



An
Bord
Pleanála

Inspector's Report PL09.249038.

Development	Mixed use development comprising 222 dwellings, a single storey crèche facility and a 120 bedroom nursing home facility.
Location	Ballymany, Newbridge, County Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	16/658.
Applicants	Cowlara Ltd.
Type of Application	Permission.
Planning Authority Decision	Refusal of permission.
Type of Appeal	First Party
Appellant	Cowlara Ltd.
Observers	None.
Date of Site Inspection	23 rd October 2017.
Inspector	Derek Daly.

1.0 Site Location and Description

- 1.1. The appeal site is located at the southwestern fringe of the built up area of the town of Newbridge in County Kildare. The site is roughly rectangular in configuration and has frontage onto two roads. The southern boundary is largely defined by the R445 the main route running southwestwards from the town centre to Junction 12 of the M7 motorway. The northern boundary of the site has frontage onto Standhouse Road an arterial route serving western areas of the town and which further to the east towards the town centre has a junction with the R445.
- 1.2. Parts of the eastern boundary of the site adjoin existing residential development the Elms which has rear gardens adjoining the common boundary. The site also has limited boundaries with existing residential development which also have frontage onto the R445 and Standhouse Road. The remaining boundaries adjoin the Keadeen Hotel along the southern section of the eastern boundary south of the Elms residential development and a national school to the north of the Elms development. There is an embankment along this boundary with a discernible difference in level between higher lands to the east and the appeal site. The western boundary adjoins agricultural lands and has a mature hedgerow and trees along the boundary.
- 1.3. The site has a stated area of 15.12 hectares. The land is not level with an overall fall in level from the southeast to the north west but there is great variation in levels arising from previous extractive workings on the site. The site currently has a large number of gravel stockpiles in particular in the southern area of the site. There is also an overhead electricity line running north south in the western area of the site.

2.0 Proposed Development

- 2.1. The proposed development as submitted initially to the planning authority on the 24th of June 2016 was for a mixed use development which provided for;
 - 2.1.1. A permission for a 10 year period.
 - 2.1.2. The proposal provided for 220 dwellings which includes;
 - 13 terraced dwellings; 126 semi-detached dwellings and 81 detached dwellings. The dwellings are 2 and two a half storied and many of the individual designs provide for optional development in the attic area for

habitation with a mix of bedroom sizes but in overall terms the development is for predominantly 3 and 4 bedroomed units. There is a range of housing types and scope of modification of units.

- 2.1.3. A single storied crèche facility with a floor area of 307m² gross floor area located in the southern area of the site in close proximity to the R445.
- 2.1.4. A 120 bedroom nursing home facility which is two storied in height with a gross floor area of 7,117m². This facility it is proposed will be access with a new vehicular entrance off Standhouse Road and fronts onto Standhouse Road.
- 2.1.5. The development provides for associated car parking with 2 spaces per dwelling, 70 spaces for the nursing home and 13 spaces for the crèche facility.
- 2.1.6. The construction of new link road approximately 627 metres in length along the western side of the site incorporating a new signalised junction off Standhouse Road with a new entrance onto Standhouse Road.
- 2.1.7. The provision of a new pumping station in the northwestern area of the site.
- 2.1.8. It is proposed to connect to public mains water and public sewers.
- 2.1.9. Site development works including an internal road network, open space landscaping and boundary treatments, cycle paths, re-contouring of levels, the construction of retaining walls, the rerouting of existing services and the provision of services and the provision of 2 sub stations.
- 2.1.10. The application was accompanied by other documentation including
 - an EIS;
 - a Traffic and Transport Assessment (TTA);
 - an Urban Design Analysis appended to section 3 of the EIS;
 - a landscape scheme;
 - a tree survey and arboricultural impact assessment;
 - AA screening report appended to section 4.5 of EIS;
 - An Infrastructure Design Report.
- 2.2. In general, the layout provided for frontage development along the newly proposed link road with individual units having direct access onto this road. The remaining

units internally located with two access points providing access onto the new link road. The layout follows a linear structure and incorporates 6 areas of open space, 3 at the periphery of the site and 3 internally in the site overlooked by the proposed residential development. pedestrian priority zones are provided/identified for crossing roads. All the units have front and rear open space. There is no permeability to adjoining lands to the east but there is potential for such provision to the west.

2.3. Further information was submitted on the 15th of May 2017 with revised public notices received on the 22nd of May 2017. The revised proposal provided for the following.

2.3.1. A reduction in the number of housing units from 220 to 183 with alterations to the layout and mix of residential units.

2.3.2. A reduction in the scale of the nursing home. The revised proposals provide for a reduction of floor area from 7,117m² to 6,219m² and a reduction of the number of bedrooms from 120 to 103.

2.3.3. A revision of the phasing of the development including the provision of the link road.

2.3.4. A revised EIS.

The EIS includes a non-technical summary and a main report which addresses potential impacts arising from the proposed development under various headings.

2.3.5. The proposals submitted provide for a revised site layout including alternations to the internal road layout including provision for in the future accessing of adjacent lands and also in relation to a relocation of dwellings. The layout provides for an internal spine service road layout with four cul de sacs off this road to serve the dwelling units. The dwelling units with the exception of site 2 adjoin the perimeter of the site.

2.3.6. The layout provided for dwelling units in clusters of between 2 and 4 units off the cul de sacs are more clustered with the exception of unit one which has direct access to the main internal road. Public open space is revised providing for a single area running southwards from the main service road southwards to the site boundary.

2.3.7. There is an alteration in the housing mix to provide for four 3 bedroomed houses; three 4 bedroomed houses and six 5 bedroomed houses.

2.3.8. A revised design statement was submitted outlining the rationale to the layout.

2.3.9. Revised site sections.

2.3.10. Revised boundary treatments and landscaping.

2.3.11. Revised details in relation to services in particular foul and surface water drainage and sightlines at the entrance to the public road.

3.0 Planning Authority Decision.

3.1. Decision

The decision of the planning authority was to refuse planning permission. Two reasons were stated.

In summary the first reason refers to the entrance onto the R445 road and there is an aim of providing for a 4 arm junction in the LAP. The proposal provides for a temporary arrangement to serve the development and it is unclear that the transport objective in relation to the proposed junction can be achieved without providing for free flow of traffic and leading to unsafe turning movements and would endanger public safety by reason of traffic hazard.

The second reason refers to archaeology and uncertainty in relation to impacting on archaeology on the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 14th of July 2017 refers to;

- The planning history.
- Submissions received.
- Policy provisions.
- An assessment of the responses submitted in relation to further information.
- The issue of not been able to provide the continuous link between the Ballymany Road and the Standhouse road is considered significant in relation to traffic and overall objectives of the area in relation to the Newbridge LAP.
- The housing mix and provision of public open space is considered acceptable.

- Issues in relation to the design of the nursing home remain to be resolved in particular in relation to external finishes, and the provision of satisfactory amenity spaces for residents.
- Having considered the information submitted a number of matters required further revisions to the proposal as submitted. A number of these matters could be resolved by condition but the provision of the link road was considered key infrastructure and there was major uncertainty in relation to the extent and nature of archaeological potential on the site and the implications for the design as submitted in this context.
- Refusal was recommended.

