



An
Bord
Pleanála

Inspector's Report PL09.246663

Development	190 houses, single storey neighbourhood centre with 3 retail units, a three storey crèche building, two new road entrances off the R148 and R158, all associated site works to include roads, car parking, service yard, open spaces and landscaping, boundary walls, bin stores, attenuation tanks and site services.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	16/233
Applicant(s)	Teresa Monaghan.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Appellant(s)	Teresa Monaghan.
Observer(s)	Fintan Hurley & Deirdre O Reilly
Date of Site Inspection	15 th August 2016.
Inspector	Bríd Maxwell

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1.0 Site Location and Description

- 1.1. The appeal site which is irregular in shape has a stated area of 8.387 hectares and comprises of elements of three field patterns lying to the south of the R148, east of the R158 and north of the M4 at the Junction 8 roundabout (Enfield / Kilcock interchange) within the townland of Boycetown, to the west of Kilcock Co Kildare. The site rises from its northern boundary generally in a southerly direction to high point towards the southern central part of the site and falls again towards the south-western part of the site, the site being significantly below the level of the M4 motorway adjacent to the south. Site contour survey indicates a spot level of 74.5m OD towards the north-eastern corner of the site on the R148 frontage to a high point of 83 mOD on its elevated ridge. Levels adjacent to the R158 to the west range from 83mOD to 77.8m at the southern end of R158 frontage. The site comprises agricultural pasture lands enclosed by hedgerow boundaries and man-made drainage channels. An overhead power line runs through the northern part of the site.
- 1.2. To the east of the appeal site are two established dwellings and Boycetown Manor a housing development (39 dwellings) currently under construction. To the northwest adjoining the R148 is the former St Patrick's Church a protected structure now in use as a private dwelling. The former St Patrick's Church is rated of Regional Importance in the NIAH¹ and is described therein as "*a detached four bay single storey Gothic style former Church of Ireland Church with dormer attic, with single bay single storey gabled projecting lower porch to north west, single bay three stage tower to the north on a circular plan with conical spire, single bay single storey bowed apse to east and single bay single storey lower vestry projection to the south east.*" The former church is set within its own grounds surrounded by mature hedgerows and trees and set back from the R148 road. To the west of the protected structure and also bordering

¹ NIAH Reg Ref No :11900503. Copy of main record appended to this report.

<http://www.buildingsofireland.ie/niah/search.jsp?type=record&county=KD®no=11900503>

the appeal site is St Joseph's cemetery which is still in use. There is a derelict single storey dwelling fronting onto the R148 to the west of the cemetery. The Royal Canal crosses the R148 circa 190m to the east of the appeal site. Adjacent lands to the west are predominantly in agricultural use while Musgrave's Distribution Centre is located to the northwest.

- 1.3. Annotated maps, photos and aerial photos of site and vicinity are included in the Appendices to this report.

2.0 **Proposed Development**

- 2.1. The application seeks permission for a mixed use development involving:

(a) 190 houses (8 detached 2 storey 5 bed houses; 3 detached 2 storey 4 bed houses, 68 semi-detached two storey 4 bed house, 1 detached 2 storey 3 bed houses, 76 semi-detached two storey 3 bed houses; 6 semi-detached 2 bed bungalows; 4 terraced 2 storey 2 bed roomed houses and 24 terraced 3 storey 3 bed houses)

(b) a single storey neighbourhood centre with 3 retail units

(c) a 2 storey crèche building

(d) two new road entrances off the R148 and R158,

(e) all associated site works to include roads, car parking, service yard, open spaces and landscaping, boundary walls, bin stores, attenuation tanks and site services.

- 2.2 The detail of the proposal is set out in the drawings and reports submitted with the application which included a Planning Report, EIA Screening Report and Social Infrastructure Assessment by David Mulcahy Planning Consultant, an Archaeological Impact Assessment Report by Burnes Mullins and Associates, an Architectural Heritage Assessment by John Green, Architect and Historic Building Consultant, an Assessment of Inward Traffic Noise Impact by AWN Consulting, a Landscape

Design Rationale by Landmark Design an Engineering Services report and Traffic Impact Assessment (in three volumes) by Cronin and Sutton Consulting Engineers Group.

