
- Residents are concerned about the location of the compound which should be located as far away as possible from Carton Court.

9.0 RESPONSES

9.1 Planning Authority response to grounds of appeal

The main points set out in this response are as follows:

- The Planning authority acknowledges that the lands in this location are zoned for residential development and to this end residential development is to be expected. The provision of the connecting road from the site through to Griffin Rath Manor has always been planned. It is provided for in the Maynooth LAP and the layout of Griffin Rath Manor/Hall was designed to accommodate such a future connection.
- The protection of existing residential amenity is paramount when assessing new developments and in this case, aspects of the proposed development would be injurious to the residential amenity of both future occupiers and residential of the adjoining residential development.
- It is submitted that it may have been more appropriate for the proposed 2.5 storey dwellings to have taken the existing two storey dwellings in Griffin Rath Hall into account when designing the proposal.
- In terms of transportation issues, the reasons for refusal were principally based on technical and design matters that the applicant failed to address in the response to further information.
- Whilst issues regarding flooding may be dealt with through engineering solutions, it is considered that the level of flooding on the site in December 2015 is an issue which requires careful consideration and at least a site specific flood risk assessment. To permit the development in the absence of an assessment of flood risk would not be in the interest of proper planning and sustainable development of the area.

- The water services report also indicates that the flood risk assessment submitted as part of the appeal is not satisfactory. The cause of the recent flooding has not been established. The applicant failed to demonstrate that displaced flood waters can satisfactorily be accommodated on site.
- It is submitted that there are currently serious traffic difficulties in Maynooth with existing junctions under pressure and operating at over capacity in particular at peak times. There will be substantial traffic volumes including HGVs using this link and there are 29 driveways proposed under this application with direct access onto the proposed road. The location of these driveways has also been raised by the RSA as a traffic hazard.
- The shared surfaces proposed are at the one level with surface colour difference but with no raised kerbing for the protection of Vulnerable Road Users (VRUs).
- A swept path analysis should be carried out to check the turning movements of HGVs to ensure safety of vulnerable road users.

10.0 PLANNING HISTORY

File ref. No. 06/1379/PL.09.223355 Permission granted for a residential development consisting of 209 dwelling units, crèche and ancillary site works on the appeal site. The permission was extended under ref. 12/26 until October 2017.

11.0 PLANNING POLICY

11.1 Smarter Travel – A sustainable transport future, a new transport policy for Ireland 2009-2020.

This document sets out five key goals as follows:

- To reduce overall travel demand;
- To maximize the efficiency of the transport network;
- To reduce reliance on fossil fuels;
- To reduce transport emissions;
- And to improve accessibility to public transport.

11.2 Design Manual for Urban Roads and Streets

This manual provides guidance relating to the design of urban roads and streets. It provides that the Design Manual for Roads and Bridges will not henceforth apply to urban roads and streets other than in exceptional circumstances. The manual seeks to address street design within urban areas and sets out an integrated approach. The Manual seeks to put well-designed

streets at the heart of sustainable communities. It seeks to slow traffic speeds through understanding and addressing driver behaviour.

11.3 The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009

These Guidelines introduce comprehensive mechanisms for the incorporation of flood risk identification assessment and management into the planning process. The Guidelines provides

“In the case of application for planning permission and development consents to planning authorities and An Bord Pleanála, applicants and their agents are required to:

- Carefully examine their development proposals to ensure consistency with the requirements of these Guidelines including carefully researching whether there have been instances of flooding or there is the potential for flooding, on specific sites and declaring any known flood history in the planning application form as required ...
- Engage with planning authorities at an early stage, utilizing the arrangements for pre-planning application consultation with regard to any flood risk assessment issues that may arise.
- Carry out a site-specific flood risk assessment, as appropriate, and comply with the terms and conditions of any grant of planning permission with regard to the minimization of flood risk.

11.4 Regional Planning Guidelines, Greater Dublin Area 2010-2022

Maynooth is identified as a large growth town II in the Regional Planning Guidelines. Maynooth’s role as a Large Growth Town II is to act as an important self-sustaining regional economic driver for the GDA.

11.5 Kildare County Development Plan 2011-2017

The CDP identifies Maynooth as a Large Growth Town II within the Metropolitan area.