3.2.2. Other Technical Reports

The housing section report dated the 10th of August 2016 refers to the requirement for an agreement under Part V.

Water services report dated the 18th of August 2016 requested further information and clarifications in relation to a range of matters.

The water services report dated the 28th of June 2017 in relation to the further information has no objections and recommend conditions.

The environment section report dated the 18th of August 2016 indicated no objection.

The roads and transportation report dated the 17th of August 2016 raises concerns in relation to the multiplicity of access points onto the distributor road, a requirement for a cycle track, concerns in relation to the timing of the phasing of signalised junction/roundabout on the Ballymany road and that traffic concerns arise from this delay in the construction of this junction both in relation to proposed development and the wider road network in particular Standhouse Road and it would be preferable if the junction was progressed in the earliest phase of the development. Issues also arise with aspects of the internal layout. Further information was recommended.

The heritage officer report dated the 25th of May 2017 in relation to the further information submitted recommends conditions in relation archaeological testing pre development.

The roads and transportation report dated the 13th of July 2017 in relation to the further information indicated that the multiple accesses are removed and are

satisfied in general with the proposed access arrangements off the new link road. There is no objection in relation to aspects of the internal roads, turning circles and parking. There is no objection to the haul routes for the removal of material. Specifically, in relation to the access arrangements reference is made to the phasing proposals and the provision of a temporary arrangement in relation to traffic pending the provision of a road layout and road link and junction from Standhouse Road and the R445. It is however outside of the applicants control to complete the link road and junction. In this context that a temporary traffic arrangement could become permanent arrangement which would be contrary to a key objective of the LAP SRO5 and recommends refusal.

The environment section report dated the 16th of May 2017 in relation to the further information indicates no objection and recommends conditions.

3.3. Statutory Bodies.

An Taisce in a submission dated the 15th of July 2016 requested that the application be examined under the test requirements set out in box 5.2 of the National Spatial Strategy referring to assets, carrying capacity, economics, character, economics and integration.

Irish Water in submissions dated the 12th of August 2016 and 30th June 2017 indicated no objections.

The DAU report dated the 1st of June 2017 in relation to archaeology recommends further information be sought in relation to areas of archaeological potential identified by the consultant's report to establish the full extent of archaeological features. Based on establishing this the submission indicates the preferred option was to preserve in situ any potential identified in accordance with best practice by means of redesign of the layout. If redesign is not possible full excavation of the archaeological features. this work and final mitigation should be decided upon before the planning decision is made.

3.4. Other submissions.

A number of submissions were received raising concerns in relation to the development, its design; impact on adjoining properties; boundary treatments; height of proposed dwellings, issues in relation to water supply and sewerage in the area; traffic and impacts on local infrastructure.

4.0 Planning History

4.1. Particular to the appeal site.

The site was the subject of an application for quarry registration and enforcement proceedings.

P.A. Ref. No 06/547.

Permission granted for 190 residential units on the appeal site where the original application was for 196 residential units, a crèche and 670 metres of distributor road and the removal of gravel and other material.

P.A Ref. No. 08/1468.

Permission granted for a variation of P.A. Ref. No 06/547 in relation to the removal of soil and material on the site.

P.A Ref. No. 12/615.

Permission granted for an extension of the duration of the permission granted to P.A. Ref. No 06/547 until 01/04/2018.

There is therefore a current extant permission for residential development on the site.

5.0 Policy Context

5.1. Guidance for Planning Authorities Sustainable Residential Development in Urban Areas (Cities Towns and Villages) May 2009.

5.1.1. The objective of the guidelines is produce high quality sustainable developments.

The guidance relates to all levels of settlements and are accompanied by a best practice Design Manual.

5.1.2. The guidance set out the importance of design and context and criteria which should be addressing the preparation and assessment of residential development including scale of development relative to the settlement and also design statements outlining the rationale of new development.

- 5.1.3. The guidelines lay emphasis on a plan led approach, establishing relationships between established and new proposed neighbourhoods, the benefits of mixed-use development and the setting of appropriate density levels within the area which are outlined in more detail in chapter 5 for cities and large towns.
- 5.1.4. In relation to density for outer suburban / 'greenfield' sites which the appeal site could be regarded as, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares (section 5.11).
- 5.1.5. Section 5.12 also indicates that in order to facilitate a choice of housing types within areas, limited provision may be made for lower density schemes provided that, within a neighbourhood or district as a whole, average densities achieve any minimum standards recommended.

5.2. **DMURS**

- 5.2.1. **Design Manual for Urban Roads and Streets (DMURS)** was prepared for the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government and published in March 2013.
- 5.2.2. The Manual offers a holistic approach to the design of urban streets in cities, towns, suburbs and villages; to the application of principles and standards and a new perspective in assessing development in the urban context with emphasis on accessibility, permeability and design.

5.3. **Development Plan**

5.3.1. **Kildare County Development Plan 2017-2023.**

The county development plan outlines broad policy in relation development in the county including the major towns. Newbridge is identified as a key centre of population and for the provision of new residential development.

Chapter 4 refers to housing and it is indicated that planning applications in towns, villages and settlements should take cognisance of a number of national guidance

documents including Urban Regeneration and Housing Act 2015 (Part V); Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2015); Design Manual for Urban Roads and Streets (2013) (DMURS); Sustainable Residential Development in Urban Areas (2009) and Urban Design Manual A Best Practice Guide (2009).

Section 4.3 refers to sustainable communities and objectives in relation to sustainable communities include:

HCO 1: Have regard to the Quality Housing for Sustainable Communities – Design Guidelines, DEHLG (2007), which provide guidance on the efficient use of land, infrastructure and energy, the design and orientation of dwellings, the optimum use of renewable sources of energy and the use of scarce natural resources in the construction, maintenance and management of dwellings.

HCO 2: To 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.

Section 4.4 refers to Housing Urban Design and objectives in this regard include:

HDO 1: Ensure that residential development contributes to the creation of sustainable communities in accordance with the requirements of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009) and the companion Urban Design Manual- A Best Practice Guide, DEHLG (2009).

HDO 2: Ensure that residential development provides an integrated and balanced approach to movement, place making and streetscape design in accordance with the requirements of the Design Manual for Urban Roads and Streets, DEHLG (2013).

HDO 3: 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.

Section 4.5 refers to Location and Density which refers to the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas,

DEHLG (2009) and that the guidelines recognise that land is a scarce resource that needs to be used efficiently and that densities should take account of the location of a site, the proposed mix of dwelling types and the availability of public transport services and as a general principle, higher densities should be located within walking distance of town and district centres and high capacity public transport facilities.

Objectives in this regard include:

LDO 1: 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).

LDO 3: Require higher residential densities at appropriate locations as set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, DEHLG (2009).

Table 4.2 of the plan indicates indicative density levels which mirror the density provisions as set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009.

Chapter 15 refers to Urban Design and sets out guidance which reflects provisions as set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009 and in DMURS.

