



An
Bord
Pleanála

Inspector's Report PL09.248488.

Development	Development of 57 dwellings, and all associated works.
Location	Johnstown, Naas, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	16/833.
Applicant	Ardstone Residential Partners Fund ICAV.
Type of Application	Permission.
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	Third Party vs. Grant.
Appellant	1. Eoin & Shirley Mulhall. 2. Paul Murphy & Linda Lyons. 3. Johnstown Community Association.
Observer	Dermot & Suzanne O'Malley.
Date of Site Inspection	16 th August 2017.
Inspector	Ciara Kellett.

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1.0 Site Location and Description

- 1.1. The appeal site is located in Johnstown Village, Co. Kildare. Johnstown Village is south of the N7 National Road between junctions 8 and 9. The R445 runs through the village providing access to the N7, Naas to the south and Kill to the north. Naas boundary is c.1km to the south-west of the village. Johnstown Village has a population of c.1000 persons in the most recent census.
- 1.2. The appeal site itself is located to the south-east of the village c.400m from the village core. The area is stated as being 2.34Ha and is bounded by the L6033 road to the north and the L6034 Road to the west. Furness Manor housing development lies to the south of the site, as well as a one-off dwelling which faces the L6034 road and is owned by one of the appellants. Johnstown Garden housing development and two large industrial units lie west of the L6034 road. To the north-west of the site and north of the L6033 road, lies St. Johns Grove housing development which includes a number of retail units facing the road. To the east of the site lie agricultural fields.
- 1.3. The site is roughly rectangular in shape and is currently a greenfield. The field is surrounded on all sides by mature hedgerows and trees. A footpath exists along the eastern side of the L6034 road, serving Furness Manor. The L6033 road is a very narrow road with no footpath and is in poor condition in places.
- 1.4. Appendix A includes maps and photos of the site.

2.0 Proposed Development

- 2.1. The development as initially proposed included 57 dwelling houses, comprising 14 no. 3 bed semi-detached two storey dwellings, 38 no. 4 bed semi-detached two storey dwellings, and 5 no. 5 bed detached three storey dwellings. There are 7 different house types proposed.
- 2.2. Alterations to the existing entrance to the site at the junction of the L6033 and the L6034 are proposed to provide a pedestrian only entrance. A new vehicular entrance is proposed off the L6034, as well as facilitating the realignment of the junction of the L6033 and the L6034 and associated realignment of the footpath.
- 2.3. Two principal areas of public open space were initially provided to the west and in the centre of the development.

- 2.4. Following the response to the Further Information request, modifications to the development were proposed which resulted in changes to the numbers and types of dwellings. The total number of dwellings was reduced to 52 and the housing mix was adjusted to provide for 3 no. 2 bed two storey dwellings laid out in a terrace, 14 no. 3 bed and 33 no. four bed two storey semi-detached dwellings and 2 no. five bed three storey detached dwellings. A new linear public open space incorporating a pedestrian pathway along the northern boundary of the site is proposed, and a new house type is included to better provide suitable passive surveillance to the new linear park area.
- 2.5. The development will connect to existing public water supply and drainage services. Surface water attenuation is included.
- 2.6. A number of documents were submitted in support of the application including: a Planning Report, an Appropriate Assessment Screening Report, a Design Statement, an Engineering Services Report and Flood Risk Analysis, a Transport Impact Assessment, an Ecological Impact Assessment and a Tree Survey.
- 2.7. Following the request for Further Information, revised drawings, Services Design Detail, Flood Risk Assessment, Archaeological Assessment and a Visual Impact Study accompanied the response to the request. Following Clarification of Further Information further drawings, Site Services Report and Site Specific Flood Risk Assessment were provided.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 46 standard conditions including:

Condition no.7 restricting the use of attic storage space to non-habitable accommodation, condition no.9 to comply with Part V, condition no.11 a detailed design of the junction upgrade and costs to be borne by the applicant, condition no.18 footpath along L6034 to be replaced with a 2m wide footpath and road edge to be maintained in current position, condition no.21 road safety audits to be undertaken, condition no.44 requires a special contribution of €23,400 for road

works, condition no.45 requires a bond of €208,000 and condition no.45 a Development Contribution of €360,150.

3.2. **Planning Authority Reports**

3.2.1. The application was subject to a request for Further Information and Clarification of Further Information. Therefore, there are a number of planning and technical reports on file. They can be summarised as follows:

First Planning Report:

- The land is zoned 'C1 – New Residential' in the Johnstown Village Plan within the County Development Plan.
- Johnstown is designated as a Village in the County Settlement Strategy and two parcels of land are zoned for new residential development – the subject site and a 1.8Ha site to the north – both sites are east of the village.
- Of the 15 villages in Kildare, Johnstown has the highest population of 1004 (2011 census) – a target increase of 1184 units is identified for the period 2010 – 2023 throughout the villages.
- Notes Recorded Monument – Moated Site is c.40m from the southern boundary.
- Notes Design Statement indicates a density of 24 units per hectare.
- Considers scheme does not provide for an active frontage along the two public roads it faces. Better balance could be achieved with front elevations facing public roads which will result in additional open space and a reduction in density. Notes concern with house type D which leads to awkward garden shape of adjacent houses.
- Notes issues regarding site boundaries and trees require resolution.
- Notes 3 no. houses 9.115m high for northern boundary and considers these to be unacceptable. Notes concern with position of some of the houses and impact on one-off dwelling facing the L6034 road.

