



An  
Bord  
Pleanála

## Inspector's Report PL09.248093

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<b>Development</b>	34 no. 2 storey 2 and 3 bedroom residential units
<b>Location</b>	Celbridge Road, Capdoo Commons, Clane, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	16/1241
<b>Applicant(s)</b>	Glengolden Builders Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party against Refusal
<b>Appellant(s)</b>	Glengolden Builders Ltd.
<b>Observer(s)</b>	Brian Behan Edward and Monica Hawkins & Others Cllr. Padraig McEvoy
<b>Date of Site Inspection</b>	13 <sup>th</sup> June 2017.
<b>Inspector</b>	Ciara Kellett

## 1.0 Site Location and Description

- 1.1. The appeal site lies c.800m to the east of Clane Main Street, on the northern side of the Celbridge Road (R403). It is located between a Lidl Supermarket to the north and a Maxol Petrol Filling Station and a closed leisure centre to the south.
- 1.2. To the west of the site lies dwellings belonging to a number of the observers whose back gardens bound the site. A dwelling faces the site to the south-east and to the east there are open fields. Just north of the Lidl supermarket lies a car sales premises.
- 1.3. The site itself is stated as being 1.126Ha in size. It is a mix of grassed area and concrete and gravelled surfaces. The entrance road providing access to the Lidl Supermarket is the boundary to the north, a row of trees runs between the dwellings and the site to the west and a block wall separates the site and the Petrol Filling Station to the south.
- 1.4. Appendix A includes maps and photos.

## 2.0 Proposed Development

- 2.1. The proposal is for 34 residential units. The units comprise 8 no. 2 bedroom two storey town houses in two blocks (Block A1), 8 no. 2 bedroom two storey town houses in two blocks (Block A2), 6 no. 3 bedroom two storey semi-detached houses (Block B1), 4 no. 2 bedroom two storey town houses in 1 block (Block C1), 2 no. 3 bedroom apartments and 6 no. 2 bedroom apartments in two storey block (Block D1). Associated developments include 60 no. car parking spaces, bicycle parking, and landscaping. The vehicular access will be via the existing road serving the Lidl store off the Celbridge Road.
- 2.2. As well as the standard drawings and documentation, a Site Specific Flood Risk Assessment, a Planning Submission, and a Design Statement were submitted with the application.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to refuse permission for four reasons as follows:

1. The proposed development would be contrary to the provisions of the draft Clane Local Area Plan 2017 – 2023 in which the lands are zoned as 'Business and Technology' and where residential development is not permitted. Furthermore, the development would be premature pending the adoption of the Clane Local Area Plan 2017 – 2023 and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the poor quality of the residential layout and which would be contrary with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas issued by the Department of the Environment, Heritage and Local Government in May 2009 and the Kildare County Development Plan 2011 – 2017, it is considered that the proposed development would seriously injure the residential amenities of the area and the residential amenities of future occupants and would, therefore, not be in accordance with the proper planning and sustainable development of the area.
3. The proposed development is premature due to the lack of capacity in the waste water network and foul pump station Clane. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.
4. The proposed residential development is in an area which is at risk of flooding. Notwithstanding the preparation and submission of a site specific flood risk assessment, it has not been demonstrated to the satisfaction of the planning authority that the proposed development would not be at risk of flooding. The proposed development, therefore, could lead to conditions which would be prejudicial to the public safety and be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Notes that under the Clane LAP 2009, residential development on the site is open for consideration and may be approved, if it does not conflict with the permitted existing uses of the area.
- Notes there are a range of economic uses along the roadside which provides for a strong commercial/business led appearance, and the proposed use does not accord with the existing uses.
- The development will share an access/egress with the supermarket onto the R403 road resulting in residents sharing the roadway with traffic generated by the shop, including large goods vehicles. There is potential for conflict which would adversely impact on residential amenities of prospective residents.
- Notes Planning and Development Act advises that when considering an application for permission, a planning authority can have regard to any draft local area plan. Residential development is not open for consideration in the draft Clane Local Area Plan 2017 - 2023.
- Expresses serious concern with the design and layout: it has a higher density inner urban appearance; design results in unattractive streetscape of blank gable walls, large area of car parking and open space addressing the road; considers specific house numbers should have dual aspect/frontage; configuration of some blocks is unsatisfactory; and siting of apartment block close to the edge of the road will give rise to odour, noise and dust issues particularly from delivery vehicles.
- Concerns with public open space quality and lack of direct surveillance. Depth to rear garden of private open space falls short on some units. No boundary treatment plan surrounding the site and between dwellings has been submitted. A Landscape Plan is required.
- There is a shortfall in parking spaces and parking arrangements for blocks A1 and A2 are unacceptable.