Chapter 17 refers to Development Management Standards

Section 17.4 refers specifically to residential development and with regard to density in 17.4.2 it is indicated that “indicative density levels are set out in Table 4.2 of Chapter 4. Local Area Plans will identify density targets for particular sites as appropriate. Higher residential densities will be encouraged at appropriate locations. Such development must ensure a balance between reasonable protection of existing residential amenities and the established character of these areas”

Other sections refer in detail to housing mix, and standards in relation to dwelling unit size, open space and other standards.

5.3.2. **Newbridge Local Area Plan 2013-2019**

Part B of the LAP refers to policies and objectives and section 7.2 specifically refers to housing. There is reference to sufficient lands zoned for housing in the town.

Reference is made to county policy in relation to density and that this generally follows 2009 national guidance. There is specific density guidance in relation to sites zoned new housing.

Table 11 sets out indicative residential densities for new residential development in Newbridge town, dependent on location. Applications for residential developments should also have regard to design principles outlined in Section 7.5 (Urban Design and Town Centre Development) and Section 7.6 (Design Briefs) of this plan and to Chapter 19 Development Management Standards of the Kildare County Development Plan 2011–2017. Table 11 of the LAP refers to outer suburban / greenfield, generally new residential zoning areas with a density range of 30-50 units per hectare and outer edge of urban-rural transition with a density range of 20-35 units per hectare which is based on 2009 national guidance. It is indicated that these densities are indicative and specific policies and objectives apply to individual sites and these applies in relation to the current appeal site

5.3.3. There are a number of policies specific to housing including;

HL 3 To encourage appropriate densities for new housing development in different locations in the town while recognising the need to protect existing residential communities and the established character of the area.

HL 5 To require applications for residential developments over 20 units, to demonstrate the provision of an appropriate mix of dwelling types

5.3.4. Other objectives relative to the proposed development include

Section 7.7.2 refers to Street and Roads Infrastructure;

Relevant objective includes;

SRO 5: To seek the construction of the following transport links, subject to environmental and conservation considerations, as identified on Maps 2 and 7 and to preserve these routes free from development:

b) A link from the L7042 Green Road (C) to the L7037 Standhouse Road (E), including a new junction with the R445 Ballymany Road (D).

7.10 of the plan refers to Community Facilities. Relevant policies and objectives include;

CF 3: To facilitate the development of health centres, local clinics, nursing homes and residential home care units in or in proximity to the established town centre in Newbridge.

CO 2: To facilitate the use of appropriate sites/buildings within the town for the provision of childcare services in tandem and in the vicinity of all new and existing residential development.

Section 7.11.2 refers to Archaeological Heritage

Objective includes;

AH 7: To require an appropriate archaeological assessment to be carried out by a licensed archaeologist in respect of any proposed development likely to have an impact on a Recorded Monument or its setting.

Green infrastructure objectives include;

GI 1: To require all proposals for major developments to submit, as part of the landscaping plan for the proposal.

GI 8: To ensure key hedgerows, identified on Map 6, and the linkages they provide to larger areas of green infrastructure and the wider countryside, are retained where appropriate and integrated into the design of new developments. No hedgerow on the site is identified.

- 5.3.5. Part C of the LAP refers to Land Use Zoning and Table 17 outlines specific objectives for the individual zonings. The current appeal site is located within an area zoned C2 New Residential Development which table 17 indicates has a provision of a maximum of 15 units per hectare. The basis of the scale of density is based on sites with existing permissions for development of this density and that this density has been provided and accepted as part of meeting anticipated housing need and demand over the LAP period. The site is the only such site with a low density provision.

6.0 The Appeal

6.1. Grounds of Appeal

The appellant has requested that the Board address the appeal and restrict consideration to the two matters which were referred to in the reasons for refusal traffic and archaeology.

6.2. Reference is made to the extant permission on the site, the site's planning history, the site's zoning and the location of the site and the site's location in an area designated as a growth centre in the RPG for the Greater Dublin Area. The development is in compliance with national and local planning policy. The development also complies with development management standards. Reference is made to the requirement for EIS and that the requirement for EIS is inconsistent with similar proposals for residential development in Naas and Maynooth.

- It is the appellants view that the decision in the context of the site history and zoning is unreasonable and unwarranted.
- The site is zoned residential and fully serviced.
- The existing permission on the site is partially implemented with a substantial part of the re-profiling of the site carried out.
- The current proposal is similar to that previously permitted.
- The proposal is revised to take into account updated section 28 guidance and revised planning policy in particular the Newbridge LAP 2013.
- In this context DMURS informed the layout and made provision for the link road as a place based sustainable street.
- There are no issues in relation to policy and design aspects.

6.3. In relation to the proposal to be considered by the Board the applicant remains of the opinion that direct frontage onto the link road, as originally submitted, is the most appropriate design solution and it is the applicant's preference that the Board consider the original layout over the revised layout submitted at the further information stage of the process.

6.4. Specifically, in relation to roads and transportation.

- The original road design layout was prepared in accordance with revised guidance in particular DMURS and was the subject of discussion with the roads department who did not wish to consider frontage development on the link road although the appellant's preference was for such a proposal. The further information amendment was to meet the roads department objection and provides for frontage free development and access from three internal roads to dwellings.
- The key transportation objective alluded to but not specifically referred to in the reason for refusal is SRO 5 but this junction is outside of the appellant's land and control and the appellant is not in a position to construct this junction. Discussions were held with the adjoining landowner but the appellant was unable to resolve the matter.
- An interim proposal pending the resolution of this matter was proposed with provision for a temporary access in phase 1 for 69 dwellings and the crèche and the construction of the link road and the remainder of the dwellings in phase 2 with provision to eliminate the temporary access if and when the permanent link is provided.
- The current proposal does not impede or undermine SRO 5. The objective refers to a transport link, it is not distributor road, relief road or orbital road. Reference is made to section 7.7.2 of the Newbridge LAP in relation to the design of the links referred to and that they should be in accordance with DMURS.
- The role of legislation is to ensure proper planning and sustainable development not to force an applicant to acquire land from an adjoining landowner. It is open to the planning authority to operate its powers to acquire the lands for the junction if the construction of this road is considered crucial.
- The Board have permitted temporary access arrangements for other development and PL55.237838 is referred to in this regard.
- The appellant would accept a reasonable special levy to achieve construction of this junction.

- The applicant has provided a robust TTA and stage 1 RSA that access to the 69 dwellings in phase 1 can be achieved on a temporary basis.
- There is no evidence from the planning authority that the temporary solution would be a traffic hazard.
- The appellant has indicated a willingness to construct the full length of the link road within the application site boundary and a willingness to pay a special levy.
- The applicant is of the view that direct frontage development onto the link road complies with DMURS and this option is the preferred design but will accept the revised proposal submitted by way of further information if the Board deems it more appropriate.