Further Information was requested on 30th September 2016 for 28 items including: revising proposals for a scheme for 15-20 units per Ha, scheme to include for full

active frontage of dwellings facing public roads, consider boundary treatment to rear/side of dwellings currently not conforming with Development Plan standards, submit a Visual Impact Assessment, address boundary dispute, submit Social Infrastructure Assessment, address submissions, archaeology, surface water and drainage, flood risk assessment, and discrepancies in wastewater and dead-ends in water supply.

The response to the Further Information was received on 20th December 2016 and addressed in the second Planner's Report.

Second Planner's Report:

- Considers changes and layout proposed is generally acceptable.
- Considers reduced density of 22 units per Ha is acceptable.
- Considers revised boundary treatment acceptable with the exception of the eastern boundary and seeks a change from a timber fence to a suitably coloured metal fence.
- Notes that Irish Water and Water Services indicate dissatisfaction with the applicant's response and are seeking Clarification of Further Information.
- A request for Clarification of Further Information was issued to the applicant on the 25th January 2017. Clarification was required with respect to Surface Water Drainage and Attenuation, Flood Risk Assessment and Waste Water.

The response to the request was received on 22nd March 2017 and included new Site Services Report and Site Specific Flood Risk Assessment Reports by DBFL Consulting Engineers, as well as revised drawings.

Third Planner's Report

The Third Planner's Report following the clarification response from the applicant, notes the majority of the issues relate to technical water service issues.

- In relation to the density, considers 22 units per Ha is acceptable in this location given the site is close to residential and employment land uses.
- Considers revised boundary details acceptable.

- On the basis of the internal reports from the departments, recommends that permission be granted.

The decision was in accordance with the Planner's recommendations.

3.2.2. Other Technical Reports

The application was referred to (summary):

- **Water Services** – Further Information requested including longitudinal sections of surface water drainage, detailed design calculations for surface water drainage, rationale for larger pipe sizes, attenuation of storage tank and overground swale not readily apparent, infiltration properties of sub-soils, logic of locating the hydrocarbon interceptor upstream of the attenuation storage tank, Flood Risk assessment queries. Following response by applicant, considered that there were still outstanding items and noted the location of the development in Johnstown with its flooding history, proximity to the Morell River, and OPW CFRAMS analysis of the site and requested Clarification of Further Information. Following response, no objection subject to conditions.
- **Transportation** - no objection subject to conditions.
- **Environment** - no objection subject to conditions.
- **CFO** - no objection subject to conditions.
- **Housing** - no objection subject to conditions re Part V
- **Heritage Officer** - Further Information requested.

3.3. Prescribed Bodies

The application was referred to:

- **Irish Water** – Following response to Further Information and Clarification of Further Information, no objections subject to conditions.
- **Dept. of Arts, Heritage, Regional, Rural and Gaeltacht Affairs** – Seeks Further Information relating to Archaeology. Following response, no objections subject to conditions.
- **An Taisce** – raises issues re: archaeology, ecology and flood risk.

- **Inland Fisheries Ireland** - no objections subject to conditions.

3.4. **Third Party Observations**

A total of 25 third party submissions were made. Common areas of concern related to the density of the development, impact on level of population, impact on character and status of the village, flood risk, increase in traffic, residential amenities, and impact on ecology. These concerns are also the subject of the appeal and are expanded upon in section 6 of this Report.

4.0 **Planning History**

There are no planning applications relating to the site. There have been a number of planning applications for minor domestic works in the surrounding housing developments.

5.0 **Policy Context**

5.1. **Development Plan**

The site is located within Johnstown Village which is subject to the policies and objectives contained within the Kildare County Development Plan 2017 – 2023. Johnstown itself is addressed within Volume 2 of the Plan 'Villages & Rural Settlements'.

Volume 1 of the Plan includes Chapter 3 which refers to Settlement Strategy, Chapter 4 refers to Housing, and Chapter 17 Development Management Standards, as well as the provisions of Volume 2.

Table 3.1 identifies Johnstown as one of fifteen villages in Kildare. Section 3.4.4 with respect to the role of villages, notes that they will '*continue to develop as local centres for services with growth levels to cater for local need at an appropriate scale*' and Table 3.2 states that the villages will account for 24% of the Housing allocation from 2016 – 2023.

Chapter 4 refers to general housing policy. Objective **HSO8** states:

Ensure that an appropriate mix of housing types and sizes is provided in each residential development.

Objective **HCO2** states:

Encourage appropriate densities for new housing development in different locations through the local area plan process while recognising the need to protect existing residential communities and the established character of the area.

Objective **HDO3** states:

Encourage appropriate design and densities for new residential development while recognising the need to protect existing residential communities and the established character of the area. Where appropriate, local area plans may incorporate additional guidance in the form of design briefs for important, sensitive or larger development sites.

With respect to Location and Design, objective **LDO1** states:

Ensure that the density of residential development maximises the value of existing and planned physical and social infrastructure and makes efficient use of zoned lands in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

Table 4.1 provides guidance on appropriate locations for new residential development:

Edge of centre sites within small town/village densities in the range of 20-35 dwellings per hectare will be appropriate.