- 2.3 The proposed layout results in a gross housing density of 23 per hectare and net density of 30 per hectare. There are eight different house types proposed ranging from 2 to 5 bed roomed houses in styles ranging from detached to terraced and single storey to three storey. Access is proposed both from the R148 to the north and R158 to the west. The proposed neighbourhood centre and crèche are located adjacent to the R158 entrance. A total of five areas of open space are provided the two main areas of open space are located towards the southern end of the site. The proposed layout provides for access roads continuing to the adjoining lands to the southeast.
- 2.4 As regards Part V proposals the applicant proposes to handover 19 built units (10% of 190) to the Council. (5 no 2 bed units, 7 no 3 bed units, 5 no 3 bed semi-detached and 2 no 4 bed semi-detached units)

3 Planning Authority Decision

3.1 Decision

By Order dated 4th May 2016 Kildare County Council decided to refuse permission for the following three reasons:

“The existing 150mm public watermain does not have the required supply capacity or pressure to service the proposed development. The proposed development is considered premature pending completion of the Kilcock Ring Main. To permit the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

The existing public foul sewer network in this area is not sufficiently developed for the proposed development. There is a proliferation of individual site foul pump

stations and rising mains. The proposed development is considered premature pending completion of a masterplan incorporating a municipal pumping station and associated foul sewer network to service development land west of Kilcock. To permit the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Having regard to the location of the site in a transitional zoning area, where it is necessary to avoid developments that would be detrimental to amenity, to the proximity of the site to the former St Patrick's Church, a protected Structure (B05-08), to the undulating nature of the site and the proposed location of the dwellings in close proximity to the boundary wall with the aforementioned Protected Structure, the Planning Authority considers that the layout of the scheme as proposed would impact significantly on the character, setting and residential amenity of the occupiers of the Protected Structure (dwelling) and would therefore be contrary to the proper planning and sustainable development of the area."

3.2 Planning Authority Reports

3.2.1 The report of the Area Planner in summary is critical of the layout and house design.

Open space is poorly located and poorly overlooked and there is inadequate treatment of the adjacent protected structure. Layout should follow the format proposed within the LAP. Refusal was recommended.

3.2.2 Area Engineer indicates no objection subject to conditions.

3.2.3 Conservation Officer indicates no objection subject to landscape screening to minimise visual impact on the curtilage and setting of the protected structure,

3.2.4 Environment Report – No objection subject to conditions.

3.2.5 Heritage Officer's report is critical of the NIS screening report.

3.2.6 Water Services Report – requires further information with regard to surface water drainage and flood risk assessment.

3.2.7 Transportation Department report seeks additional information in regard to revised road layout, provision for link in alignment to adjacent development, improved cycle permeability, provision for a bus stop and provision for a 4 arm roundabout on the R158. A Road safety audit was also requested.

3.2.8 Fire Officer's Report indicates no objection subject to conditions.

3.2.9 Irish Water Report recommends refusal on grounds of prematurity pending completion of the Kilcock Rising Main.

3.2.10 Kildare National Roads Office report refers to permission (PL09.226889 06/2152) to the west of the R158 for a mixed use development and condition which required the construction of a new four arm roundabout on the R158 which has not been constructed to date. The main concern in relation to the operation of the national road network is the impact on the operation of Junction 8 on the M4. The westbound off ramp to junction 8 has been identified as the most critical whereby analysis shows that the operational capacity of the off ramp is just below the threshold of 0.85 for the pm peak at year of opening but will exceed capacity by 2023 due to the impact of background growth in traffic volumes. When the proposed development is included the analysis shows that operational capacity will be exceeded in 2018 year of opening. Additional information is required as to what measures are proposed to ensure that the operational capacity of the interchange is not adversely impact by the proposed development. Further information should be sought as to whether the existing drainage system discharges to the motorway drainage system and survey carried out to establish the condition of any pipework identified as connecting to the motorway drainage system.

3.3 Other Technical and Third Party Submissions

3.3.1 Department of Arts Heritage and the Gaeltacht submission recommends that the developer be required to employ a suitably qualified archaeologist to undertake archaeological testing of the site under licence in advance of the development.

3.3.2 Submission by JFOC Design and Planning on behalf of Union Castle Limited owners of adjoining lands (4.77ha) to the south of the appeal site. Welcome the proposals however express concern that the proposed scheme does not accord with the general thrust and guidance of the LAP. In particular the alignment of the Link Road on the southern part of the large open space on the proposed scheme would not facilitate the delivery of the link between the R148 and R125 as required by the LAP. Respectfully request that the road be adjusted so that the link road on both developments can be aligned and road delivered in accordance with the proper planning and development of the area.