6.5. Specifically, in relation to archaeology

- The site is not located within an area of archaeological interest and does not contain any known archaeological features.
- Notwithstanding the current permission on the site archaeological aspects were further considered and by way of further information test trenching of the undisturbed area of the site was carried out.
- The archaeological report considered the vast majority of the site is archaeologically sterile.
- The area of archaeological interest is confined to a small area of the northwestern corner of the site some 4 to 5 % of the overall site.
- There is no objection to further archaeological investigation of this area by way of condition.
- The appellant is fully aware of his obligations under the National Monuments Acts.
- Potential for latent archaeology in up to 5% of the site does not warrant refusal for the entire site.
- A condition by the Board can resolve this issue and reference is made to PL15.238053 in this regard.

- Further testing is ongoing in relation to this area of the site which will be forwarded to the DAHRRGA and it is open to the Board to invite comments.
- A report from the appellant's archaeologist restates the view that permission could proceed subject to condition, that further testing on the area of potential could be carried out and results submitted to the Board and or DAHRRGA. There is nothing to prevent the development of the southern and central area of the site.

6.6. The Board attention is brought to the western hedgerow which is ancient and worthy of preservation and the appellant wishes to retain and protect it which was not part previous permissions

6.7. Other than the roads department there were no objections to the current proposal.

6.8. Planning Authority Response

The planning authority in a response dated the 8th September 2017 to the grounds of appeal refers to the reasons for refusal; that the reasons for refusal remain valid and also that matters raised in reports in relation to the proposed development also remain valid. The construction of the road and junction onto Ballymany Road is of importance is any consideration of the development and the future development of the area.

It is unclear if the development as currently proposed will result in impacts on archaeology. Given the potential of the scale of redesign and the absence of certainty in relation to the extent of archaeology to permit development would be contrary to the proper planning and sustainable development of the area.

Further observations are made;

- It is considered that a 10 year permission is not appropriate in relation to the development as proposed.
- Reference is made to house type A2 falling short of minimum standards of the current KCDP.
- Boundaries of rear gardens should comply with the requirements of KCD.
- Revisions to the boundaries of sites 1 to 18 are referred to

- Reference is made to the nursing home and its design and siting which should take into consideration its location in a transition between the urban area and the countryside.
- Reference is made to aspects of the internal layout and aspects of the provision of satisfactory amenity spaces for residents.

6.9. Applicant Response

6.9.1. The applicant in a response dated the 3rd of October 2017 refers to;

In relation to traffic,

- The applicant has made every conceivable and reasonable effort to meet the objective SRO 5 (b).
- The applicant is not in a position to construct the preferred junction but has demonstrated that access to the first phase of the development by means of a temporary junction off the Ballymany Road. The applicant is prepared to pay a bond to ensure this temporary access is closed and decommissioned and pay a levy towards the provision of the link road and / or construct the link road within the appeal site boundary.
- As stated in the grounds of appeal the proposed development does not impede the provision or construction of the link road.
- The planning authority has provided no evidence as to why it considers the temporary access is a traffic hazard or interferes with the free flow of traffic.

In relation to archaeology,

- There is no justification for refusal of the overall development on archaeological grounds.
- 95% of the site is archaeologically sterile.
- The matter can be addressed by condition.

The proposal meets a need to provide housing.

The applicant has clarified matters raised in the further observations.

- A 10 year permission is considered appropriate.

- No house type A2 is proposed and the vast majority of the dwellings comply with national and county plan guidance in relation to standards and this was clarified in the planning application submissions.
- The boundaries of rear gardens are indicated.
- The nursing home will provide an important piece of social infrastructure and complies with HIQA standards and its design and siting has taken into its location.

7.0 Assessment

7.1. Introduction

- 7.1.1. The proposal as submitted is for a mixed use development comprising residential development, a nursing home facility and a crèche facility. It is important to note that the site has a current extant permission for residential development. This permission arises from an extension of the duration of the permission granted to P.A. Ref. No 06/547 until 01/04/2018. Under P.A. Ref. No 06/547 permission was granted for 190 residential units on the appeal site where the original application was for 196 residential units, a crèche and 670 metres of distributor road and the removal of gravel and other material.
- 7.1.2. Two layouts were submitted in the course of the current application, the initial proposal as submitted on for the 24th of June 2016 was for a mixed use development which provided for 220 dwellings; a single storied crèche facility with a floor area of 307m² gross floor area located in the southern area of the site in close proximity to the R445 and a 120 bedroom nursing home facility which is two storied in height with a gross floor area of 7,117m². This facility it is proposed will be access with a new vehicular entrance off Standhouse Road and fronts onto Standhouse Road.
- 7.1.3. A component of the layout was the construction of new link road approximately 627 metres in length along the western side of the site incorporating a new signalised junction off Standhouse Road with a new entrance onto Standhouse Road. This link road is part of an infrastructural objective SRO5(b) referred to in the Newbridge LAP.
- 7.1.4. As part of the overall layout in the initial submission it is proposed to provide for frontage access from individual housing units onto this link road.

- 7.1.5. In response to further information a revised layout was submitted on the 15th of May 2017, which provided for a reduction in the number of housing units from 220 to 183 with alterations to the layout and mix of residential units chiefly removing frontage development onto the link road with increased use of cul de sacs and clusters within the cul de sacs and also a reduction in the scale of the nursing home. The revised proposals provide for a reduction of floor area from 7,117m² to 6,219m² and a reduction of the number of bedrooms from 120 to 103.
- 7.1.6. Both proposals request a permission for a 10 year period.
- 7.1.7. The applicant has in the grounds of appeal requested the Board to restrict its consideration to the matters under appeal namely the two reasons for refusal which relate to traffic and archaeology and also a preference that the original proposal would be the preferred layout to be considered.
- 7.1.8. I note this request as stated in the appeal but I would also note that the Board is required to consider the proposed development *de novo*. It is also required to assess the development with regard to policy and guidance at national and local level including statutory development plans.
- 7.1.9. I propose to consider the appeal initially in relation to the broad matters of planning policy; then to address the two matters referred in the planning authority's decision to refuse permission which are the substance of the first party appeal and finally to address matters specific to the proposals as submitted in relation to layout design and density and other site specific matters.

7.2. Policy

- 7.2.1. The site is zoned is located within an area zoned C2 New Residential Development which table 17 indicates has a provision of a maximum of 15 units per hectare in the Newbridge LAP. The LAP although referring to both national and county policy and guidance in relation to density refers to the history of the site, that county policy in relation to density is indicative and the basis of the scale of density is based on sites with existing permissions for development of this density and that the proscribed density has been included as part of meeting anticipated housing need and demand over the LAP period. The current Kildare County Development Plan largely restates in relation to density standards the range of densities outlined in the 2009 national guidance but that density is more specifically addressed in LAPs.