Edge of small town/village densities of less than 15 – 20 dwellings per hectare along or inside the edge of smaller towns and villages, as long as such lower density development does not represent more than 20% of the total new planned housing stock of the small town or village in question.

Chapter 17 notes that in general, a minimum of 22m between opposing above-ground floor level windows is required for habitable rooms. Minimum floor areas of 85sq.m for 2-bed houses, 100sq.m for 3-bed houses and 110sq.m for 4-bed houses are required. Minimum open space of 55sq.m are required for 2-bed, 60sq.m for 3-

bed and 75sq.m for 4 bed are required. With respect to open space, 15% of a total site area is required for greenfield sites.

Volume 2 contains policies for villages including Johnstown. The subject site is zoned 'C1'. Table 2.4 notes that C zoning is for '*New Residential – To Provide for New Residential Development*'.

Policy **VRS4** states:

Generally, permit density levels in accordance with indicative levels outlined in Table 4.2 of this Plan. Proposals shall also conform to the Development Management Standards contained in Volume 1, Chapter 17 of this Plan. Exceptions may be made to development management standards in infill/ brownfield sites within village centres or settlement cores where the scheme is of exceptional quality and design.

Policy **VRS6** states:

Generally, control the scale of individual development proposals to 10-15% of the existing housing stock of any village or settlement over the lifetime of the Plan in accordance with the Sustainable Residential Development in Urban Areas Guidelines (2009). For example, for a village of 800 people, the typical pattern and grain of existing development suggests that any individual scheme for new housing should not be larger than 26 - 40 residential units.

Section 2.5.7 specifically refers to Johnstown. It notes that growth is provided for local demand and that growth is to be located on lands previously zoned. There is adequate water supply and it is connected to Osberstown Wastewater treatment system. It is noted that due to its proximity to Naas and Kill it relies on these larger towns to provide many of its community services and schools.

Objective **RD1** applies certain principles to the development of the land zoned 'C1', the subject site, including improvement of the junction, improvement along the road to the northern boundary (i.e. L6033), retain trees identified on the map V2-28, new development must not impinge on residential amenity of adjoining properties, and seek improvements in pedestrian and cycling facilities back into the village.

Objective **NH2** states:

Survey the trees illustrated by the appropriate symbol on Map V2-2.8 and to seek to protect those trees deemed to be of sufficient amenity value.

With respect to Flooding, it is noted that flooding related to the Morrell, Annagual and Hartwell rivers has been a significant problem in Johnstown in the past and has necessitated flood alleviation works which were carried out in 2012.

It is an objective of the Council to:

T1 Realign and improve the junction of the L6033 and the L6034.

5.2. Other Guidelines

The DoEHLG Guidelines on 'Sustainable Residential Development in Urban Areas' (2009) outline sustainable approaches to the development of urban areas. These set out national policy of encouraging more sustainable urban development by the avoidance of excessive suburbanisation and the promotion of higher residential densities in appropriate locations.

With respect to *Edge of Small Town/Village* densities, it notes that densities of 15-20 dwellings per hectare are appropriate, and such lower density development should not represent more than about 20% of the total new planned housing stock of the village, to ensure that planned new development offers a range of housing types.

5.3. Natural Heritage Designations

There are a number of Natura 2000 sites within 15 km of the site as follows:

- Red Bog SAC Site Code 000397
- Mouds Bog SAC Site Code 002331
- Ballynafagh Lake SAC Site Code 001387
- Ballynafagh Bog SAC Site Code 000391
- Wicklow Mountains SAC Site Code 002122
- Pollardstown Fen SAC Site Code 0396
- Wicklow Mountains SPA Site Code 004040

- Poulaphuca Reservoir SPA Site Code 4063.

6.0 The Appeal

The application is subject to three no. third party appeals. The third party appeals are from: 1) Eoin and Shirley Mulhall, 2) Paul Murphy and Linda Lyons, and 3) Johnstown Community Association.

The third party appeals are detailed below.

6.1. Grounds of Third Party Appeal

Each appeal has been read and summarised below. Where issues raised are common, they are not repeated.

Eoin and Shirley Mulhall

The appeal in summary states:

- Share their northern boundary with the site (c.80m). Development will have a serious impact on their privacy, safety and amenities.
- Incompatible with a number of stated policies and objectives of the County Development Plan.
- Incorrect and inconsistent with some facts pertaining to the site especially with regard to proximity to their property.
- Density of overall development: Policy VRS6 limits proposal to 10 -15% of existing housing stock, therefore any new development in Johnstown should be limited to 100 - 151 people and 30-45 housing units – proposal has 52 units giving an estimated population of 182.
- Density should be 15 – 20 units per hectare, subject development is 22.2 units per hectare. See no special circumstance why exceptions should be allowed. There are other sites owned by the same developer in the village and earmarked for residential development. Disregard for density guidelines would set a worrying precedent.
- 9 houses border their property – houses on this northern border are completely disproportionate to the other borders and will impact on their

amenities. Development most dense at this border and not consistent with Objective RD1.

