



An  
Bord  
Pleanála

## Inspector's Report ABP-300795-18.

### Development

Extension to the existing Kildare Tourist Outlet Village consisting of 2 No. restaurant/café units, 29 No. retail outlet units, 3 No. existing outlet retail units (unit Nos. 61a, 61b and 62) and 1 No. restaurant/café unit will be demolished. Planning permission is also sought for the provision of 460 No. car parking spaces over two levels at a new car park. The planning application is accompanied by an Environmental Impact Statement (EIS).

### Location

Kildare Tourist Outlet Village, Nurney Road, Kildare Town, Co. Kildare.

### Planning Authority

Kildare County Council.

### Planning Authority Reg. Ref.

17/539.

### Applicant(s)

Value Retail Dublin Ltd.

### Type of Application

Permission.

### Planning Authority Decision

Grant subject to conditions.

<b>Type of Appeal</b>	Multiple First Party v conditions Third Party v permission.
<b>Appellant(s)</b>	Value Retail Dublin Ltd An Taisce.
<b>Observer(s)</b>	1. Cllr. Padraig McEvoy 2. Kildare Chamber of Commerce 3. County Kildare Chamber 4. The BoM St. Brigid's Primary School
<b>Date of Site Inspection</b>	11 <sup>th</sup> May, 2018 & 1 <sup>st</sup> June, 2018.
<b>Inspector</b>	A. Considine.

## Contents

1.0 Site Location and Description .....	5
2.0 Proposed Development .....	6
3.0 Planning Authority Decision .....	7
3.1. Decision .....	7
3.2. Planning Authority Reports .....	9
4.0 Planning History.....	14
5.0 Policy Context.....	16
5.1. National Spatial Strategy 2002-2020.....	16
5.2. Department of Transport ‘Smarter Travel: A Sustainable Transport Future: A New Transport Policy For Ireland 2009-2020 .....	16
5.3. Spatial Planning and National Roads Guidelines for Planning Authorities, 2012	17
5.4. Retail Planning, Guidelines for Planning Authorities 2012 .....	17
5.5. Design Manual for Urban Roads and Streets, 2012.....	18
5.6. Regional Planning Authorities for the Greater Dublin Area 2012-2022 .....	18
5.7. Kildare County Development Plan 2017 - 2023 .....	18
5.8. Kildare Town Local Area Plan 2012-2018.....	19
5.9. Natural Heritage Designations .....	21
6.0 The Appeal .....	22
6.1. Grounds of Appeal .....	22
6.2. Applicant Response to Third Party Appeal.....	25
6.3. Third Party Response to First Party Appeal .....	26
6.5. Planning Authority Response .....	27
6.6. Observations .....	28

6.7. Further Responses.....	29
7.0 Planning Assessment .....	32
7.1. Principle of development & compliance with Kildare Local Area Plan.....	32
7.2. Roads & Traffic .....	37
7.3. Retail Impacts .....	40
7.4. First Party Appeal Issues .....	43
7.5. Other Issues.....	45
8.0 Environmental Impact Assessment.....	46
8.1. Environmental Impact Statement: .....	46
8.2. Environmental Impact Assessment .....	49
9.0 Appropriate Assessment.....	64
10.0 Recommendation .....	65
11.0 Reasons and Considerations .....	66

## 1.0 Site Location and Description

- 1.1. The subject appeal site is located just off junction 13 of the M7, approximately 26km to the south of Naas and 9km south-west of Newbridge town. The existing Kildare Tourist Outlet Village is accessed off a roundabout on the R-415 Nurney Road, which is c. 2km from Kildare Town which lies to the north east of the site. The appeal site itself is approximately 260m from the centre of Kildare Town. The appeal site has a stated site area of 2.47Ha and is bound by the existing Kildare Tourist Outlet Village to the west, a dwelling and paddock to the north, residential to the east and St. Brigid's Primary School and associated playing fields to the south. The subject site is essentially landlocked and is currently used as a temporary car park with space for 193 cars. Tesco is located to the north-western corner of the subject site.
- 1.2. The M7 motorway is located to the southern boundaries of the existing village outlet complex. Grey Abbey Road is located to the eastern side of the existing village outlet complex and is accessible by pedestrians via a timber boardwalk from the existing KTOV. The existing original structures within the village outlet complex are laid out in a street format and are characterised by typically one and two storey structures. Phase two of KTOV comprised an extension to the north of the original development. This extension has been completed and lies to the immediate west of the current appeal site. There is an existing surface car park serving the outlet centre located to the west of the buildings of both Phases 1 and 2, with direct access off the roundabout from Nurney Road opposite Modus Link. There is a bus set down area and pick up area within the village complex located to the eastern side of the main car park, directly in front of the retail units.
- 1.3. Vehicular access to the existing Kildare Tourist Outlet Village is via the roundabout on the Nurney Road. Pedestrian access is available off the Nurney Road and also via a gated access along Grey Abbey Road opposite the access serving Aldi. As part of the permitted Phase II development, a pedestrian access was also constructed from the Tesco car park, to the north of the Kildare Tourist Outlet Village.
- 1.4. Grey Abbey, a recorded monument, is located on the grounds of the existing village complex with a graveyard also located in proximity to the Abbey.