- 7.2.2. The principle of residential development on the site is acceptable and the other proposed uses on the site namely a crèche and nursing home are also acceptable and comply with the zoning provisions stated in the plan.
- 7.2.3. For the purpose of this assessment I propose to consider the initial proposal of 220 units. I also consider it more appropriate to consider this layout in the context of the Design Manual for Urban Roads and Streets (DMURS) published in March 2013 subsequent to the 2009 guidance and which offers further guidance in particular to urban design and that the initial layout does provide for a greater adherence to DMURS.
- 7.2.4. In the context of the desirability to provide for sustainable development and also maximising the use of infrastructure it is noted that the appeal site is a serviced site within a zoned area and within the development boundary of the town of Newbridge. It also adjoins the existing built up area of the town with development extending to the appeal site's eastern boundary.
- 7.2.5. It is, however, also noted that the density of both the initial submission and the revised submission would be below the stated density range of outer suburban / 'greenfield' sites which the appeal site could be regarded as, in the 2009 guidance which indicates a general range of 35-50 dwellings per hectare and development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares as stated in section 5.11 of that guidance.
- 7.2.6. In relation to the initial submission of 220 dwellings the density would be approximately 15.7 units per hectare which is a very low density on a site which is fully serviced and zoned for development. The zoning would appear to reflect a scale of density associated with the history of the site where 190 dwelling units were previously granted on the site. The scale and density of development permitted pre-dated the 2009 national guidance and was the subject of further extensions of the duration of the original of permission. The scale of development is, however, I would accept reflective of the current C2 zoning as stated in the LAP.
- 7.2.7. In the context of a requirement to provide for sustainable development and for an efficient use of resources and infrastructure specifically referred to in many sections of the 2009 guidance it is difficult to consider that developing in excess of 14

hectares of serviced land at approximately half of the stated desired minimum density as stated in section 5.11 of the 2009 national guidance is a reasonable proposition and could be considered as sustainable development irrespective of the site history and the LAP zoning.

- 7.2.8. It is evident, therefore, that the proposed development is not in keeping with *Sustainable Residential Development in Urban Areas 2009*. The site is within the development boundary of Newbridge, is serviceable by public mains water supply, foul and storm sewerage and is on lands zoned for residential purposes. The site is in relative proximity to social and community infrastructure, the town centre and retail development and other services. The basis of the low density maximum on the appeal site appears to be based on the site's planning history and this level of low density is not reflected on sites with similar new residential zonings in the LAP.

In this context a higher density more in adherence with the 2009 guidance which is also referred to in both the Kildare County Development Plan and the Newbridge LAP would be appropriate to this site in the interest of sustainability and efficient use of public services and resources. I would therefore have a major concern in relation to the scale and density proposed notwithstanding the zoning objective specific to the site.

7.3. Reasons stated in the decision to refuse permission.

7.4. Roads and transportation.

- 7.4.1. The planning authority in the first reason for refusal makes reference to traffic hazard. The reason for refusal refers to the junction of the appeal site at the R445 Ballymany Road; the aim of providing a four arm junction at this location, provision of a future traffic flow from the L7042 Green Road to the L7037 Standhouse Road and safe turning movements at the proposed junction. Reference is made to the temporary arrangement proposed and an absence of clarity on how the transport objective can be achieved and that this as a consequence would give rise to a traffic hazard.
- 7.4.2. Central to the reason for refusal is objective SRO 5(b) of the LAP although the actual objective is not specifically stated in the reason for refusal. SRO 5(b) seeks to provide for the construction of a transport link from the L7042 Green Road to the L7037 Standhouse Road, including a new junction with the R445 Ballymany Road

and to preserve the route free from development. The maps which are part of the LAP clearly delineate the proposed link which follows in large measure the western boundary of the appeal site. The objective SRO 5(b), which would be part of the infrastructure of an expanding urban area is I consider a reasonable objective and is not in dispute in this appeal.

- 7.4.3. The applicant has in both layouts, initial and revised, made provision for this new link road and has proposed to construct a large section of the road, 627 metres, between the Ballymany Road and the Standhouse Road on the portion of lands which is within the applicant's ownership as part of the overall design and layout of the proposed development. The junction with the Ballymany Road as designed/required by the local authority is not within the applicant's ownership and control and lies to the west of the applicant's Ballymany roadside frontage.
- 7.4.4. The applicant in the grounds of appeal has referred to objective SRO 5(b) of the LAP influencing the design and layout of the development and that the scheme has been designed so that the road proposed by objective SRO 5(b) of the LAP can tie in with the overall road when completed. Pending the completion of the road a temporary junction onto the R445 is proposed which does not impact on the eventual provision of objective SRO 5(b) of the LAP. The completion of objective SRO 5(b) of the LAP in relation to the development of the junction onto the R445 is outside of the control of the applicant as the lands to complete the junction is not within ownership of the applicant and the applicant is unable to acquire these lands. The applicant also indicates that it is within the powers of Kildare County Council to initiate CPO procedures to secure the completion of the link road.
- 7.4.5. In relation to the reason for refusal I would make the following comments. The completion of a link from the L7042 Green Road to the L7037 Standhouse Road, including a new junction with the R445 Ballymany Road is a stated objective of the LAP as indicated in objective SRO 5(b) and accompanying maps also indicated this new road link. Its provision is a desirable piece of infrastructure in this area of Newbridge. The responsibility of providing this objective is, I consider, that of the planning authority and not the applicant. The applicant has reserved the lands within the ownership of the applicant free of development for this road. The applicant has as part of the proposed layout provided for the construction of new link road approximately 627 metres in length along the western side of the site incorporating a

new signalised junction off Standhouse Road with a new entrance onto Standhouse Road which is part of the overall road proposed under objective SRO 5(b).

7.4.6. There would appear to be no objection to this aspect of the proposed development from the local authority as it meets the requirement of providing a link road. There is as already noted no reference to the objective SRO 5(b) or to the proposal being in contravention of objective SRO 5(b) in the reason for refusal. It would not appear to be the case that the layouts submitted in the initial proposal and in the layout submitted by way of further information impede or prevent in any way the implementation of the link road specified in objective SRO 5(b). The layout submitted does not hinder any aspect of the provision of a junction/roundabout on the R445 on land which are not part of the current application or lands in the applicant's ownership or control.

7.4.7. The transportation objection essentially appears to rest on the applicant providing an interim solution of a temporary access onto the R445 pending a resolution of the provision of the junction onto the R445 in compliance with objective SRO 5(b). There is also concern expressed that there is delay until the latter phase, phase 3, in relation to provision of a signalised junction and roundabout onto the R445 and that the junction should form part of phase 1.

7.4.8. In the response to the appeal the planning authority in a response dated the 8th September 2017 to the grounds of appeal refers to the reasons for refusal. The submission indicates no objection to the access onto Standhouse Road but cannot deliver a new junction onto the R445 Ballymany Road. The planning authority considers that the reason for refusal remain valid and also that matters raised in reports in relation to the proposed development also remain valid.

The construction of the road and junction onto Ballymany Road is of importance in any consideration of the development; also the future overall development of the area and there is concern that the temporary access onto the R445 from the analysis could become a permanent arrangement. The planning authority remain of the view that the applicant should engage with the adjoining landowner and has to construct the permanent junction onto the R445.

7.4.9. In relation to the desired permanent junction with the R445 it is evident that the applicant in the absence of ownership is unable to construct the junction desired by

the planning authority. It is not within the boundary of the current application. It is within the powers of the planning authority to secure the lands in question and it is the responsibility of the local authority and not the applicant to secure objectives stated in the LAP. The appeal site is zoned for development and the applicant has road frontage onto the R445 to provide access for development onto the appeal site. The development as proposed does not in any way inhibit the ultimate provision of objective SRO 5(b).