- Overlooking issues and inconsistent with the 22m guideline between opposing ground floor level windows.
- Houses will be 2.1m higher than their house and design provides for attic conversions adding to potential overlooking. Request a stipulation that conversions of attics or changes to roof (e.g. solar panels) are not permitted.
- Each of the 9 houses will have a 2.2m high shed right up against the boundary and at some points only 7m from their bedroom windows. Height of sheds is excessive and metal cladding would be out of character.
- There is no boundary wall proposed – applicant is using the existing hedgerow which is completely inadequate which is a direct contravention of Development Standard 19.4.4. Solid wall of over 2.2m high should be erected. There is no agreement to carry out works on the party boundary.
- As raised by An Taisce, policy RD1 of the Johnstown Development Plan requires that identified trees are retained. Construction will damage these identified trees as well as the extensive hedgerow. Houses are being built in close proximity to trees which would appear to be an unacceptable safety risk.
- Back gardens close to their dwelling appear to be the smallest in the development at c.70-80sq.m leading to reduced amenities for the residents. Concerned about existing trees reducing light and leading to potential disputes.
- Understand that there are bats and the Ecological Assessment is remiss when it comes to the assessment of the impact and is inadequate. Frogs not adequately assessed and a new assessment should be carried out.
- Johnstown has been prone to flooding. Their house flooded in 2011. There appears to be no focus on eliminating any run off onto their property.
- Vehicle entrance is after a blind bend and is close to their entrance c.15m which was not factored into the TIA. Land on other side of the L6033 is zoned residential and owned by same company – makes more sense for access to be off the L6033.

- There are no amenities in Johnstown.

Paul Murphy and Linda Lyons

- Development is too close to their property – trees which lie within their boundary will be damaged. Question how the Root Protection Area can be honoured when the current construction plan meets the trunk of their trees.
- Concern about tree damage to houses, security and dumping.
- Site of a Record of Monument and Places (RMP), ref. KD019-060 is on their property and is within 10m of the proposed development.
- Ditch on the roadside is currently filled with debris which leads to stagnant water and is not removing any water.

Johnstown Community Association

- Facilities and services in the village are not available to accommodate the increase in population proposed.
- Density of 22.2 units per hectare is 50-100% greater than neighbouring estates of Furness Manor and St. John's Grove and out of character. It is above the Council's own guidelines for density and will set a worrying precedent and be a mockery of the process of the County Development Plan.
- When other sites are taken into account there will be an increase of 90-100 homes which is a 33% increase and likely to take place in the next year or two and not in 5 years as planned.
- Concerns with trees and proximity to dwellings.
- Consider that at the very least the area should be subject to archaeological investigations before any work is undertaken.
- Note efforts to add water harvesting.
- Type of development is not consistent with the unique character of the heritage village. Cannot understand the need for three storey units.
- Safety issue relating to open space at the front – inappropriate that children should have access to busy junction.

6.2. Applicant Response to Third Party Appeals

The applicant addressed the third party appeals by topic to avoid repetition.

- *Density:* Note policy VRS4 generally permits densities in accordance with indicative levels in Table 4.2 and that higher level densities will be encouraged at appropriate locations in section 4.3.
- Considers that densities have been informed by the DoEHLG Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009, which advocate a density of 20-35 dwellings per hectare for edge of centre urban sites. Considers that the subject site is immediately contiguous to established residential developments of the village and is more easily accessible to the village core than existing developments on the L6034.
- With respect to VRS6, applying a 10-15% increase in population and the national household size of 2.75 persons would result in 36-55 additional units over the lifetime of the Plan. Notes an increase of just 1 person between the 2011 and 2016 censuses. Accordingly, under the Residential Guidelines there is no express requirement to limit growth of Johnstown over the lifetime of the Plan. Considers proposal is compliant with VRS6. Speculation of future development of other lands is not relevant.
- *Pattern of Development:* Proposal designed to minimise the visual impact, integrate with surrounding areas and maintain visual amenity. Open space to the west of the site is envisaged as a village green. Development will facilitate the connectivity of Furness Manor to the village core. The 3 storey dwellings are in effect 2.5 storeys and there are only 2 such dwellings located centrally.
- *Residential Amenity:* Notes that the 9 dwellings bordering one of the appellant's properties are located to the north of the side boundary and Development Plan standard of 22m distance is not relevant and mature trees are being retained. No overlooking issues will occur. The application does not provide any design proposals to facilitate attic conversions.
- Sheds are 3.5sq.m in area and of pitched roof height of 2.2m. Notes exemptions provide for sheds up to 3m in height. Rear boundary walls will be 1.8m – not considered that sheds would have any reasonable impact.

- Boundary with dwelling to the south: The boundary wall of the proposal is set inside the physical boundary on site. A new secure fence will be erected. Development proposes the erection of a 1.8m high fair faced block wall with capping.
- Notes Johnstown relies on its larger neighbouring towns to provide many of its community services. Consider that the further residential expansion will assist in creating a critical mass.
- *Protection of Trees*: Refers to Arborist survey which identified 52 trees of which none were Category A, 20 category B, 23 Category C. 11 trees were identified as being of poor quality. The RPA was calculated and plotted on a Tree Constraints Map and care taken to avoid RPA and therefore, maximum number of trees are being retained and specific protection measures will be put in place, as provided on drawing which accompanied the original application. Works for the boundary fence will be carried out in consultation with a suitably qualified Arborist. First party happy to accept a condition for full details of rear boundary fences and method statement to be submitted prior to commencement of development. With regard to safety, proposal provides for the removal of low quality trees and remedial tree surgery as per the Arborist Report.
- *Flood Risk*: Response included a response to the flood risk concerns by appellants. It notes that no flood events have been recorded in the immediate vicinity of the site on the OPW Summary Areas Report and notes that the Johnstown Flood Alleviation scheme was completed in 2012 which postdates the specific incident referenced in an appeal.
- Surface water drainage has been designed to attenuate the 1 in 100 year return event, proposed road levels fall towards the sites western and northern boundaries towards open space and public roads in accordance with Flood Risk Management Guidelines for Planning Authorities.
- There is no proposal to discharge water to the ditch running along the site's northern boundary but is designed to discharge to the Weston Stream located along the L6034 (opposite side to the sites western boundary) and incorporates SuDS methodologies.