3.3.3 Submission of Fintan Hurley and Deirdre O Reilly, owners and residents of the adjacent Protected Structure, concerned regarding the negative impact on setting of the protected structure and potential loss of residential amenity. Conservation report is deficient.

4 Planning History

4.1 No planning history on the appeal site.

4.2 Neighbouring / Adjacent Sites

- 06/1987 Outline permission for a petrol station was refused on the adjoining lands to the northwest corner of the site in 2007.
- 08/690 Adjoining lands to the north-east. Boycetown Manor. Permission was granted for 39 houses and foul water pumping station on 2.8ha site.
- 13/9 Extension of duration permission for previously permitted development. PL09.226889 06/2152 Site to the west of the appeal site on the western side of the R158. Permission was granted and upheld on appeal for construction of a mixed use development comprising 50 number single storey light industrial units with a combined gross floor space of 10,218 square metres, a petrol filling station car parking and associated site development and landscaping works. Condition 13 of

the permission required the construction of a four arm roundabout at the southern entrance to the site and provision of a cycle lane and footpath from the site towards Kilcock. Permission was extended to 21st May 2018.

- **PL09.243460.** To the north of the appeal site. The Board Granted temporary permission on 19/1/2014 for temporary use of site (5.5ha) as a car park (park and ride facility) for a period of our years for construction staff engaged in construction activities at the Intel site, Collinstown Leixlip. Access from the R148 roundabout.

5 Policy Context

5.1 National Policy

5.1.1 Sustainable Residential Development in Urban Areas, 2009. The Guidelines promote higher densities in appropriate locations. A series of urban design criteria is set out, for the consideration of planning applications and appeals. Quantitative and qualitative standards for public open space are recommended. In general, increased densities are to be encouraged on residentially zoned lands, particularly city and town centres, significant 'brownfield' sites within city and town centres, close to public transport corridors, infill development at inner suburban locations, institutional lands and outer suburban/greenfield sites. Higher densities must be accompanied in all cases by high qualitative standards of design and layout.

5.1.2 The Design Manual for Urban Roads and Streets, Department of the Environment Community and Local Government, 2013. – DMURS provides guidance relating to the design of urban roads and streets. It presents a series of principles, approaches and standards that are necessary to achieve balanced best practice outcomes with regard to street networks and individual streets.

5.2 Development Plan

The Kildare County Development Plan 2011 – 2017 and Kilcock Local Area Plan 2015-2021 refer.

5.2.1 Kildare County Development Plan 2011-2017

5.2.1.1 The CDP identifies Kilcock as a Growth Town within the Metropolitan area.

5.2.1.2 Chapter 4 deals with housing and Chapter 15 of the CDP provides Urban Design Guidelines. Chapter 19 sets out development management standards.

5.3 Kilcock Local Area Plan 2015-2022

5.3.1 The site forms part of the Expansion Areas identified at Section 7.4.4 of the Plan. The main body of the site is zoned 'C' New Residential. The zoning objective seeks *"To provide for new residential development in the Bawnogues area of the town. The zoning provides for new residential development and other services incidental to residential development. While housing is the primary use in this zone recreation, education, crèche playschool, clinic/surgery uses, sheltered housing and small corner shops are also envisaged, subject to the preservation of neighbouring residential amenity. Permission may also be granted for home based economic activity within this zone subject to the preservation of residential amenity and traffic considerations. Proposals for development on these lands shall comply with policies and objectives of the Urban Design Framework Plan (See section 7.4.1 and with the guiding principles contained in section 7.4.4.1.A. 5.3.2. The building line of residential development shall be set back 91metres from the Motorway which is clearly identified in Map 7. Kildare County Council would support the planting of native woodlands species within this zone."*

5.3.2 The south of the site is zoned Objective F Open Space and Amenity – To protect and provide for recreation, open space and amenity provision.

5.3.3 The site falls within lands identified in the Flood Risk Map (Map 8)

Relevant maps and extracts from the Kildare County Development Plan 2011-2017 and Kilcock Local Area Plan 2015-2021 are appended to this report.