Chapter 15 of the CDP provides Urban Design Guidelines.

11.6 Maynooth Local Area Plan 2013-2019

Maynooth is identified as requiring 2,888 residential units over the period of the Local Area Plan.

It is the objective of the Plan as follows:

HPO 1 To promote a high standard of architecture in the design of new housing developments and to encourage a variety of house types, sizes and

tenure to cater for the needs of the population and facilitate the creation of balanced communities.

Section 7.5 deals with Movement and Transport and in particular section 7.5.2 deals with roads infrastructure.

Section 7.6.3 deals with surface water drainage.

It is noted that the plan sets out that adequate storm-water drainage and retention facilities are necessary to accommodate increased surface water run-off resulting from current and future developments.

12.0 ASSESSMENT

Having examined the file, relevant history files, considered local and national policies, inspected the site and immediate environs, assessed the proposal and all of the submissions on file, I consider the key issues to be:

- Principle of development
- Design and Layout
- Flooding
- Traffic and Transportation
- Appropriate Assessment
- Other

12.1 Principle of development

12.1.1 The majority of the subject lands are identified in the land-use zoning objective of the Maynooth Local Area Plan 2013-2019 as “new residential”. There is an irregular square shaped area to the north of the site which has a land use zoning “F- Open space and amenity”. This area is identified on the site layout plan as ‘public open space’ and landscape drawings for such have been submitted. I note that the layout proposed, whilst different in some respects, does reflect somewhat the previously permitted layout under File ref. No PL.223355. The spine road remains generally in the same position as the approved development. The principle of the development is acceptable by virtue of the zoning objective and also given that there is an extant permission on the appeal site for a residential development of similar scale to that proposed in this application.

12.2 Design and Layout

12.2.1 The first party has submitted a design statement response with the appeal grounds. This sets out that the principle objectives for the revisions of the previous permission include the provision of a cohesive urban form with a broad mix of dwellings. This includes the elimination of the approved 2 bed

apartments and duplex units stipulated under Policy HP6 of the Maynooth Local Area Plan 2013-2019. The latter policy seeks to restrict apartment developments generally to the University campus and town centre locations or suitably located sites adjoining public transport connections. The LAP also provides that duplex units shall not generally be permitted. The applicant is now providing a 2.2ha parkland which has now come under their control and will facilitate greater integration of the new development with the existing community. The proposal will facilitate the pedestrian access to the newly built Scoil Ui Fhiach to the north-east of the site and will also provide a road network that complies with the principle and standards set out in the DMURS 2013. The appeal site is currently constrained by virtue of its location north of the M4 motorway; existing housing developments to the north, north-west and east of the site; the public open space zoning and its subsequent integration into the overall scheme. The proposed layout of the development does mirror the previously permitted development in some regards. One of the more significant changes is that some of the housing units now front the distributor road and are individually accessed from this road rather than via internal access roads as previously provided for in the layout. Whilst I note the transportation department's objections to such I consider that this provision does accord with the principles provided for in DMURS and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, the latter specifically providing that "frontage-free streets (such as distributor roads) are not recommended". In general I consider that the proposed layout responds to the current constraints of the appeal site.

12.2.2 With regard to house types it is considered that the design and layout of the proposed house types are considered such that would offer sufficient residential amenity to future residents. The internal layouts of the dwellings are considered functional with adequate storage space. Adequate consideration has been given to the issue of overlooking and opposing first floor windows. I do not agree with the submission that there is overlooking arising at 141 Griffin Rath Hall. The proposed dwellings are higher as they are 2.5 storey than the existing two storey dwellings, however, that in itself does not give rise to overlooking. The Board should note that I have inspected all residential estates that back onto the appeal site to examine the issue of overlooking/overshadowing given the concerns raised in submissions by third parties. Consequently, I consider that no undue overshadowing to existing residential properties would arise.

12.2.3 The Planning Authority in their reason for refusal noted that some of the individual housing plots were "*irregular and awkwardly shaped*". I do not consider that an irregular shaped site is a reason for refusal and consider that the relevant assessment is whether the overall scheme complies with the

provisions of the “Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages)” and whether the individual plots meet minimum standards set out in the development management standards of the development plan so as to offer future occupants a qualitative form of housing. I am satisfied that there is a broad mix of houses which will add character and interest to the scheme. The proposal will, in my opinion, provide a more lively interface between dwellings and streetscape, a deliberate design response which the applicant states they have attempted to achieve.