- *Archaeology*: States that comprehensive archaeological investigations have been carried out including a full Geophysical Survey of the site. No evidence of any finds or features were found. The 30m zone around the Recorded Monument refers to the zone of notification. If planning permission is granted all such notifications will be complied with.
- *Miscellaneous*: A detailed Ecological Impact Assessment was carried out and stated that features on the site are considered to be of low suitability for bat roosting.
- With respect to the relocation of the entrance to the L6033 it is submitted that the proposed entrance has been designed to comply with the requirements of the Design Manual for Urban Roads and Streets. The proposal makes provision for the improvement of the junction of the L6033 and the L6034 in accordance with Policy RD1 of the Village Plan.
- Back garden sizes all exceed Development Plan standards.

6.3. **Planning Authority Response to Third Party Appeals**

The Planning Authority responded to the third party appeals. The response to the appeals in summary states:

- Application was assessed vis a vis the policies and objectives of the Kildare County Development Plan 2011 – 2017, and the Kildare County Development Plan 2017 - 2023.
- Notes that a Roads Safety Audit Stage 2 has to be carried out by the applicant under condition 21.
- The applicant has demonstrated to the satisfaction of the Council that the proposal is designed in accordance with the Flood Risk Management Guidelines.

6.4. **Observer**

An observation on the appeal by the Johnstown Community Association has been submitted. It is stated that the observers agree with the appeal and in particular, they wish to highlight the point made regarding the boundary with Furness Manor. They

consider that the density of development is too high and have concerns for the location of the access. Vast majority of houses are semi-detached and not of a similar specification to Furness Manor. Consider impact to their amenities is very serious from a lighting and overshadowing perspective.

6.5. Further Responses

The third parties and the observer were provided an opportunity to comment on the first party response to the appeal. The third parties restate a number of their concerns and state that the applicant has not amended the development to address their concerns. In summary, the responses include:

- Consider applicant has ignored submissions made by the community.
- Consider adjustment of adding a footpath at the north side of the site is pointless when an adjustment to the boundary of the south of the site would have gone a long way towards protecting the trees, and giving the established housing a bit more privacy.
- Consider applicant has failed to adhere to the vision for Johnstown.
- The location of this site is 'edge of small village' and the density is 15-20 units for same. All existing estates have respected this. Not acceptable for applicant to state that a density of 22 units per Ha is acceptable. This would tell every community that the Development Plan they worked hard on is just a paper document to be ignored by developers. 2 units per Ha represents a 10% increase on the density.
- Consider the use of the household average size of 2.75 persons is misleading and is more likely to be 4 persons when you are building 3, 4, or 5 bedroom units. Population would increase by up to 182 people which is an increase of 18%. If figure is restricted to 15% as per policy VRS6 and use a figure of 3.5 persons, dwelling numbers would reduce to 43 or 29 units if 10% is used.
- It does not make sense to look at each development on a 'first come' basis – future developments within the 5 years have to be considered.
- The pattern of development is not consistent with other estates.

- Reference made to concerns with trees, community facilities, flood risk and lack of insurance, boundary infringement, archaeology and review the location of the main entrance.

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. I am satisfied that the principle of development is in compliance with the relevant statutory plans. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Density of Development
- Pattern of Development
- Residential Amenities
- Community Facilities
- Tree Protection
- Flood Risk
- Archaeology
- Vehicular access and Boundary Treatment
- Other Issues
- Appropriate Assessment.

7.1. **Density of Development**

The appellants refer to the proposed density of development being too great for the village. The County Development Plan provides an indicative density of 15-20 units per hectare for locations on the edge of centre of small villages. The DoEHLG Guidelines on 'Sustainable Residential Development in Urban Areas' (2009) also recommends densities of 15-20 dwellings per hectare for edge of village locations.

The 52 units proposed result in a density of 22 units per hectare which is 10% above the upper limit.

Policy VRS6 states that the scale of individual development proposals should be controlled to 10-15% of the existing housing stock. Policy VRS6 provides an example for a village of 800 people, indicating that any individual scheme should not be larger than 26-40 units. The population of Johnstown is noted as c.1,000 people.

The appellants refer to other sites that are zoned residential in the village and consider that these sites could come forward for development over the lifetime of the Plan. I have had regard to policy VRS6 with respect to this.

I will address the pattern of development below, however, I am recommending that 4 houses are removed from the scheme. This will result in 48 units and a resultant density of development of 20 dwellings per hectare. This is in full compliance with the Development Plan standards for density in such locations, and is in accordance with policy LD01, which seeks to ensure that the density of residential development maximises the value of existing and planned physical and social infrastructure, and makes efficient use of zoned land.