The next issue to consider is whether the provision of an alternative access onto the R445 is reasonable and whether it can be considered to be a traffic hazard as stated in the reason for refusal.

- 7.4.10. I consider that it is reasonable to consider an alternative entrance onto the R445 on a temporary basis. The access proposed is stated as a temporary entrance which can be closed off when the desired junction onto the R445 can be provided. I do not see any difficulty in this and such a requirement can be conditioned to allay any reservations of the planning authority that it would be a permanent access onto the R445 and this has been applied in relation to other development where the provision of aspects of infrastructure was proposed but not in place.
- 7.4.11. In relation to the actual design of the temporary junction it has been designed to standard requirement for an access and junction and the reports of the planning authority do not raise any specific objections in this regard.
- 7.4.12. I therefore do not consider that the reason for refusal as stated is reasonable and therefore based on the information submitted there is no reason to consider that the junction proposed would be a traffic hazard or contrary to the provisions of the statutory plan.
- 7.4.13. In relation to other transportation matters relating to the site. In relation to the issue of circulation the proposal provides for a satisfactory provision of vehicular movement to and from the site from adjoining lands via the R445 and Standhouse Road but there is no permeability to lands to the west owing to existing constraints which limit such permeability. There is also cognisance within the layout a providing for circulation of pedestrians along defined footpaths; priority at junctions and also for the use of shared surfaces; the use of alignment to limit speed and for accessibility

to amenity spaces. In relation to the initial proposal there are matters which require to be addressed in relation to cycle routes.

7.4.14. In many respects the design is a standalone solution to the site necessitated by the established pattern of development in its immediate vicinity which has limited opportunity other than to provide access onto the existing arterial roads. I would have no objection to the overall proposal in relation to traffic and transportation.

7.5. The second reason for refusal relates to **archaeology**.

7.5.1. In relation to the second reason for refusal concerning archaeology, it is noted that in the grounds of appeal that the site is not located within an area of archaeological interest and does not contain any known archaeological features. The site is largely a former quarry which was the subject of major excavation and ground disturbance over many years. There is a small area in the northern area of the site which was not significantly disturbed. The site and in particular this undisturbed area was the subject of investigation following a request of further information and by way of further information test trenching of the undisturbed area of the site was carried out.

7.5.2. In the grounds of appeal, it is also indicated that the archaeological report prepared by the applicant considered the vast majority of the site as archaeologically sterile and that the area of archaeological interest is confined to a small area of the northwestern corner of the site some 4 to 5 % of the overall site. Potential for latent archaeology in up to 5% of the site does not warrant refusal for the entire site.

7.5.3. There is the appellant contends no objection to further archaeological investigation of this area by way of condition; the appellant is fully aware of his obligations under the National Monuments Acts and a condition by the Board can resolve this issue and reference is made to PL15.238053 in this regard. It is also indicated that there is nothing to prevent the development of the southern and central area of the site.

7.5.4. In relation to archaeology I note that the heritage officer report of the planning authority dated the 25th of May 2017 in relation to the further information submitted recommends conditions in relation archaeological testing pre development.

The further information in relation to archaeology was also referred to the DAHRRGA and the DAU report dated the 1st of June 2017 recommends further information be sought in relation to areas of archaeological potential identified by the consultant's report to establish the full extent of archaeological features. Based on establishing

this the submission indicates the preferred option was to preserve in situ any archaeological potential identified in accordance with best practice and to achieve this by means of redesign of the layout. If redesign is not possible full excavation of the archaeological features should occur and this work and final mitigation should be decided upon before the planning decision is made.

The Board referred the appeal submissions to the DAU under section 131 and no response was received.

- 7.5.5. I would accept the view expressed by the appellant that the nature of works carried out previously on the site would by reason of major ground disturbance and excavation of material render a large area of the site archaeologically sterile. The appellant's consultant on archaeology has identified an area of the site relatively undisturbed as having potential for the presence of archaeological remains and features and that this site requires further investigation pending the redevelopment.
- 7.5.6. The primary issue to be considered is whether an absence of certainty in relation to whether the potential of latent archaeology being uncovered in a small section of the site is a reasonable justification to refuse the overall development pending a clear resolution of this matter. In permitting developments even in the absence of any level of uncertainty a condition requiring archaeological monitoring of areas to be disturbed as part of development works is generally included in any permission. In relation to this appeal such a condition should also be included.
- 7.5.7. The proposal to carry out a phased development where works would initially be within an area in the southern area of the site identified as archaeologically sterile would permit works to be carried out with an identified minimal risk in relation to archaeology. I would have no objection to works in the initial phase of the development.
- 7.5.8. The issue arises in relation to any subsequent phase of the development. In the event of archaeological material being discovered in the relatively undisturbed area of the site it would have implications in relation to the ongoing completion of the development. It would require the recommendations of the DAU report dated the 1st of June 2017 in relation to archaeology to be adhered to where the preferred option would be to preserve in situ any potential identified in accordance with best practice by means of a redesign of the layout. In the event that redesign is not possible as

indicated in the DAU submission full excavation of the archaeological features and final mitigation measures would require to be decided upon.

7.5.9. The issue raised by the planning authority in their reason for refusal has merit in the event that such archaeological potential is identified as this will require a re-evaluation in relation to how the development will proceed. It may result in a cessation of works in the affected area permanently or temporarily; agreement on full excavation of the archaeology or in the absence of agreement to do this, a rescaling downwards of the development and a redesign of the layout. A redesign will have implications for the construction of the nursing home and / or the completion of the link road to the Standhouse Road and a reduction relocation of dwelling units and location of open space and amenity areas.

7.5.10. The implications on revision and redesign, however, can arise in relation to any development site which is the subject of archaeological monitoring arising from excavation and ground works. It could equally arise in relation to the extant permission on the site. In such circumstances it is not, I consider, unreasonable to permit development to proceed subject to conditions requiring monitoring and agreement to comply with DAHRRGA requirements and also statutory provisions relating to national monuments. I would also consider that in the event of permission being granted a condition requiring resolution of any outstanding matters in relation to archaeology, these matters could be conditioned that works proceeding in latter phases is contingent on such a resolution.

7.6. **General matters specific to the proposal.**

7.6.1. The issues can be dealt with under the following headings:

- Scale of Development
- Flooding and Flood Risk Assessment
- Layout and Design
- Public Open Space.
- Services.
- Other uses.
- Environmental Impact Assessment

- Appropriate Assessment

7.7. Scale of Development

- 7.7.1. I have already indicated the view that in relation to the matter of scale the density of the development is totally inappropriate in the context of a serviced and zoned site within an urban area.

7.8. Flooding and Flood Risk Assessment.

- 7.8.1. A desktop study prepared in relation to the proposal indicates that the development site is not subject to a flood hazard.