## 2.0 Proposed Development

2.1. Permission is sought, for extension of 6,212m<sup>2</sup> gross floor area to the existing Kildare Tourist Outlet Village in one and two storey building form directly adjoining the existing building complex and consisting of:

- 2 No. restaurant/café units (c312m<sup>2</sup> and c466m<sup>2</sup> gross floor area respectively),
- 29 No. retail outlet units (total gross floor area c 5,234m<sup>2</sup>, ranging in size from c67m<sup>2</sup> to 638m<sup>2</sup>),
- Mezzanine floor levels are proposed in unit nos 90, 93, 103, 104, 105, 106 and 111,
- public toilets (c188m<sup>2</sup> gross floor area) and
- ATM facilities.
- To facilitate the extension, 3 No. existing outlet retail units (unit Nos. 61a, 61b and 62) and 1 No. restaurant/café unit will be demolished with a reduction of 624m<sup>2</sup> gross floor space.

Planning permission is also sought for the provision of:

- 460 No. car parking spaces over two levels at a new car park to be developed at the north of the site,
- Partial reconfiguration of the existing service yard to the rear of the existing unit nos. 56, 57, 58, 59 and 60,
- The provision of 2 no. segregated service yards to the rear of proposed unit nos 87-102 and unit nos 103-115 including unit nos 61a and 61b,
- The existing substation to be demolished and a new substation to be built within this service yard,
- Signage,
- Landscaping and boundary work,
- And all ancillary site services and site development works.

In addition, permission is sought to implement any of the alternative baseline design standards identified in the Shopfront Design Guide submitted with the

application and to modify the external design of any unit or units using one of the alternative designs set out therein.

The planning application is accompanied by an Environmental Impact Statement (EIS) and a Screening Statement for Stage One Screening for Appropriate Assessment.

2.2. The Planning Application was accompanied by a number of documents including as follows:

- Relevant plans and particulars
- Planning Report
- Environmental Impact Statement
- Retail Impact Statement
- Appropriate Assessment Screening
- Engineering Report
- Architectural Design Statement
- Landscaping Report
- Photomontages

If permitted, the proposed development will result in the Kildare Tourist Outlet Village having a total gross floor area of 24,019m<sup>2</sup> and will provide for 1,813 car parking spaces in total.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority decided to grant permission for the proposed development subject to 26 conditions including the following:

3. The proposed development shall be amended as follows:

- (a) Unit 104, as indicated on the Proposed Site Layout Plan submitted on the 1<sup>st</sup> of November, 2017 (Drawing Number P-B-104) shall be omitted from the proposed development.

- (b) Prior to the commencement of development, the developer shall enter into an agreement with the planning authority, in accordance with the provisions of section 47 of the Planning and Development Act 2000, as amended, restricting the use of the land as outlined and hatched in green on the attached drawing (Drawing Number 400-18-164) as vehicular and pedestrian access only until such time as a permanent link has been created between the proposed development and the public realm at Academy Street in general accordance with Objective TO3 of the Kildare Town Local Area Plan 2012-2018 (*TO 3: To create further linkages through the Kildare Retail Outlet to connect with Academy Street as identified on Map 8.6*).
- (c) The developer shall permit access to and from the subject site from any newly created permanent link between the proposed development and the public realm at Academy Street at all times when the proposed development is open and trading and at such other times as may be agreed with the planning authority.
- (d) The area which was to be occupied by Unit 104 on the Proposed Site Layout Plan shall be temporarily screened from public areas within the proposed development by hoarding and / or planting pending the opening of a permanent through way connecting the subject site with the public realm at Academy Street.

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

**Reason:** In the interest of delivering further linkages through the Kildare Tourist Outlet Village to connect with Academy Street and the town centre in accordance with the policies and objectives of the Kildare Town Local Area Plan 2012-2018 including Objective TO3: *“To create further linkages through the Kildare Retail Outlet to connect with Academy Street as identified on Map 8.6”*.