There is much discussion with respect to the increase in population of the area. There is reference to schemes not adding to the population of a village by more than 10-15%. Assuming 48 units at 3.5 persons per dwelling, which is quoted by the applicants, will result in a 16.7% increase in population. Taking a national average of 2.7 persons per dwelling, will result in 132 persons which is 13% increase in population. This is substantially in compliance with Development Plan standards.

In conclusion, I consider a revised density of development of 20 units per hectare to be acceptable in this location.

7.2. Pattern of Development

The appellants expressed concern with the design and pattern of development throughout the various appeals. As noted above, I am of the opinion that a number of the dwellings should be removed for design, as well as density, reasons.

- House no's. 45 and 46

House Type D, no's. 45 and 46, result in awkward shaped gardens for the adjacent dwellings and have the appearance of being shoe-horned into the scheme. I recommend that these two houses are omitted from the scheme and the resulting space is to be added back into the rear gardens of the adjacent houses (No's. 42, 43, 44, 47, 48 and 49). The proposal includes House Type F for no's. 47 and 48, which means the removal of house no's. 45 and 46 will not result in a long blank wall facing the road. This has the added benefit of reducing the density as noted above.

- House no's. 2 and 3

The appellants to the south of the proposal express concerns with the density of development immediately adjoining their dwelling. I agree with the appellants that this is the densest part of the development, with 9 houses adjoining their property. Having regard to the fact that the proposal for 52 houses is in excess of Development Plan standards by 10% and the appellant's concerns with the impact on their privacy, I consider that a reduction in this area will alleviate their concerns. I recommend that House no's. 2 and 3 are removed and House no.1 is moved back towards House no's 4-6. This will also address the appellant's overlooking concerns with future attic conversions. This can be dealt with by way of condition.

- Three storey dwellings

There is concern raised about the inclusion of three storey dwellings. I agree with the applicant that they are closer to 2.5 storey dwellings. These 2 no. dwellings provide 5 bedrooms which add to the housing mix within the development. They are centrally located and are 9.115m high, compared to the 8.895m height of the adjacent two storey dwellings. I do not accept the appellant's contention that they are out of character with the existing housing stock in the area. I have visited the village and note that St. John's Grove housing development, to the north of the L6033, comprises a wide mix of housing types from single storey terraced bungalows to three storey end of terrace dwellings. Furness Manor comprises mainly of large detached dwellings. Thus, there is a wide range of housing types and character in Johnstown, and the mix of housing proposed is in accordance with policy HS08 of the Development Plan, which seeks to ensure that an appropriate mix of housing types and sizes is provided in each residential development.

- Housing along southern boundary of the site

One of the appellants expresses particular concern with the location of 9 houses along the shared boundary and in particular, the size of the rear gardens. The appellants state that the rear gardens are the smallest in the development and will be reduced further having regard to the hedgerow and trees. There is concern that the gardens will be dark and amenities will be reduced.

The County Development Plan provides standards for minimum size of rear gardens which are 55sq.m for 2 bedroom units, 60sq.m for 3 bedroom units and 75sq.m for 4 bedroom dwellings. All the rear gardens are in excess of the minimum size and therefore, in compliance with the standards required by the Development Plan.

The layout of the development is such that the majority of the rear gardens are south facing and will therefore enjoy sunshine for most of the day. There are no north facing rear gardens (with the exception of two of the houses that I am recommending should be omitted). All of the residents will benefit from sunshine throughout the day adding to the amenities provided by the rear gardens.

- Open Space

The design and location of the open space is raised by the appellants. There are concerns with the design, safety and security.

There are three main areas of open space proposed, to the west, north and central to the development. The largest is to the west. There is pedestrian access only at the very north-west corner which will provide the residents easy access to the L6033.

This pedestrian entrance provides permeability for the residents, and is in accordance with design principles as detailed in the DoEHLG Sustainable Residential Development in Urban Areas.

The open spaces are overlooked by dwellings in accordance with good urban design practice. House types F and F1 have been specifically designed, orientated and located to ensure passive surveillance of the areas.

The location of the open spaces results in the dwellings being set back from both roads, reducing the potential visual impact. Furthermore, minimal disturbance to trees to the north and west boundaries will occur.

All dwellings have easy access to the open spaces and most of the dwellings have visibility towards an open space, thereby minimising safety concerns.

I am satisfied with the distribution and location of the open spaces within the development.

7.3. Residential Amenities

One of the appellants raises particular concerns with the impact on their amenities as a result of the development. The appellants note that 9 houses share a boundary with them. Concerns raised include overlooking, the potential for attic conversions, the height and design of sheds and security issues with the boundary.

With respect to overlooking, I note that there are a number of trees, identified as tree no's. 258, 259, 2 and 260 on Drawings JTL001 & 2, between the proposed new dwellings and the appellant's dwelling. These trees are not identified as being in such a condition that their removal is recommended in the Arborist's Report. These trees will provide screening between the dwellings. In addition, I have recommended that House no's. 2 and 3 are omitted, to comply with density standards, which will have the added benefit of minimising potential for overlooking of the appellant's actual dwelling, and maximise distances between opposing windows. From my site visit the hedgerow and trees appeared to provide reasonable cover at this location. There are gaps in the treeline and hedgerow but these are closer to the dwellings at Furness Manor.