12.2.4 It is noted that the public open space, approx. 2.2ha, to the north of the appeal site is to be provided as part of this application. This area was not part of the previous permission and will contribute hugely to the public open space provision for the wider community. The landscaping plan indicates pedestrian linkages through this area and provides for pedestrian/cycle links to the existing residential developments to the north which is vital given the designation of this area as “public open space” in the Maynooth Local area plan. Whilst I consider that the passive surveillance of this area could have been better provided with the positioning of dwellings particularly to the eastern section of this public open space, the layout is considered acceptable.

12.3 Flooding

12.3.1 The issue of flooding has been raised in third party submissions and by the Planning Authority as a reason for refusal. It is noted that flooding was not an issue in the previous appeal PL.09.223355, the permitted housing scheme on the site. It would appear that there has been a recent flooding event (December 2015) on the appeal site which has given rise to concerns about flooding on the site and in the immediate vicinity of the site.

12.3.2 A flood risk assessment report was submitted with the appeal documentation. The report was prepared due to the recent rainfall events in December 2015 in order to outline the potential flood risk and proposed mitigation measures in support of the proposed development. The report refers to the ‘The Planning System and Flood Risk Management Guidelines for Planning Authorities, dated November 2009’ and sets out that the site is classified as ‘Less Vulnerable’ and therefore classified as appropriate and in conjunction with assessing available flood data, i.e. OPW, PFRA and CFRAMS mapping etc. it has been determined that the site has been categorized as falling into Zone C – where the probability of flooding from rivers and the sea is low (less than 0.1% or 1 in 1000 for both river and coastal flooding.) Whilst I consider that the applicant has identified the appropriate flood risk zone for the site, the flood risk assessment report does not provide a detailed analysis of potential

effects arising from other forms of flooding such as groundwater or artificial drainage systems as provided for in the Guidelines.

12.3.3 The report examines monthly rainfall values from 2013 to January 2016. Reference is made to a report produced by Met Eireann which states that the rainfall totals over this period were the highest on record at most stations, including the long term station at Valentia Observatory where records date back well for 100 years. The report concludes that the extreme rainfall event is considered to be well in excess of a 1: 100 year storm event. Two locations of extreme event pluvial flooding are indicated on the subject site i.e. along a section of the northern boundary (in the public open space area) and a section of the western boundary. These two isolated locations of pluvial flooding were confirmed by a recent survey of the site. I note that the topographical survey is not particularly legible and needs to be submitted at a scale that can be easily read as the levels given are critical to the assessment of the application.

12.3.4 In general, I consider that the concerns in relation to flooding are justified given the recent flooding event in December 2015. Whilst the flooding to the north of the site is arguably located on an area that will be public open space, the applicant needs to demonstrate that the site can cater for the excess/displaced water that may occur. The area to the western boundary, also identified as one of the locations where flooding occurred, is where housing is to be provided as part of this scheme. The report indicates that *“the ponded area to the west of the site at its lowest point is at a level of circa 61.90m. It should be noted that the lowest finished floor level of the units in this location are set at 62.5-63.5m ...”*¹ There is no analysis provided for this statement. It is unclear as to what levels the flood waters rose to so as to determine what the freeboard is.

12.3.5 The applicant indicates that it is proposed to discharge the surface water run-off from the development, by gravity, into the 300mm diameter existing network which passes beneath the Straffan Road and ultimately discharges into the Meadowbank Stream, approx. 540m to the west of the site. Surface water run-off is to be attenuated in a tank system with the outflow being restricted via a flow restricting mechanism. It is submitted that the surface water has been attenuated for a 1:100 year storm event plus a 10% climate change factor. The applicant has advanced that the scheme complies with SuDS due to the various measures proposed such as permeable paving, rainwater harvesting, swale provision, and downstream defender. My primary

¹ P10, Flood Risk Assessment, Pinnacle Consulting Engineers, 14.01.2016.

concern regarding the proposed development is the lack of detail regarding the ability of the existing 300mm diameter public surface water network located to the south east of the site to cater for the disposal/discharge of the water to the Meadowbank Stream. No analysis of whether this public network and stream has the capacity to cater for the increased discharge rates arising from the proposed development. The issue of displaced waters has not been examined and in the absence of such information, in light of the recent flooding on site, I have serious reservations regarding the acceptability of the proposal notwithstanding that there is an extant permission on the site.