- Planner recommends refusal of permission.

The decision is in accordance with the Planner's recommendation.

### 3.2.2. Other Technical Reports

- **Area Engineer:** Further Information required.
- **Transportation:** Further Information required.
- **Water Services:** Further Information required. Design calculations for drainage network required. Proof that network has adequate capacity, use of SuDS, requires a revised Flood Risk Assessment.
- **Building Control:** No report

### 3.3. Prescribed Bodies

- **Inland Fisheries Ireland:** Comments and suggested conditions.
- **Iarnrod Eireann:** No report.
- **Irish Water:** Development is premature due to lack of capacity headroom and surcharging at Abbeylands and existing KCC/Irish Water foul pumping station and other network constraints. If granted, no part of development to commence until contract signed for Upper Liffey Valley Regional Sewerage Scheme has been agreed and announced, and no units occupied until it has been completed and commissioned. Foul sewer to the rear is assumed to be in private ownership – express written permission required. Watermain in Lidl is presumed to be in private ownership – express written permission required. The watermain into which it is proposed to connect is not recorded on data base – 150mm pipe on far side of road – revised layout required.

### 3.4. Third Party Observations

There were 9 submissions to the Planning Authority all objecting to the proposal. Some of these concerns have been submitted in an observation to the Board on this appeal and will be detailed below.

In summary, concerns raised included: Foul sewer and pump station designed for 7 no. Retail Warehouses, not 34 no. residential units; current surrounding uses are

employment and economic related; draft LAP zoning aligns with Core Strategy of County Development Plan; Lidl air conditioning plant is located on south-west of the store and borders access road – equipment subject to ongoing nuisance noise complaints which will be opposite residential blocks; Council has refused permission for multi-unit developments in the Clane Area pending upgrade of Osberstown WWTP; use of reserve sewer capacity should be for social housing; bus stop to be properly catered for; surface water drain on west of site is not within applicant's property; rear of site is water laden at times; public open space is to the rear of the site with no surveillance; no traffic management at junction of Capdoo Inner relief road and the R403; need for public lighting along the road; car parking spaces inadequate; area marked as potential flood risk – difficult to get house insurance; plenty of land zoned for residential development in Clane; unacceptable view of Lidl or car wash facility for future residents; shared entrance with Lidl unacceptable and was built to provide access to retail units as part of the Lidl planning permission; and, applicant has not received consent to discharge foul water from the development into privately owned pump station or enquired about the capacity of the tank and pump station.

## 4.0 Planning History

### On the site:

- **Reg. Ref. 05/1921:** Permission granted in December 2006 for 7 retail warehouses, new site entrance and access road to serve development of 7 retail warehouses, and proposed development of a discount food store associated site development works on adjoining site located to the north-east.

### In the vicinity:

#### Lidl Development:

- **Reg. Ref. 05/2128:** Permission granted in September 2007 for a single storey, licenced discount food store, managers office, staff facilities etc. on portion of site to the north.
- **Reg. Ref. 10/1076:** Permission granted in September 2011 for an extension to the side of the existing store and an enclosed plant area.