With respect to attic conversions being a potential issue in the future, the applicants state that the current application does not provide any design proposal to facilitate such conversions. I note that the Planning Authority included a condition that attic spaces are to be used for storage purposes only and not to be used for human habitation, without the benefit of planning permission. With the removal of house no's. 2 and 3, this significantly reduces the potential for attic spaces to overlook the appellant's dwelling.

The proposed garden sheds are referred to by the appellants. The sheds proposed are 2.2m high and are typical garden sheds and while metal clad, cannot be considered to be industrial in nature. I consider the sheds to be acceptable and will not seriously impact the amenities of adjoining neighbours.

Security concerns are raised by the appellants. Boundary treatment is addressed below, but I consider that the addition of a development in this location will result in improvements in public lighting, footpaths and increased passive surveillance in the area.

In conclusion, I do not consider that the proposed development will have a seriously injurious impact on the residential amenities of the area.

7.4. Community Facilities

Concerns are raised about the lack of community facilities in Johnstown.

During my site visit I noted that the row of retail units to the front of St. John's Grove are mostly vacant. There is a gym and what appears to be tennis courts to the rear. Critical mass is required to make these units viable, however, I do accept that this will not address the need for other community facilities, and the residents will continue to rely on the larger towns of Naas and Kill to provide most facilities. I do not consider this a reason for refusal of the proposal.

7.5. Tree Protection

The zoning Map of Johnstown in the County Development Plan includes a number of symbols indicating Tree/Woodland Preservation Orders on all four boundaries of the subject site. Policy NH2 requires that the trees illustrated by the appropriate symbol on the Map are surveyed, and it seeks to protect those trees deemed to be of sufficient amenity value.

Concerns are raised with respect to the screening trees provide along the southern boundary, safety concerns with overhanging branches and with the potential impact on the Root Protection Area (RPA) of trees to the east.

From my site visit, I consider that the trees along the southern boundary do provide screening between both sites, and with the changes proposed to the number of dwellings along this boundary, I am satisfied that the trees will continue to provide screening. The Arborist Report identifies trees to be pruned etc. which should alleviate any concerns with overhanging branches. I acknowledge the concerns of

the appellants with respect to future maintenance of trees, but these are on private property and their upkeep is outside the scope of planning permission.

With respect to the trees to the east of the site, the Arborist's Report identifies a number of trees as being 'Category B – *trees of moderate quality/value with a minimum of 20 years life expectancy*', along this boundary. The Arborist's Report recommends that all tree vegetation being retained within the development requires root protection areas enclosed by fencing to the recommendation of BS5837 2012. The Arborist's drawing plotted the minimum root protection area around individual trees to be protected from disturbance during construction work. I recommend that a condition to this effect should be included, if the Board are considering a grant of permission.

In conclusion, I am satisfied that subject to a condition regarding the suitable fencing and protection during all construction activities of the Root Protection Area, the development will not have a seriously negative impact on the trees.

7.6. Flood Risk

A number of concerns were raised with respect to flooding. One of the appellants states that their dwelling was seriously flooded in 2011. The Johnstown Flood Alleviation Scheme is noted as having been completed in 2012, and the applicant states that no events have been recorded since.

The surface water drainage network has been designed for the 1 in 100 year flood event. The applicants state that events in excess of this will result in water flowing in a northern or western direction, away from proposed and existing dwellings, and that the majority of the site is located in Flood Zone C. One dwelling is noted as being located in Flood Zone B in the south-west corner of the site, and it is proposed to carry out minor flood plain modifications by the provision of 'level for level' compensation to mitigate any risks.

I note that SuDS features have been incorporated into the design of the development, and a 20% Climate Change factor has also been included in the calculations. The development is deemed appropriate as it has avoided areas of highest flood risk and includes appropriate measures to reduce flood risk to an acceptable level.

7.7. Archaeology

A recorded monument (KD019-060) is located outside of the site to the south-east. Archaeological investigations have been undertaken within the site and it is noted that no evidence of any archaeological finds or features were found.

The applicant states that any works within 30m of the recorded monument will be notified to the Department. I recommend that a condition requiring that a suitably qualified archaeologist monitor all site investigations and excavation works is appended, should the Board consider granting permission.

7.8. Traffic and Boundary Treatment

- Traffic

The appellants express concerns with the location of the access to the development on the L6034, and consider that the entrance to their dwelling was not assessed. A suggestion is made to relocate the entrance to the L6033. The L6034, where the entrance is proposed, has a footpath from Furness Manor and the scheme includes improvements at the junction of the two roads.

A Traffic Impact Assessment accompanies the application. It is noted that the proposed upgrade of the L6033 and the L6034 junction is based on the Design Manual for Urban Roads and Streets (DMURS). This will result in the existing splitter island being removed and reduce the bell mouth of the L6033 at the junction. The footpaths either side of the junction will be extended.

The TIA assessed the existing roads and traffic situation and traffic counts were carried out. I am satisfied that the new vehicular junction and increase in traffic will not have a seriously negative impact on the surrounding roads.

- Boundary Treatment

The boundary treatment was raised by all appellants and was subject to further information requests. A Landscape Design (Drawing ARDJN/BT/001) was submitted by the applicant which includes different boundary treatment types within the overall development, depending on location and existing boundaries.

The trees and hedgerows form the boundaries of most of the site currently.