6.0 Natural Heritage Designations

6.1 The site is not located within a designated site. There are four Natura 2000 sites within 15km namely Ballynafagh Bog SAC Site Code 000391 (13km to the southwest), Ballynafagh Lake SAC Site Code 001387 (13km to the southwest), River Boyne and River Blackwater SACC 002299 16km to the west and Rye Water Valley / Carton SAC Site Code 001398 (7.5km east of the appeal site). The appeal site is within the Rye Water Valley River Catchment

7.0 The Appeal

7.1 Grounds of Appeal

The grounds of appeal can be summarised as follows:

- Appellant is astounded at the decision which undermines the local area plan process and the planning process at large.
- Infrastructural scheme is fully viable and the applicant is prepared to accept a condition of planning which requires the development to be phased in such a manner that will allow for future infrastructure to be in place.
- The lands are zoned lands forming part of a recently adopted LAP and to which no phasing applies. There is no policy or objective in the LAP which indicates that at that the development of the subject lands or any other residential land in this area will be restricted until the completion of the Kilcock rising main. It is wholly unreasonable to introduce this reason when it does not form part of the LAP. Note Supreme Court view (Attorney General (McGarry) v Sligo County Council 1991 that the development plan forms a contract between The Planning Authority and developer. Note also Development Management Guidelines in regard to appropriate situation to refuse permission on grounds of prematurity. No details in regard to remedy.
- Development could be phased and include for a new temporary booster on site to ensure adequate pressure to the new development pending the completion of the

Kilcock Rising Main. This option has been proposed recently by Irish Water in the Service Agreement for the adjoining residential development at Boycetown Manor (Ref 06/690)

- Kildare County Council indicated a preference at pre planning stage to use of an existing local pumping station rather than individual pumping stations in regard to foul network. The foul drainage network was designed to discharge into an existing pumping station and rising main by agreement with its owner, thereby complying with the Council's requirement not to construct a separate pumping station and rising main to outfall into the Kilcock gravity network across the 'Allen' Bridge.
- Refute third reason for refusal. Notably the Conservation officer had no issues subject to additional landscaping screening.
- Layout and design of dwellings are of a high standard and respond appropriately to the site context.
- No overlooking threat to the adjacent protected structure or between dwellings. Layout is as envisaged in the development plan.
- No measures are to the 'M4 interchange as part of the development. The existing operational capacity of the interchange is not adversely impacted by the proposed development. It is proposed to provide a footpath along the R148 along the site boundary. Until the roundabout junction (06/2152 and subsequent extension of duration application 13/9) is constructed, the site will be accessed via the priority junction from the R158.
- Parking provision is in accordance with development plan requirements.
- The appeal submission includes a construction management plan and updated AA screening report.
- Proposal is consistent with the zoning objectives of the LAP and will deliver much needed housing.

- Applicant's consulting engineers are fully confident that the foul drainage system proposed as part of the application can work and has sufficient capacity and pressure. Invite the Board to grant permission whereby development is provided on a phased basis relying on the drainage infrastructure as proposed until such time as an alternative arrangement for municipal treatment system is operational.

7.2 Planning Authority Response

- A temporary booster station is not adequate for supply of water to this proposed development allowing for the flow and pressure available in existing 150mm watermain in the vicinity of the site. Such an arrangement would lead to a lowering of the water pressure in the vicinity.
- Comparison with Boycetown Manor is not appropriate as this is a much smaller development 39 houses. Its booster pump was always intended to be a temporary measure pending the construction of Kilcock ring watermain. Notably permission here granted in 2008 (ref 08/690) when there was less demand on the overall supply network.
- Refute assertions that Kildare County Council suggested in pre-planning discussions that any existing pumping station could be used to serve this development.
- Whilst issues raised regarding appropriate assessment screening, roads transportation and public safety were not included as reasons for refusal they were not fully addressed within the application and would warrant a request for additional information.

7.3 Other Party Responses

7.3.1 The appeal was referred by the Board to An Taisce, Irish Water, Failte Ireland, The Heritage Council , An Chomhairle Ealaíon and Transport Infrastructure Ireland. The following is a summary of responses received.