Apartments south of Petrol Station:

- **Reg. Ref. 05/2535:** Permission granted in April 2007 for four shop units with 4 apartments above on site to the south of the petrol station.
- **ABP Ref. PL09.230388, KCC Reg. Ref. 07/1562:** Permission granted in March 2009 for the development of 4 shop units and 3 apartments on site south of petrol station. The applicant unsuccessfully appealed a condition which sought to reduce the number of apartments from 5 to 3.
- **Reg. Ref. 14/492:** Extension of permission granted for Reg. Ref. 07/1562 until July 2019.

Leisure Centre to rear of Petrol Station:

- **Reg. Ref. 99/1303:** Permission granted in January 2000 for the redesign and relocation of previously approved swimming pool and leisure centre.
- **ABP Ref. PL09. 206710; Reg. Ref. 03/1272:** Permission refused by the Board in November 2004 for the development of a children's play area adjacent to the Leisure Centre. The Board considered that the proposal was an inappropriate design response to the constraints of the site, which would seriously injure the amenities of the area and of property in the vicinity

## 5.0 Policy Context

The Clane Local Area Plan 2017 – 2023 (LAP) was at Draft stage when the proposal was being considered by the Planning Authority. The Draft Plan has been formally adopted with no changes to the zoning of the subject site between the Draft stage and the final adopted Plan. The applicant refers to the Clane LAP 2009 which is referred to below.

### 5.1. Clane Local Area Plan 2017 - 2023

The Clane LAP was adopted on 6<sup>th</sup> June 2017. Chapter 4 refers to Compliance with County Core Strategy, Chapter 5 Housing and Community, Chapter 7 Economic Development, Chapter 9 Infrastructure, and Chapter 13 Implementation.

Chapter 4 notes that Clane is a Small Town in both the RPGs and the County Settlement Hierarchy. The County Development Plan allocates 2.4% of Kildare's housing growth to Clane over the period 2017 – 2023. It notes that the LAP will have to make provision for 780 housing units over the Plan period. It notes that the LAP includes a total of 49.1Ha of undeveloped residentially zoned lands which has the capacity to deliver 1,026 units, which includes an additional capacity of 246 units. The LAP notes that the lands zoned under the Clane Local Area Plan 2009 have been revised in so far as is deemed necessary to ensure a sequential approach to zoning, the promotion of development on underutilised lands, the achievement of a compact urban form and the avoidance of flood risk. Objectives include **CSO1.2**:

*To focus new residential development into the Key Development Areas identified in the Core Strategy map and new enterprise development into areas identified for light industry and warehousing and business and technology development.*

Chapter 5 refers to Housing and Policy **HC1** states:

*It is a policy of the Council to ensure that sufficient zoned land continues to be available at appropriate locations to satisfy the housing needs of Clane and that each household has access to good quality housing that is appropriate to its circumstances.*

Section 7.2 of Chapter 7 refers to the Clane Economic Development Strategy. It has identified key locations for development of new employment. It notes that there are 6.23 Hectares of land zoned for Business and Technology, which includes the subject site. The Plan identifies 5.2 hectares of land north of the Celbridge Road for Business and Technology.

Objective **EDO1.5** specifically refers to the site:

*To ensure that development on the 'Business & Technology' zoned lands situated on the Celbridge Road (R403) provide a high quality design which acknowledges the prominent location on a primary approach road into Clane.*

Chapter 9 refers to infrastructure. With respect to water supply it notes that there are deficiencies within the local network in Clane. With respect to waste it states that *"there are significant constraints within the Clane network and the wider collection*



*network to which it connects which require to be addressed in order to facilitate intended growth*". It notes that the target date for completion of these works is 2020.

Section 9.3 refers to Flood Risk Management. Objective **IO3.1** states:

*To ensure development proposals within the areas outlined on Map 9.1 are the subject of Site-Specific Flood Risk Assessment, appropriate to the nature and scale of the development being proposed.*

The site is identified within the Pluvial Flood Risk Zone.