7.9. Layout and design

- 7.9.1. The proposed development as submitted initially to the planning authority on the 24th of June 2016 was for a mixed use development which provided for a mixed use development of 220 dwellings, a single storied crèche facility with a floor area of 307m² gross floor area and a 120 bedroom nursing home facility which is two storied in height with a gross floor area of 7,117m².
- 7.9.2. A key feature of the layout is the construction of a roadway along the western boundary 627 metres in length which serves as the main distributor road for the overall development with three roads providing access internally to the development. The main road will also have 23 individual access points serving individual dwelling units. The other key feature of this main road is that will serve as a major component of a link road between the Ballymany Road and the Standhouse Road and is a part of an overall objective SRO 5(b) of the LAP. A junction with Standhouse Road form part of the layout and design.
- 7.9.3. The layout serves in many respects adopts the approach set out in the Design Manual for Urban Roads and Streets (DMURS) with an emphasis on accessibility, permeability and design internally with the proposed development. It offers a degree of permeability with adjoining lands through the proposed main link road connecting with existing routes, potentially with lands to the west should the urban area expand westwards but there is limited permeability eastwards though is in large measure constrained by the layout of existing permitted residential development and the nature of adjoining uses a hotel and school property.

7.9.4. In relation to the initial residential development proposed a total of 220 residential units are indicated which are individual dwelling units with a range of types and designs and scope of modification of units including 13 terraced dwellings; 126 semi-detached dwellings and 81 detached dwellings. The dwellings are 2 and two a half storied and many of the individual designs provide for optional development in the attic area for habitation with a mix of bedroom sizes but in overall terms the development is for predominantly 3 and 4 bedroomed units and the development provides for 2 parking spaces per dwelling.

The development provides a range of units but the nature of the mix is largely skewed to provide for an emphasis on detached units which reflects in the relatively low density of the overall development. A greater range of residential units including terraced blocks could have been incorporated into the overall design which would have provided for a higher density and could have been designed with flexibility for optional development in the attic area for habitation as required.

The site through the presence of a new urban road offered a design opportunity to create a strong urban edge with the creation of the new link road and a stronger design statement along the road should I consider have formed part of the layout.

In relation to other aspects of the development, section 17.4.5 of the current Kildare County Development Plan outlines development management standard for dwelling houses including minimum floor areas, private open space provision, separation distances and boundary treatment.

I am satisfied that the proposed have sufficient space and area to comply with requirements. All of the proposed units have front and rear garden areas. The issue of side shared boundaries was clarified in the first party response submission. The development will not I consider adversely impact on adjoining lands and properties. I would have no objections in relation to this aspect of the development.

7.10. **Public Open Space**

7.10.1. Both the 2009 guidance and the provisions of the current KCDP refer not only to minimum standards in relation to quantum of public open space but also the need for qualitative open space provision with reasonable access and passive surveillance of public area. In the initial submission the overall site incorporates 6 areas of open space, 3 at the periphery of the site adjoining Ballymany Road and the school site

and 3 relatively large areas internally in the site overlooked by the proposed residential development.

7.10.2. The spaces represent approximately 15.5% of the overall site area.

7.10.3. I note also that in the revised layout in response to the further information there were a number of revisions which increase the quantum of public open space but the overall provision of three main areas of open space is retained.

7.10.4. There is also a linear strip along the western boundary of the site between the link road and the western site boundary which is a hedgerow and which it is proposed to retain. Internally there are also pedestrian priority zones are provided/identified for crossing roads which will assist non-vehicular movement within the site to the open space areas.

7.10.5. In general I would have no objection to the quantum of space provided and its positioning within the overall development. There may in the event of a permission be a need to consider increased pedestrian connectivity within the development to provide increased and improved connectivity in particular for the occupants of the dwellings with the main areas of public open space.

7.11. **Services**

7.11.1. It is proposed to connect to existing services. The details in relation to the internal network and connections to existing sewers and watermains are outlined in the submitted drawings. There is also an infrastructure design report submitted which indicates in further detail proposals in relation to these services including in particular measures for attenuation of storm and surface water drainage.

7.11.2. I note that Irish Water have raised no objections and I would have no objections to the proposals as submitted.

7.12. **Other uses**

7.12.1. The development also provides for a nursing home located in the northern area of the site adjoining Standhouse Road and a crèche in the southern area of the site. The nursing home can in many respects be considered as a standalone development with its own individual access onto Standhouse Road. It is set back from the road and parking is located to the front (north) of the building. I would have no objection to the proposed development.

7.12.2. In relation to the crèche the development complies with national guidance in relation to the provision of such facilities. The question arises as to when the facility should be constructed and that would be contingent on the agreed phasing of the development and the scale and quantum of units permitted. This matter can be addressed by condition and I would have no objection to other aspects of the crèche in relation to location, layout and design

7.13. **Environmental Impact Assessment**

7.13.1. The proposed falls within the requirements of Class 10 (b) (iv) of Schedule 5 of the Planning and Development Regulations 2001 as amended, whereby an EIS is required for projects comprising of '*Urban Development which would involve an area greater than 2 hectares in the case of business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere*'. The overall site area is approximately 15.12 hectares.

7.13.2. The application was accompanied by an Environmental Impact Statement (EIS) and is presented as a Non-Technical Summary and a main report addressing various heading as proscribed by statutory requirements.

7.13.3. I consider that information provided in the EIS is sufficient to enable an assessment of the likely significant effects on the environment arising from the proposed development and that the requirements of the EIA Directive and Planning and Development Regulations 2001, as amended, are complied with.

7.13.4. Chapters 1 to 3 outline regulatory requirement, site description and the planning and development context. Chapter 4 under subheadings and sections refer to assessment of impact and interactions and a summary of impacts are addressed in Chapter 5.

7.13.5. **Human Beings**

This is primarily addressed in section 4.2 of the EIS but the likely significant effects of the proposed development on human beings are also addressed under several of the headings of this environmental impact assessment. Impacts are identified as temporary and anticipated to occur in the construction phase. Positive benefits are outlined in relation to employment and improved infrastructure arising from the new link road and these will be beneficial into the future.

In overall terms I consider that the residual impacts of the proposal would have a positive impact on the area.

7.13.6. **Flora and Fauna** (Ecology/Biodiversity)

This is primarily addressed in section 4.5 of the EIS where the methodology is set out and there is also a description and survey of the site. The habitats on the site are identified and the site is identified as having no special interest and the development will have an impact in replacing the current site conditions with a suburban type residential environment. Reference is made to the Pollardstown Fen SAC and that a separate AA screening was carried out in relation to effects arising from the proposed development on this site and concluded no likelihood of significant effects. The issue of AA is addressed separately in this report. Mitigation measures are outlined to prevent impacts in the construction phase. I would agree with the conclusions as outlined.

7.13.7. **Soils, Geology and Hydrogeology**

This is primarily addressed in section 4.9 of the EIS where the receiving environment is outlined. Reference is made to potential impacts arising in particular during the construction phase arising from accidental spillage and excavation works. Mitigation measures are outlined. The overall conclusion in relation to residual impacts is imperceptible and I would agree with this conclusion.