- An Taisce Submission asserts that the availability of water supply and wastewater capacity is an essential preliminary requirement for development. The issue of impact on a protected structure could be resolved by enhanced buffer area and landscaping.
- Irish Water submission confirms that there is insufficient water services capacity to accommodate the development which is considered premature pending upgrading of both water supply and wastewater networks in the general area. Kilcock is part of the Lower Liffey Valley drainage catchment and wastewater from Kilcock is pumped through the Maynooth and Leixlip networks to the wastewater treatment plant at Leixlip. In addition to local network issues in the vicinity of the development site, there are currently operational and capacity constraints in above network and an increase in flow from Kilcock will result in additional risk of pollution to the Lyreen River. Drainage area plans (DAPs) for the Lower Liffey Valley catchment are required to identify the solutions to current constraints, provide capacity for future residential development and to meet environmental compliance requirements. The preparation of the DAPs is likely to commence in 2017 with an approximate 3 year timescale. Any solution identified is unlikely to be completed before 2021 and funding for same is not included in Irish Water's Draft Investment Programme for 2017-2021.
- The Water supply network in Kilcock would also need to be upgraded to cater for the proposed development. This upgrade is currently not scheduled nor funded under Irish Water's Draft Investment Programme for 2017-2021.
- Transport Infrastructure Ireland submission refers to issues identified in Kildare County Council National Road Office report in relation to the safe and efficient operation of the M4 and associated junction arising from the proposed development. Issues identified in relation to impacts on the M4 and Junction 8 were not addressed in the appeal. The M4 is part of the EU TEN-T comprehensive Network and it provides important connection between the Greater Dublin Area, the Midlands

Linked Gateway and the Sligo Gateway and onward connection via the M6 to the Galway Gateway.

7.4 Observations

7.4.1 Observations are submitted by Fintan Hurley and Deirdre O Reilly owners and residents of the adjacent protected structure Formerly St Patrick's Church and submission is summarised as follows:

- The observers endorse the decision of the local authority to refuse permission. The appeal does not address the issues raised in relation to impact on protected structure. The proposal is not in accordance with the indicative layout within the LAP and there is no reasoned basis for not providing open space adjacent to the protected structure. The proposal does not protect the setting of the protected structure, and gives rise to dominance, overlooking, loss of privacy and poor boundary treatment.
- It is a policy of the Council that development is dependent on sufficient capacity in the public water and wastewater infrastructure.
- The Board has consistently refused permission where there are serious infrastructural deficiencies PL09.232672 and PL73.234574 and also where a proposed development would materially and adversely affect the character and setting of a protected structure PL09.233872.

7.5 First Party Response to Planning Authority response to the Appeal

7.5.1 The First Party in response to the submission of the Planning authority reiterates the grounds of appeal.

8.0 Assessment

8.1 As regards the issue of Environmental Impact Assessment the development is sub threshold for the purposes of EIA and would not come within the scope of Article 109 of the regulations and therefore EIA is not required. I consider that the issues in this appeal can be dealt with under the following broad headings.

- Land Use and Development Principle
- Design and Layout Visual Impact and Impact on the Character and Amenities of the area including the adjacent Protected Structure.
- Traffic and Servicing. Question of Prematurity.
- Appropriate Assessment

8.2 Land Use and Development Principle

8.2.1 As regard the proposed land use and development principle, the site is zoned 'C' New Residential. The objective is "to provide for new residential development in the Bawnogues area of the town". This zoning provides for new residential development and other services incidental to residential development. While housing is the primary use in this zone, recreation, education, crèche playschool, clinic/surgery uses, sheltered housing and small corner shops are also envisaged subject to the preservation of neighbouring residential amenity. The zoning matrix indicates that crèche /playschool is acceptable in principle and retail convenience is open for consideration whilst comparison retail is not permitted.

8.2.2 The proposed development of 190 houses, neighbourhood centre with three retail units and a crèche is in accordance with the stated zoning objective. As regards the proposed density, the Local Area Plan envisages a density of an overall expansion area of 23 hectares of which the site forms part of 30 units per hectare. The proposed development entails a gross density of 23 per hectare or 26 per hectare net density. The proposal scheme does not include any apartment type dwellings.

8.2.3 The Sustainable Residential Development in Urban Areas, Guidelines 23009 outlines in relation to outer suburban greenfield sites that studies have indicated that whilst the land take of ancillary facilities remains relatively constant, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range 35-50 dwellings per hectare and such densities (involving a variety of house types where possible) should be encouraged generally. The guidelines recognise that development at net densities less than 30 dwellings per hectare should generally be discouraged in the interest of land efficiency.