Chapter 13 refers to Implementation. The site is identified as zone Q: Business and Technology *To provide for office and high technology type uses*. Dwellings are a use that is Not Permitted (N).

Car Parking is to be provided in accordance with the Kildare County Development Plan 2017 - 2023, which requires 2 spaces per dwelling, and 1.5 spaces per apartment plus 1 visitor space per 4 apartments.

## **5.2. Clane Local Area Plan 2009**

The Clane Local Area Plan 2009 is referred to throughout the planning application documentation. In this Plan the site is zoned T: General Development. Dwellings are 'Open for Consideration' under this zoning objective. Table 13 notes that the specific Land Use zoning objective is "*To provide for General Development*" and "*This zoning allows for a mix of uses. In this zone it is important to avoid abrupt transitions in scale and use at the boundary of adjoining land use zones and also to avoid developments that would be detrimental to amenity*".

## **5.3. Natural Heritage Designations**

Ballynafagh Bog SAC (Site Code 000391) is c. 6km to the west. Ballynafagh Lake SAC (Site Code 001387) is c. 6km to the west.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal against the Planning Authority's decision to refuse permission was lodged. A request to hold an Oral Hearing was also received. The appeal documentation included 15 appendices.

In summary, the appeal includes and states:

- Submission to KCC on Draft Clane LAP is included as Appendix III.
- Planning History on land uses in the vicinity of the site is addressed and existing land uses on each area highlighted. Documentation for most recent grants of permission on the subject site and site where Lidl store is located is attached in the appendices.
- Considers that all services are immediately available. Notes there is an existing water main passing through the lands along the access road and the Celbridge Road. There is an existing foul sewer running through the lands. Foul sewer was constructed by Lidl and there is adequate capacity for the proposed development. There is an existing surface water drain running through the lands constructed by Lidl as well as the existing entrance.
- A "Grant of Wayleave" dated November 2007 is attached, with regard to connecting the foul sewer into Mr. Brian Behan's foul sewer pumping station with sufficient capacity to be available to service Lidl and the applicant's site.
- Maps attached to show location of the surface water drain that was installed along the Celbridge Road to service the overall landholding.
- A copy of the Land Use zoning map of the draft Clane LAP is attached. Consider it extremely difficult to understand how the applicant's land was not included for rezoning to residential. Consider that most of the zoned land will not be available for 3-4 years due to unavailability of infrastructure including new roads, flood relief and foul sewer capacity.

- Consider that due to the mix of uses permitted in principle or open for consideration in the Q zoning, most of the existing uses could not be granted permission. It is unlikely that these uses will be changed in the near future.
- Reference to Housing Crisis and consider there will be little residential units built in the next 3-4 years in Clane.
- Reference to zoning in Clane LAP 2002 and 2009. Lands were zoned for General Development in both Plans where dwellings were open for consideration.
- Considers design with the provisions of the Development Management Standards of the Kildare County Development Plan 2011 – 2017.
- Comments on Planning Report of Planning Authority. Consider residential use a reasonable land use at this location. Consider design of the scheme has taken into account various restricting factors on the site and accords with relevant design guidelines.
- Considers site is ideal for a number of reasons: Existing mixed use in the area; brownfield site; sequential development; public transport – bus stop on site; national housing crisis; existing services in place; core strategy; unavailability of houses in Clane over next 3-4 years.
- Address density, design and layout and open space. Consider there is no requirement to provide minimum rear garden of 11m.
- Car parking – consider Sustainable Urban Housing Guidelines suggest car parking can be reduced in certain residential developments – there is a bus stop on the Road and there are over 100 car parking spaces in the Lidl car park.
- A copy of car park layout approved by the Road Design department on planning file 05/2128 is attached with respect to Transport comments about car parking arrangements for Blocks A1 and A2.
- Conclude that the existing zoning is T- General Development where residential development is open for consideration. Each reason for refusal is addressed with reference back to comments summarised above.