7.13.8. **Water and Drainage**

This is primarily addressed in section 4.8 of the EIS where the existing environment is outlined, potential impacts arising from the development in particular during the construction phase are indicated and mitigation measure indicated. No residual impacts post construction phase is identified and I would agree with this. I would also note that flood risk was also assessed in relation to this site.

7.13.9. **Air Quality and Climate**

This is primarily addressed in section 4.7 of the EIS where the potential impact arising with the completion of the overall development was not considered to be significant and similarly no significant impact on the microclimate of the area was identified.

I am satisfied that there will be imperceptible impacts arising.

7.13.10. Noise and Vibration

This is primarily addressed in section 4.6 of the EIS. Current ambient levels were established and monitoring undertaken at three locations identifying traffic as the main contributor to noise levels. Predictive levels are outlined in relation to both the construction phase and post construction phase. Mitigation measures are outlined during construction phase. The predicted levels arising from the development are not considered to be significant and day and night levels will not exceed proscribed standards.

I am satisfied that there will be imperceptible impacts arising.

7.13.11. Landscape and visual

This is primarily addressed in section 4.4 of the EIS. A survey of the site was undertaken identifying the western boundary as significant in relation to the trees and hedgerow along this boundary. The EIS assesses visual impact on designated areas and identifies no impacts. In overall terms the construction of a residential development in the site is an irreversible visual impact on what was previously a quarry. Having an impact in itself does not necessarily infer a negative impact.

With the retention of the western boundary as proposed and the provision of amenity open space I do not consider negative visual impacts arise.

7.13.12. Traffic

Traffic and transport are addressed in section 4.1 and outlines the methodology applied including the preparation of a TTA with associated traffic counts and junction analysis; an assessment of the proposal in the context of the existing network and the impact of the proposed development on the network.

The analysis indicates that the development will not give rise to a negative impact as there is capacity in the overall network to accommodate the development with assessment to a 2034 design year. Issues arising during the construction phase can be accommodated by the incorporation of measures outlined in the Construction Traffic Management Plan.

In overall terms the development is acceptable and the provision and reserving of lands for the new link road is a positive development.

7.13.13. Built and Cultural Heritage

Built and Cultural Heritage is addressed in section 4.3 of the EIS. I have already considered archaeology in this report but it is important to indicate there are no recorded monuments within the site. There are other issues in relation to heritage. A condition requiring monitoring of excavation works is recommended and I would consider this as desirable.

7.13.14. **Waste Management**

This matter is referred to in section 4.10 of the EIS, where the scale of earthworks likely to arise are indicated and also anticipated levels of construction waste are outlined. An overall plan and mitigation measures are outlined in relation to addressing waste generated by the proposed development. Subject to the implementation of the mitigation measure I do not consider a negative impact arises.

7.13.15. **Material Assets**

In relation to material assets this is addressed in section 4.11 of the EIS and refers to issues such as landscape, ecology, residential amenity and other impacts on property which are largely addressed in other sections of the EIS.

7.13.16. **Interactions of the Foregoing**

Chapter 5 addressed this subject and in particular section 5.3 where the interaction is set out in a box matrix. I consider that the main interactive impacts arising from the proposed development are adequately addressed in the EIS. Cumulative impacts have been taken into account in particular in relation to traffic and visual issues. I consider that the development, cumulatively with other developments, is not likely to have significant effect.

8.0 **Appropriate Assessment**

8.1.1. In Appendix A of section 4.5 of the EIS a screening report was prepared. The site is not located within a Natura 2000 site but is located approximately 400/500 metres to the south of the Pollardstown Fen SAC Site Code 000396 with three identified habitats *7210 Calcareous fens with Cladium mariscus and species of the Caricion davallianae*, *7220 Petrifying springs with tufa formation (Cratoneurion)* and *7230 Alkaline fens*. There are also three species of snail identified *Vertigo geyeri*, *Vertigo*

angustior and *Vertigo moulinsiana*. No habitat is directly impacted by the proposed development and there is therefore no loss of habitat.

8.1.2. Indirect effects on qualifying species would largely arise from discharges to the ground and surface water but there is no direct surface flow from the appeal site to the designated site and in relation to ground water flow the site is largely outside of the catchment with approximately 4.64 hectares of the site within the groundwater catchment of the fen which equates to 0.16% of the overall catchment of the designated site.

8.1.3. I note the nature of the development and its location within the urban area and the absence of connections with regard to source pathway receptor. I note that mitigation measures are outlined within the documentation to address any potential risk in particular to groundwater arising from the proposed development in the construction phase and post construction phase.

8.1.4. It is reasonable to conclude on the basis of the information on the file which I consider is reasonable to issue a screening determination that the development, individually or in combination with other plans and projects would not be likely to have a significant effect on the above listed European sites, or any other European site, in view of the sites' conservation objectives and a Stage 2 Appropriate Assessment is not required.

9.0 Conclusion and Recommendation

9.1. This appeal is a first party appeal against the decision of the planning authority to refuse permission subject to two reasons. The appellant requested the Board to address solely the reasons for refusal stated and appeal submissions largely focus on the reasons of refusal though reference to the current zoning and the density provision of the zoning is referred to in the grounds of appeal.

9.2. I have, however, considered the proposed development *de novo* and in the context of a requirement to provide for sustainable development and for an efficient use of resources and infrastructure specifically referred to in many sections of the 2009 national guidance it is difficult to consider that developing in excess of 14 hectares of serviced land at approximately half of the stated desired minimum density as stated

in section 5.11 of the 2009 national guidance is a reasonable proposition and sustainable development irrespective of the site history and the LAP zoning.

9.3. I therefore recommend that permission be refused.

10.0 Reasons and Considerations

The proposed development is located on serviceable lands within the development boundary of Newbridge Town, in close proximity to social and community services on lands zoned C2 New Residential Development which table 17 of the Newbridge Local Area Plan 2013-2019 indicates has a provision of a maximum of 15 units per hectare.

Notwithstanding the specific density provision stated it is also a stated provision of the said Local Area Plan to have regard to the *Guidelines for Planning Authorities – Sustainable Residential Development in Urban Areas*, issued by the Department of the Environment, Community and Local Government in May, 2009, and accompanying Design in relation to density.

The 2009 national guidance is also referred to in section 4.5 of the current Kildare County Development Plan 2017-2023 which refers to land as a scarce resource that needs to be used efficiently and that densities should take account of the location of a site, the proposed mix of dwelling types and the availability of public transport services and as a general principle, higher densities should be located within walking distance of town and district centres and high capacity public transport facilities and which is also specifically referred to in Objective LDO 1 of the said development plan.

Having regard to the proposed density of the development, at 15.7 dwelling units per hectare, it is considered that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in serviceable land usage given the proximity of the site to the built-up area of Newbridge Town and to established social and community services in the immediate vicinity.

Furthermore, it is considered that such a low density would be contrary to these Ministerial Guidelines, which indicate that net densities less than 30 dwellings per

hectare should generally be discouraged in the interest of land efficiency. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Derek Daly
Planning Inspector

27th November 2017