8.2.4 I would consider that in the light of the scale and character of the appeal site, the opportunity for an innovative design approach incorporating a significant housing mix and achieving a higher density in accordance with the relevant standards could be achieved. However I note that within the Kilcock Local Area Plan it is policy QH19 to restrict apartment developments generally to town centre locations or suitable located sites adjacent to public transport connections. Higher density schemes will only be considered where they exhibit a high architectural design standard in creating an attractive and sustainable living environment. I further note that the Local Area Plan refers to the avoidance of abrupt transitions in scale and use at the boundary of adjoining land use zones. The policy context therefore requires that an appropriate balance between density and protection of residential amenity and character needs to be achieved

8.2.5 Arising from my assessment of the question of land use and development principle, I consider that there is no principled objection to development of the site for residential purposes with local retail and crèche services and therefore I consider it appropriate to consider the proposal in its detail.

8.3 Design and Layout, Visual Impact and Impact on the Character and Amenities of the area including the adjacent Protected Structure.

8.3.1 On the matter of the site layout the scheme is unexceptional and in my view fails to create a sense of place and positively address the site context in terms of the incorporation of site features and the approach does not in any way demonstrate an appreciation of or connection to site context and adjoining landscape features. The failure to address the setting of the former St Patrick's Church clearly demonstrates a missed opportunity to take advantage of the benefits of proximity to the historic structure and its landscape context. I further note the submission by JFOC Design and Planning on behalf of Union Castle Limited expressing concern regarding the alignment of the proposed road to the south of open space area 2 and its potential negative impact on delivery link road between the R136 and R125 as envisaged by the local area plan. The third party submission attached an indicative layout of adjoining lands. I note that from review of the Kildare County Council on line planning enquiry system, no application has been made on the adjoining lands to date. The First party does not address this issue and I consider that in view of the nature of the appeal site as part of a larger area identified as the Bawnogues and Enfield Road Expansion Lands within the Kilcock Local Area Plan 2015-2021, the proposal cannot be viewed in isolation and an assessment and appreciation of the site within its wider context would be required in the interest of proper planning and sustainable development.

8.3.2 On the matter of open space provision, I consider that the proposed open space areas adjacent to the northern entrance from the R148 are poorly overlooked and provide a poor level amenity having regard to their limited size and location adjacent to the road and entrance. As regards standards of residential amenity achieved, the proposed layout does not in large part achieve the standard 22m separation distance between two storey dwellings and therefore the potential for overlooking therefore gives rise to some concern. This might be further exacerbated in light of the potential for use of roof space.

8.3.3 On the issue of individual house design, I would tend to concur with the views expressed by the Local Authority Planner that the roof profile to dwelling types

B1/B2, D/D1 are a discordant design feature. I further consider that semi-detached bungalow house type D/D1 is a disagreeable design in its entirety. The variation to create dual aspect is unsuccessful in terms of its presentation to the public realm.

8.3.4 On the issue of crèche design I would have some concerns with regard to its somewhat cramped layout, poor outlook from internal rooms and failure to overlook and converse with its open space /play area. In my view the opportunity to innovate in terms of design and to achieve a high quality crèche environment is not seized by the proposal.

8.3.5 As regards architectural heritage impact, and in particular the impact of the proposed development on the former St Patrick's Church, Protected Structure I note the Architectural Heritage Assessment submitted by John Greene, Architect and Historic Building Consultant included with the application, which concludes that the proposed development will result in a neutral impact on the architectural heritage of the former St Patrick's Church, its churchyard, its curtilage the adjoining cemetery and the surrounding remains of the historic landscape. I would disagree with these conclusions and consider that the proposal is at odds with the historic building in terms of the visual impact of the proposed development on the setting of the historic building. As regards archaeological impact the report compiled by Byrne Mullins and Associates Archaeological and Historical Heritage Consultants, dated February 2016 concludes that the development is not likely to cause any direct or indirect visual impacts on any previously recorded archaeological monuments. In order to mitigate potential for impact on previously unrecorded subsurface archaeological features it is proposed to provide for archaeological monitoring by a suitably qualified archaeologist.

8.3.6 To conclude on the issue of site layout and design, I am not satisfied that all issues with regard to site layout and design have been resolved in terms of the context and location of the site relationship to adjacent zoned development lands, impact on the adjacent protected structure and relationship to established development in the vicinity.