- A response to the Engineering Department request for Further Information with respect to the Flood Risk Assessment has been provided.

## 6.2. Planning Authority Response

The Planning Authority responded to the appeal. In summary, it is stated:

- The Clane LAP 2009 expired in 2015; therefore, land use zonings pertaining to that LAP have expired.
- Consider concerns about strategic and site specific issues such as zoning and availability of residential sites are not matters for the planning appeal, but should be dealt with through the LAP.
- Site is not the subject of a Material Alteration and the site is zoned Q, therefore, under the Draft LAP, residential development is not permitted.
- Disagree with appellant that the site is defined by a mix of uses. Extent of existing residential uses in the sites immediate context is overstated.
- Comments on design, density and layout. Considers that the open space has been located to overcome site constraints; refer to Brooklands estate and attractive streetscape; arrangement of Block C is unacceptable; location of apartment Block D1 will give rise to complaints and reiterated shortfall of parking spaces.
- Note appellant's submission on refusal reason no.3 and offer condition should the Board consider granting with respect to WWTP.
- Consider that the revised Flood Response to address 4<sup>th</sup> reason for refusal has not satisfactorily demonstrated that the proposal is not at risk of flooding.
- Request the Board to uphold their decision to refuse permission.

## 6.3. Observations

Observations were received from Mr. Brian Behan, the adjoining landowner, Cllr. Pdraig McEvoy and a joint submission from 8 residents of Capdoo. In summary, they state:

- No change is proposed to the Business and Technology zoning of the site at Material Alteration stage of the LAP.
- No justification provided as to why the applicant considers that these lands are more suitable for residential development.
- Responses are limited to opinion and commentary rather than pointed qualified supportive evidence.
- Not compliant with Design Manual for Urban Roads and Streets.
- Applicant's reference to parking in earlier planning permissions – those permissions were materially different to the current proposal.
- Undersupply of parking – 68 spaces should be supplied within curtilage of the site.
- Site is a centrepiece for a strategic area that is partially developed for commercial and retail uses.
- Considers the applicant only refers to the immediate area of the site with respect to the foul network rather than the overall Clane area. The Lidl pump also serves the Maxol Petrol station, car wash station, External laundry and dryer unit, and five retail units at the rear of the petrol station.
- Agreement for use of the pumping station between the applicant, Lidl and Mr. Behan was in relation to a previous planning permission for the retail development of 5 shops and discount store which consisted of 5 x 3 w/c units and the store. 34 residential units would have a greater demand on the infrastructure and there is concern with the capacity of the existing infrastructure. Observer has a live planning permission for four retail units and 3 apartments extended to July 2019.
- Reference made to Irish Water observation who echo observers concerns regarding existing infrastructure.
- Observer is willing to enter into a new agreement with applicant if there is sufficient capacity in the system.

#### 6.4. Further Responses

The applicant responded to the Planning Authority submission to the Board. In summary, it states:

- Consider that the Clane LAP 2009 was taken into consideration by the Planning Authority and used in pre-planning meetings, and referred to in the Planning Report.
- Refer to pre-planning meeting held regarding site immediately north of the Lidl store in which the officials of Kildare County Council were fully in favour of residential development on the site, but there was a serious problem with the lack of availability of foul sewer capacity and there was no foul sewer to drain this site.
- Consider site to be a brownfield site with all the infrastructure immediately available. Refer to its former use as a piggery.
- Note that the Clane LAP 2017 – 2023 has effect from 6<sup>th</sup> June 2017. Consider that the Clane LAP 2009 was in existence on the date of the decision 2<sup>nd</sup> February 2017. Due consideration was not given to the 2009 LAP in their decision making process having regard to the facts of the pre-planning meetings held in 2016.
- Consider that the housing supply situation and unavailability of residential units in Clane is beyond a crisis.
- Consider reason for refusal with respect to open space could be easily resolved should permission be granted.
- Capacity for residential development has been reserved in foul sewer system in Clane by virtue of the grant of permission for the Lidl store and 7 no. retail units. Work has been completed which demonstrates that the applicant has an adequate sized foul sewer pumping station.
- Revised flood report submitted which demonstrates the site is not at risk of flooding.