One of the appellants refers to a dispute over the eastern boundary. The applicant indicates that the red line site area is as per the Land Registry/Title Maps, but the extent of the development has been pulled within the physical boundary which differs from the land registry maps.

I note that the applicant proposes a decorative steel fence to be set inside this red line to the east. The applicant states that the existing dense mixed tree/hedgerow line creates a solid boundary to the site. I consider the boundary treatment acceptable in this location, subject to a condition that the treeline RPA is sufficiently protected during construction, in particular, in this area.

On the southern boundary it is proposed to build a 1.8m fair faced block wall which will assist in screening and privacy. I note that the appellant requests that a 2.2m high wall should be built which would be the same height as the shed. A 1.8m wall is a standard size and should provide adequate screening, as well as the hedgerows and trees.

Low walls and feature walls are proposed throughout the site to assist with passive surveillance and add visual amenity to the overall development.

I note that a 2 metre high feature wall is proposed between House no.1 and the open space. I recommend that this wall is replaced by a low wall similar to the walls along the northern boundary. This will ensure passive surveillance of the area and lead to a more pleasant view from the living areas of this dwelling which look upon this wall.

I am satisfied that the boundary treatment proposed will provide sufficient screening and ensure passive surveillance of the relevant open areas.

7.9. Other Issues

I note that ESB powerlines cross through the centre of the site before going underground below Furness Manor. There is no information provided by the applicant with respect to the treatment of these lines. I recommend that a condition is included requiring all cables to be located underground.

One of the appellants notes concerns with the Ecological Impact Assessment. The appellants include a copy of a Bat Survey carried out on their property, which is located to the east of the site. The survey notes that no evidence of bats using their

buildings during the day time was found, and bat droppings were likely to have come from bats foraging along the trees. No bats were recorded emerging from the buildings at night time.

An Ecological Impact Assessment of the subject site was included with the documentation. It notes that the site is not within or adjacent to any area designated for nature conservation. There are no buildings on the site and the assessment states that features on the site are considered to be of low suitability for bat roosting which I concur with. The Report recommends felling of any trees only between September and November which minimises the impact on birds and bats. I am satisfied that the development will not have a seriously negative impact on the ecology of the area.

7.10. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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 granted, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the sites location within Johnstown Village on lands zoned “C1 - New Residential” in Kildare County Development Plan 2017 - 2023, to the nature, scale and design of the proposed development, to the pattern of existing development in the area, and to the provisions of the Kildare County Development Plan 2017 - 2023, the Guidelines on ‘Sustainable Residential Development in Urban Areas’, issued by the Department of the Environment, Heritage and Local Government in 2009 and the Design Manual for Urban Roads and Streets (DMURS), issued by the Department of Transport, Tourism and Sport and the Department of

the Environment, Community and Local Government in March 2013, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 20th day of December 2016, and on 22nd day of March 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - a. Omit house numbers 45 and 46 and extend the rear gardens of the adjacent dwellings.
 - b. Omit house numbers 2 and 3 and move house number 1 adjacent to house number 4. Increase the open space to incorporate these sites to create a larger public open space in this area.
 - c. Revise the numbering of houses on the Site Layout Plan to total at 48 number houses.
 - d. Change the wall between House number 1 and the open space, to a low wall of 1.3m high, similar to the low wall in front of houses along the northern boundary.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. Details of the materials, colours and textures of all the external finishes and boundary treatments to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

5. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be contoured, soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 22nd day of March 2017. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

6. The developer shall retain the services of a suitably qualified Landscape Architect (or qualified Landscape Designer) throughout the life of the site

development works. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are completed to the satisfaction of the planning authority in consultation with the Parks and Landscape Services Department, and in accordance with the permitted landscape proposals.

Reason: In the interest of the proper planning and sustainable development of the area.

7. (a) Excavations in preparation for foundations and drainage, and all works above ground level in the immediate vicinity of trees, with the exception of trees identified for removal on drawing numbers JTL001 and JTL002 and in the Arborist's Report, as submitted to the planning authority on the 8th day of August, 2016, shall be carried out under the supervision of a specialist arborist, in a manner that will ensure that all major roots are protected.

(b) No works shall take place on site until a construction management plan specifying measures to be taken for the protection and retention of the trees, together with proposals to prevent compaction of the ground over the roots of the trees, has been submitted to, and been agreed in writing with, the planning authority. Any excavation within the tree protection areas shall be carried out using non-mechanised hand tools only.

Reason: To ensure that the trees are not damaged or otherwise adversely affected by building operations

8. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground, including the powerlines that currently cross the site. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

10. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

11. (a) The roads and traffic arrangements serving the site, including the upgrade of the junction between the L6033 and the L6034 roads and signage, shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.

(d) The materials used, including tactile paving, in any roads/footpaths provided by the applicant shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interests of traffic and pedestrian safety.

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

referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

13. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

14. The construction of the development shall be managed in accordance with a detailed Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures, site operational hours and off-site disposal of construction/demolition waste.

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

15. A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for

construction traffic, parking during the construction phase, signage, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site.

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

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

17. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge of roads, footpaths, watermains, drains, public open

space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

19. The developer shall pay the sum of €23,400 euro (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of significant road reconstruction works required to be completed on the L6034 road in the vicinity of the proposed development over a distance of 200m. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Ciara Kellett
Inspectorate

22nd August 2017