8.4 Traffic and Servicing. Question of Prematurity.

8.4.1 As regards the traffic impact of the development there are a number of unresolved issues. The development proposes its access by way of a priority junction from the R158 to the west of the site and the R148 to the north of the site. The western access is however dependent on the construction of a four arm roundabout to be provided as part of permission ref PL09.226889 (06/2152) as extended (to 21st May 2018) by permission red 13/9. From the information provided on the appeal file it would appear that the first party has no control or influence in respect of the delivery of this roundabout. On this basis there is significant uncertainty with regard to the road infrastructure required by the proposed development.

8.4.2 The question of impact on the operational capacity of the M4 and Junction 8 was raised by the Local Authority National Roads Office Report and reiterated in the observations of Transportation Infrastructure Ireland (TII) to the Board. The westbound off ramp to junction 8 was identified within the Traffic Impact Assessment compiled by CS Consulting Group as the most critical element of road infrastructure whereby analysis shows that the operational capacity of the off ramp is just below the threshold of 0.85 for the pm peak at year of opening but will exceed capacity by 2023 due to the impact of background growth in traffic volumes. When the proposed development is included analysis it is predicted that operational capacity will be exceeded in 2018 year of opening. The first party does not propose any measures to address this issue. I consider that the application has not demonstrated that the operational capacity of the interchange is not adversely impacted by the proposed development.

8.4.3 The details of proposed water and wastewater servicing arrangements for the development are presented within the Engineering Services Report by CS Consulting Group included with the application. As regards foul water drainage, it is proposed to design and construct a new foul drainage system to outfall to an

existing foul sewer located to the north of the site which outfalls to a privately controlled pumping station which in turn discharges to a public foul sewer located to the east of the site. Water supply is proposed by way of connection to the existing watermain running along the R148 to the north of the site. It is proposed to incorporate Sustainable Urban Drainage Systems SUDS into the design of the project.

8.4.4 The first and second reasons for refusal in the decision of Kildare County Council refer to the matter of inadequate capacity / pressure of the public water main and proliferation of individual foul pump stations and deemed the development of the site to be premature pending completion of the Kilcock ring and municipal pumping station and associated foul network to service the development. The first party within the grounds of appeal asserts that this issue of inadequate water supply was not flagged in pre-planning discussions and that the decision to deem the development premature is unreasonable on the basis of the zoning of the site in the recently adopted local area plan. It is asserted that the decision undermines the Local Area Plan and the planning process. The first party proposes that development could be phased and include a temporary booster on site to ensure adequate pressure to the new development pending completion of the Kilcock rising main. In relation to sewerage proposal it is argued that the foul drainage system proposed is entirely feasible.

8.4.5 I note indeed that the Kilcock Local Area Plan 2015-2021 at 8.2.4.3 anticipates that “there will be an adequate supply of water to facilitate development during the life of this plan” and it is indeed unfortunate that the first party apparently had no prior knowledge of the constraints with regard to water supply. The challenge with regard to waste water treatment is addressed to some degree within the LAP and this was clearly discussed amongst the parties during pre-planning discussions. I further note Policy SI13 of the Kilcock Local Area Plan 2015-2021 “To ensure that development will not be permitted in instances where there is insufficient capacity in public water and wastewater infrastructure” and Policy SI26 which is “To refuse residential

development that requires the provision of private waste water treatment facilities, other than single house systems”.

8.4.6 As noted in the submissions of Irish Water to the Board following referral of the appeal, the water supply network in Kilcock is inadequate and needs to be upgraded to cater for the proposed development. This upgrade is not scheduled nor funded under the Irish Water’s Draft Investment Programme for 2017-2021. I note that the Planning Authority in response to the appeal outlined that an arrangement involving a temporary booster station to serve the proposed development would lower the water pressure in the vicinity of the site and therefore would not be appropriate.

8.4.7 As regards waste water the submission from Irish Water outlines that Kilcock is part of the Lower Liffey Valley drainage catchment and wastewater from Kilcock is pumped through the Maynooth and Leixlip networks to the wastewater treatment plant at Leixlip. In addition to local network issues in the vicinity of the development site, there are currently operational and capacity constraints in the network and an increase in flow from Kilcock will result in additional risk of pollution to the Lyreen River. Drainage area plans (DAPs) for the Lower Liffey Valley catchment are required to identify the solutions to current constraints, provide capacity for future residential development and to meet environmental compliance requirements. The preparation of the DAPs is likely to commence in 2017 with an approximate 3 year timescale. Any solution identified is unlikely to be completed before 2021 and funding for same is not included in Irish Water’s Draft Investment Programme for 2017-2021. On the basis of submissions on the appeal file it is evident that there is insufficient water services capacity to accommodate the development and therefore the development is premature pending upgrading of both water supply and wastewater. I note the First Party reference to the Development Management Guidelines for Planning Authorities, Department of the Environment Heritage and Local Government 2007 which refers at 7.16. to the matter of “Premature Development” and it is stated that “In general, prematurity arises where there are proposals to remedy the deficiency, If there are no such plans to remove the