## 6.5. Oral Hearing

The applicant requested an Oral Hearing as part of their appeal submission. The Board decided on April 26<sup>th</sup> 2017 that a hearing should not be held.

## 7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Residential & Visual Amenities, Design and Layout
- Infrastructure
- Flooding
- Appropriate Assessment

### 7.1. Principle of Development

The zoning of this site changed between the Clane LAP 2009 and the Clane LAP 2017 – 2023. The 2009 LAP provided that residential development was open for consideration on this site, while the 2017 LAP expressly states that residential development is not permitted in the new ‘Business and Technology’ zoning.

The 2017 LAP was at Draft Stage when the Planning Authority was considering this planning application. No material alterations were being proposed to the zoning of this site following the Draft stage. S.18(3)(a) of the Planning and Development Act provides that a Planning Authority can take into consideration any relevant draft local plan which has been prepared but not yet made when considering a planning application. Therefore, I am satisfied that the Planning Authority were entitled to have regard to the zoning as stated in the Draft Clane LAP 2017 – 2023.

I have reviewed the zoning as expressed in the Clane 2009 LAP. The applicant correctly points out that residential development was open for consideration under the ‘*General Development*’ zoning which pertained to the site at the time. The

existing land uses and zoning in the vicinity will inform the Planning Authority's assessment of any planning application. It is stated *'it is important to avoid abrupt transitions in scale and use at the boundary of adjoining land use zones and also to avoid developments that would be detrimental to amenity'*.

I have visited the site and consider that residential development on this site would be detrimental to the amenity of prospective residents and would be an abrupt transition in use. There is a Lidl store to the north with its car park facing the road and a car sales garage further north again with its forecourt facing the road - a large petrol filling station and shop is located to the south. Commercial uses are well established along this entrance into Clane. These commercial land uses are at the gateway to Clane from the Celbridge/Dublin Road, just inside the 50km/hr speed limit.

The current zoning of the site is 'Q – Business and Technology' and I consider this to be a reasonable zoning having regard to the existing land uses. I note that this site is one of only two sites in Clane with this zoning. There are 6.23 hectares of land zoned for Business and Technology, of which this area north of the Celbridge Road makes up 5.2 hectares.

I note there is a live planning application for 3 apartments and 4 shop units to the south of the petrol station. This permission has been extended until July 2019. The number of residential units is only three and is on the boundary with the Capdoo Avenue which adjoins a large residential area of Clane. I do not consider that this permission for three apartments could be deemed to establish residential development within this zoning.

There is sufficient land zoned in the Clane LAP 2017 - 2023 to more than meet Clane's allocation of housing, in accordance with the Core Strategy of the Kildare County Development Plan 2017 – 2023. I would consider that residential development on these lands would be contrary to Objective CSO1.2 which seeks to *'focus new residential development into the Key Development Areas identified in the Core Strategy map and new enterprise development into areas identified for light industry and warehousing and business and technology development'*.

The applicant states that there will be no residential development in Clane for the next 3-4 years, due to (inter alia) infrastructural issues. I accept that there are waste water infrastructural issues in Clane, as referred to by Irish Water and the Water



Section of the Council. However, these issues affect the subject site as well as the rest of Clane. I will address infrastructural issues separately below, however, I consider the residential zoning of land identified in the Clane LAP 2017 – 2023 to more than adequately meet the obligations of Clane to provide housing.