12.4 Traffic and Transportation

12.4.1 There are four reasons for refusal which are considered to fall under this heading for assessment. I will therefore examine the concerns of the Planning Authority of the proposal under the sub-headings (in an attempt to capture all of the concerns of the planning authority in this regard) as follows:

12.4.2 Roads Objective TRO 2 (a) of the Maynooth Local Area Plan.

This objective seeks to facilitate the future construction of the following roads and in the interim protect these routes from development:

- Between the Straffan Road (A) and the Celbridge Road (B). There is a further objective to link the Celbridge Road (B) with the Leixlip Road (E).

The applicant has clearly provided for the delivery of the remaining section of this road within the proposed scheme. The previously permitted scheme does not provide for any units to have direct access from this road, which effectively would operate as a distributor road which would appear to be what the Planning Authority is seeking to achieve. The applicant has indicated that the distributor road has been designed in accordance with DMURS. DMURS seeks to put well-designed streets at the heart of sustainable communities. The manual seeks to design active streets and to encourage local people to adopt healthier, smarter ways to travel around their local communities, especially walking and cycling. Having regard to the principles at the heart of the DMURS manual, I consider that the proposal is such, that provides for a more lively streetscape and provides for all users. The provision of driveways directly off the spine road will act as an influence for drivers to reduce speed which is promoted in DMURS. I do not consider that the individual accesses are such that would create a traffic hazard.

12.4.3 Traffic Impact Assessment

The Planning Authority has set out that *“having regard to the existing deficiencies in the local road network and to the applicant’s failure to adequately address the requirements for comprehensive traffic impact*

assessmentthat to permit development would be premature by reference to the existing deficiency in the road network ...". In light of the extant permission pertaining to the site, where permission for 209 residential units has been approved, it is not considered reasonable to refuse the proposal on such grounds. Whilst there may well be deficiencies in the local road network, the previous proposal was considered acceptable on traffic grounds and there does not appear to be any material considerations (such as changes to local road network) to warrant re-consideration of such. The applicant is proposing to deliver a core piece of local infrastructure, an objective of the Maynooth Local Area Plan that will provide an alternative for motorists to access the Celbridge road. I note further details submitted with the appeal submission, together with the extant permission for a similar scale development and as such, consider that this reason for refusal cannot be sustained.

12.4.4 Proximity to existing junctions

The Planning Authority refused permission on the grounds that the Road Safety report identifies safety concerns for vehicles in proximity to and opposite the Noone HGV Centre. Again, the planning report appears to give little weight to the fact that there is an extant permission on the appeal site. The spine road is located generally in the same position as the previously permitted scheme and as such the principle of the road in close proximity to other junctions has been accepted. There will be a new access road serving the proposed dwellings to the south-east of the site located approx. 15m east of the entrance serving the Noone Motors/bus depot. The provision of individual entrances along this spine will also, in my opinion, serve as a speed reducing mechanism as provided for in DMURS.

12.4.5 Inadequate parking and other traffic issues

The Planning Authority has cited that there are inadequate parking spaces to cater for the proposed crèche facility. 19 no. spaces has been provided with additional drop off spaces, which I consider adequate for the proposed facility particularly given its location within a residential area, where it would be expected that many users would walk to the facility. The nature of such facilities is that the drop-off and collection times vary with a peak in parking demand coinciding with school times. There is visitor parking provided in the general vicinity of the crèche which I consider more than adequate to cater for vehicles arising from the crèche facility.