constraints within a reasonable period (eg. If there are no plans to extend public water supplies or sewerage to a particular area), this form of wording should not be used as a reason for refusal. I note that as outlined within the submissions of Irish Water the preparation of Drainage Area Plans is likely to commence in 2017 with an approximate three year timescale. Submission notes that any solution identified is unlikely to be completed before 2021. Whilst I acknowledge the frustrations of the first party with regard to the uncertainty in regard to the period within which the constraints involved may reasonably be expected to cease, in the absence of such a resolution the development of the site is premature.

8.5 Appropriate Assessment

8.5.1 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.

8.5.2 The Appropriate Assessment screening report compiled by Dúlra is Duchas dated May 2016 updated within the grounds of appeal. The screening report identifies Four Natura sites within 15km of the site, namely Ballynafagh Bog SAC Site Code 000391 (13km to the southwest), Ballynafagh Lake SAC Site Code 001387 (13km to the southwest), River Boyne and River Blackwater SAC 002299 16km to the west and Rye Water Valley / Carton SAC Site Code 001398 (7.5km east of the appeal site). The appeal site is within the Rye Water Valley River Catchment.

8.5.3 The River Boyne and River Blackwater SAC, Ballynafagh Bog and Ballynafagh Lake were screened out on the basis that there is no hydrological link with the proposed development site. The Rye Water Valley / Carton SAC Site Code 001398 was

considered to be the only relevant Natura 2000 site within 15km surrounding the development site. The conservation aspects of the designated site include priority habitat Petrifying springs with tufa formation listed in Annex I of the Habitats Directive and two species listed in Annex II of the Habitats Directive Namely Narrow mouthed Whorl Snail (*Vertigo augustior*) and Desmoulin's Whorl Snail (*Vertigo moulisiana*). The generic conservation objective for the site is "To maintain or restore the favourable conservation condition of the Annex I habitat and / or the Annex II species for which the SAC has been selected.

8.5.4 The screening report asserts that the proposed development will not have an impact on the Rye Water Valley Carton SAC as the proposed development will not have an impact on the hydrological regime forming the designated site features of interest. Two attenuation units are proposed to deal with surface water generated at the site and an oil separator is proposed to remove hydrocarbon particulates prior to discharging of attenuated water to existing surface water drains and a flow control device will be fitted to allow controlled release of stored water. There will be no discharge of untreated wastewater or surface water to surface or groundwater and no abstraction from local ground or surface water for potable water.

8.5.5 Having regard to the nature of the proposed development sought together with the source-pathway-receptor model, I would not consider that an NIS or Appropriate Assessment is necessary in this case in light of the conservation objectives identified for the sites located within 15 kilometres of the appeal site. I consider it reasonable to conclude that on the basis of the information available that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 001398 in view of the site's conservation objectives.

9.0 Recommendation

9.1 I recommend that planning permission should be refused for the reasons and considerations as set out below.

REASONS AND CONSIDERATIONS

1. Having regard to Article 5 of the European Communities Environmental Objectives (Surface Waters) Regulations, 2009, which requires that a public authority, in performance of its functions, shall not undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water, the plans and timescale with regard to the upgrading of public water and wastewater infrastructure in the area, it is considered that the proposed development would be premature by reference to an existing deficiency in the provision of water services and public sewerage facilities and the period within which the constraints involved may reasonably be expected to cease. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development by way of its layout and design fails to respond appropriately to the unique characteristics of the site, relates poorly to the adjacent protected structure RPS Reference B-05-08 the former St Patrick's Church and would not contribute to a sense of place making. The proposed development would, therefore contravene materially the provisions of the Sustainable Residential Development in Urban Areas Guidelines and the Urban Design Manual 2009, the Kildare County Development Plan 2011-2017 and Kilcock Local Area Plan 2015-2022 and would be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector
2nd September 2016