In conclusion, while residential development was open for consideration under the General Development zoning of the 2009 LAP, I do not consider that residential development in this particular location would be an appropriate land use having regard to the nature of the land uses bounding the site. I am not satisfied that the principle of residential development on this site, which is zoned for Business and Technology in the Clane LAP 2017 - 2023, and which I consider to be reasonable, is acceptable. Furthermore, there is sufficient zoned land, in appropriate locations throughout the town, to more than adequately meet the needs of the housing requirements for Clane, in accordance with the core strategy of the County Development Plan.

## **7.2. Residential & Visual Amenities, Design and Layout**

The Planning Authority considered the residential layout to be of poor quality and referred to this as refusal reason no.2. The design of the proposal was referred to by a number of the observers.

There are 34 residential units proposed, mainly two bedroomed units and described as 'starter homes' by the applicant. While two bedroom units are welcome, I would share a number of concerns with the Planning Authority.

- **Visual Amenities:**

Due to the location of the site between the Lidl store and petrol station/leisure centre, there are potential visual amenity concerns for future residents. Block A1 and A2 will overlook the side of the Lidl store and the services area. The residents of the apartment block D1 will overlook the Lidl car park. Blocks A2, C1 and A1 back on to the Petrol Station and the Leisure Centre. If the Leisure Centre was to re-open, there could be overlooking concerns with the residents of Block A2 and C1. Block A1 backs onto the outdoor Laundry Facility. I accept that these situations arise in many urban areas but having regard to the zoning, I am of the opinion that these visual amenity concerns serve to further undermine the acceptability of this proposal.

- **Open Space:**

The quality of the open space is raised as a concern by the Planning Authority.

There are two areas of useable open space – to the front of the development (Open Space B) and to the rear (Open Space A).

The rear of the apartment block D1 bounds the open space to the front (B). Block A1 partially overlooks the open space and the car parking. I consider this to be insufficient passive surveillance of this area.

I have serious concerns with the open space to the rear (A) which occupies a peripheral location rather than being an integral part of the development. Gable walls face the open space resulting in very little passive surveillance. Furthermore, a Landscape Plan has not been submitted with the proposal and the quality of the open space and its different uses are not defined.

I am of the opinion that the design and location of the open space is unacceptable, and has been located to overcome site constraints with respect to piped services, rather than providing acceptable public open space for the amenities and enjoyment of the future residents.

- **Noise concerns:**

The Capdoo residents refer to noise concerns from plant and equipment serving the Lidl store. This is a separate matter, however, I would have concerns for both Lidl and the future residents of Blocks A2 and A1. Retail Warehousing was the approved development in this location at the time of the Lidl development. Similarly, I would have concerns for future prospective residents, including residents of apartment Block D1, with respect to deliveries to the store and potential noise associated with delivery trucks.

Equally future residents of the blocks that share a boundary with the petrol station, car wash and outdoor laundry facility could be subject to noise resulting in impacts on residential amenities.

- **Car Parking and entrance road**

There is a shortfall in the car parking proposed. The County Development Plan requires that there are 2 spaces per dwelling and 1.5 spaces per apartment plus 1 space per 4 apartments for visitors. This results in a requirement of 66 spaces. There are 60 spaces proposed.

I accept that the Planning Authority has discretion to accept a lower number of spaces if appropriate. The applicant refers to the Bus Stop outside the site and the 100 car parking spaces in the Lidl store. I do not consider that these alternatives are acceptable in this instance. It would be inappropriate to require the residents to avail of parking on third party lands. I consider that parking in accordance with the Development Plan standards should be a requirement at this location.

The shared entrance road with the Lidl store was constructed on foot of a planning permission for retail warehouses and the Lidl store. I would have serious concerns about the amenities of the future residents sharing the road with shoppers and delivery trucks. The applicant states that the issues raised in the Further Information request of the Transport Department were addressed in file register reference 05/1921 and 05/2128. As highlighted in Section 4 above 'Planning History' these permissions were for retail warehousing and the Lidl store, not 34 residential units.

In conclusion, I do not consider that sufficient parking has been provided having regard to the location of the site, and I consider a shared entrance with the Lidl store to be unacceptable in this instance.