12.4.6 Detailed Specifications

With regard to the lack of detail in respect of proposed pedestrian crossings and tie-ins at Lidl and Griffin Rath Manor, I do not consider such detail critical in the assessment of the planning application. These are specific design details that can be agreed between the Planning Authority and the applicant

prior to the commencement of development. The absence of such detail does not prejudice the rights of third parties or is considered material as to affect the assessment of the application. I do not consider that the proposal would represent a substandard form of development for future residents. I also do not consider the use of shared surfaces such to constitute a traffic hazard. The use of quality materials in the shared surfaces will be key to defining the levels of segregation, traffic calming, legibility and otherwise providing an attractive streetscape for all users.

12.5.0 Appropriate Assessment

12.5.1 Appropriate assessment (AA) considers whether the plan or project alone or in combination with other projects or plans will adversely affect the integrity of a European site in view of the site's conservation objectives and includes consideration of any mitigation measures necessary to avoid, reduce or offset negative effects. The requirements for AA, stems directly from Articles 6 (3) and 6 (4) of the Habitats Directive 92/43/EEC. The following are Natura 2000 sites located within a 15 kilometres radius of the appeal site:

Natura 2000 Site	Distance from appeal site
Rye Water Valley/Carton (SAC)	2.6km north-east of appeal site
Ballynafagh Bog (SAC)	14.6km south-west of the appeal site
Ballynafagh Lake (SAC)	14.6km south of the appeal site

12.5.2 A screening report has been submitted for the proposed development. The report sets out a description of the site and proposed development. The report identifies one Natura 2000 sites within 10kms of the appeal site: The Rye Water Valley SAC. The report sets out that there will be no direct impacts on the qualifying habitats and species due to distance between the proposed development site and the Rye Water Valley/Carton SAC. It is submitted that the site is located outside the 100 year flood line and is not located in an area requiring a site-specific flood risk assessment. The report concludes that based on the current available data for Rye Water Valley/Carton SAC and on the information provided from the applicant, it is not considered that the proposal, alone or in combination with other plans or projects in that area will have significant effects on the qualifying interests of the Natura 2000 site or on the conservation objectives.

12.5.3 With regard to the qualifying interests for the Rye Water Valley/Cartron SAC I enclose a copy for ease of reference by the Board. The Rye Water is a tributary of the River Liffey and is an SAC site selected for the following habitats/species: petrifying springs; narrow-mouthed Whorl snail and Desmoulin's Whorl Snail.

12.5.4 Having regard to the source-pathway-receptor model, it is reasonable to conclude that the proposal would have no direct effects on the Rye Water SAC. The site is to be serviced via public water mains and by public sewer. Whilst the issue of flooding remains a concern as discussed in this report, it is considered that the proposal either individually or in-combination with other projects (which are largely small residential developments permitted in Maynooth) would not be likely to have a significant effect on the European Site 001398, in view of the site's conservation objectives and a Stage 2 Appropriate Assessment is not therefore required.

13.0 CONCLUSION

In conclusion, I consider that the proposed residential scheme is acceptable in terms of layout and design. I do not consider that the scheme would unduly impact on the existing residential amenities of the area. In fact, the public open space provision to the north of the site would contribute to the amenity of existing residents. With regard to the reasons for refusal cited by the Planning Authority, I am of the opinion that the flooding concerns raised by the Planning Authority and by third parties is such that has not been adequately addressed by the applicant either in the original application or in the documentation submitted with the appeal notwithstanding the request for further information and the reason cited for refusal. The applicant needs to clearly establish the ability of the surface water network to deal with all surface and storm water arising from the appeal site. It should be demonstrated that there is capacity in the public network to cater for the discharge of waters and that there would be no displacement of water that would contribute to flooding elsewhere.

14.0 RECOMMENDATION

It is recommended that permission for the proposed development be **refused** for the following reasons and considerations

REASONS AND CONSIDERATIONS

1. Having regard to the submissions made in connection with the planning application and appeal which identifies that part of the site is subject to flooding during heavy rainfall, the Board is not satisfied that the proposed development would not give rise to an increased risk of flooding of the site or of property in the vicinity. The applicant has failed to demonstrate that there is capacity in the existing public network to cater for the discharge of waters from the appeal site and that no displacement of waters would occur. It is considered that the proposed development would be prejudicial to public health and as such would be contrary to the proper planning and sustainable development of the area.

Joanna Kelly

Inspectorate

4th May 2016