- **Conclusion**

In conclusion, I am of the opinion that the poor quality of the residential layout would seriously injure the amenities of the area and the residential and visual amenities of future occupants.

### 7.3. **Infrastructure**

There are a number of concerns raised with respect to the infrastructure serving the site, both at a site specific level and Clane in general.

Irish Water consider the proposal to be premature due to lack of capacity headroom and surcharging at Abbeylands estate and the existing KCC/IW foul pump station in

Clane, and other sewer network constraints into which the proposed development discharges between Clane and Osberstown WwTP. I consider this to apply to Clane in general, which has implications for the foul sewer pump which the applicant intends to connect to.

At a site specific level there is a significant number of references to onsite waste and water and drainage pipework. A foul sewer pumping station was constructed on foot of the earlier planning permission for the Lidl store and the retail warehouses. The applicant attaches documents indicating that a legal agreement exists between the landowner (one of the observers, Mr. Brian Behan) and the applicant with respect to the use of the foul sewer pumping station. However, Mr. Behan submitted an observation stating that while he does not object to the development, he has some very strong concerns regarding the use of the pumping station on his lands. He states that the legal agreement was prepared on foot of planning permission Reg. Ref. 05/1921 for a development of retail units and a discount foodstore, which provided for 5 x 3 w/c units and the Lidl store as constructed. He notes that 34 residential units would have a demand clearly in excess of the retail requirement. No information has been supplied with respect to the capacity of the foul pumping station and therefore, I am not satisfied that the applicant has demonstrated that the foul pumping station can adequately cater for the development of 34 residential units.

In summary, the applicant has not demonstrated that the foul pumping station that it is intended to connect into has sufficient capacity without compromising existing and future permitted development. Irish Water have also noted concerns with the overall network capacity and suggested conditions preventing any development until the contract for the Upper Liffey Valley Regional Sewerage Scheme Contract 2B has been agreed and announced.

Other concerns with the lack of written consent to tie into private water and surface drains have also been raised. However, I consider that the key issue is the waste water infrastructure. I am not satisfied that the applicant has demonstrated that there is adequate capacity at a site specific level or generally in Clane to accommodate the development, and it is premature pending the Upper Liffey Valley Regional Sewerage Scheme Contract 2B.

#### **7.4. Flood Risk**

Refusal reason no.4 of the Planning Authority referred to concerns with Flood Risk. As part of the appeal the applicant addresses the Engineering Department concerns with respect to flood risk, having regard to the fact that they were not provided an opportunity to address the concerns due to the refusal of permission.

The applicant states that there is no direct primary flood risk to the site as confirmed by the latest OPW CFRAMS flood maps for the area. It is concluded that the proposed development is not at particular risk of direct fluvial, pluvial or groundwater flooding. I am satisfied that the applicant has responded adequately to the Engineering Department concerns with respect to flooding and I do not consider this a reason to refuse permission.

#### **7.5. Appropriate Assessment**

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

#### **8.0 Recommendation**

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

#### **9.0 Reasons and Considerations**

1. Having regard to the zoning of the site, the objective of which is to provide for Business and Technology in the Clane Local Area Plan 2017 - 2023, and the location of the site adjoining commercial uses, it is considered that the proposed development would contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to its location along the Celbridge road at the entrance to Clane, it is considered that the proposed development would be out of

character with the pattern of development in the area, would result in the poor disposition and quality of public open space, would result in the unsatisfactory location of houses and apartments within the site, would result in insufficient parking, a shared road entrance which would not be conducive to pedestrian safety, and overall would give rise to substandard residential amenity for future occupiers. The proposed development would thereby constitute a substandard form of development which would seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

3. The proposed development is premature due to the lack of capacity in the wastewater network and the foul pump station Clane. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area.

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Ciara Kellett  
Senior Planning Inspector

14<sup>th</sup> June 2017