- 24. The applicant/developer shall pay to Kildare County Council a Special Development Contribution, as provided for by section 48(2)(c) of the Planning



and Development Act, 2000, as amended, of **€1,450,000.00** towards exceptional costs not covered by the Kildare County Council Development Contribution Scheme which will be incurred by the Council in the delivery of a new high quality pedestrian priority access from the subject site to Academy Street in accordance with the policies and objectives of the Kildare Town Local Area Plan, 2012-2018 including Objective TO3: *“To create further linkages through the Kildare Retail Outlet to connect with Academy Street as identified on Map 8.6”*.

**Reason:** It is considered reasonable that the developer should make a contribution in respect of exceptional costs not covered by the Kildare County Council Development Contribution Scheme relating to the provision by the local authority of infrastructure and facilities which directly benefit the proposed development which are stated objectives of the Kildare Town Local Area Plan 2012-2018.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The first planners report summarises all of the submissions made in relation to the proposed development and considers the development against all of the relevant national and local policies and guidelines. The report assesses the development in terms of the principle, retail impact, layout and urban design, design and visual impact / landscape, heritage issues, archaeological and architectural heritage, transportation, water and engineering services and environmental issues. The initial report concludes that further information is required with regard to a number of items.

Following receipt of the response to the FI request, the final planning report considers the submission of the first party together with all other technical reports. The report concludes that there are two main areas of concern remaining being land use and permeability. It is recommended that permission be refused for 5 stated reasons including as follows:

1. Contravention of the Town Centre zoning
2. Inappropriate use of Town Centre zoned lands and the availability of K1\* zoned lands, specifically zoned for the expansion of the Kildare Retail Outlet.

3. Inadequacies of the EIS to consider alternatives for the location of the proposed development.
4. Roads issues in terms of impacts on the M7.
5. Contravention of Objective RIO17 of the Kildare Local Area Plan, 2012-2018.
6. Development fails to provide any links to the historic core of Kildare Town.

The Planning Officers report is signed by the Senior Executive Planner.

The Kildare County Council Senior Planner prepared a report to address the concerns raised in the planning officers reports and submits that he is satisfied that the concerns raised can be addressed and mitigated by appropriate conditions. The report concludes that the proposed development would be in accordance with the proper planning and sustainable development of the area.

In arriving at this conclusion, the Senior Planner considers that the proposed retail development is 'acceptable in principle' under the Town Centre zoning, the site is only accessible from the existing KTOV and subject to compliance with conditions to facilitate and allow for links to Academy Street, the proposal is acceptable. The report further considers that the consideration of alternatives in the EIS is acceptable and that traffic concerns raised can be mitigated. The applicant has indicated that they are prepared to facilitate a link from KTOV to the town, but such links are required over third-party lands. The report concludes recommending that permission be granted subject to compliance with 26 stated conditions.

### 3.2.2. Other Technical Reports:

**Environment Section:** No objections subject to compliance with conditions

**Area Engineer:** Refer to Road Design for determination of Traffic Impact Assessment. Conditions recommended.

Following receipt of the response to the FI request, no objections noted.

**Water Services:** Further information required. The report also seeks to ensure that the formal Irish Water submission is received and on the file.

Following receipt of the response to FI request, clarification was required.

**Roads, Transportation & Public Safety:** The report considered the Traffic & Transport Assessment submitted in support of the proposed development and seeks to address issues raised in third party submissions. The report also seeks to address, and disagree with, the submission from Transport Infrastructure Ireland (TII). Further information is required.

Following receipt of the response to the FI request, a grant of permission subject to conditions was recommended. These conditions included the requirement to pay a special development contribution for the provision of improvement works at Academy Street, Grey Abbey Road and the future pedestrian / cycle link from the development to Academy Street. The recommended conditions also included for the omission of unit 104 and the transfer of lands to the ownership of Kildare County Council to enable an examination of options to deliver a future vehicular / pedestrian / cycle link from KTOV and Academy Street.

In addition, the EE provided an estimation for the costs associated with the provision of a new high quality pedestrian priority access from the KTOV to Academy Street.

**Kildare National Roads Office:** Recommends conditions.

Following receipt of the response to the FI request, the report raises concerns in terms of the potential of the development to impact on the roundabouts associated with Junction 13 of the M7. Conditions are recommended.

**Heritage Officer:** The report concludes that AA is not required. Further information in relation to ecology, archaeology,

interpretation plan, signage and cultural heritage is required and conditions are recommended in relation to vegetation and lighting.

Following receipt of the response to the FI request, conditions are recommended.

**Environmental Health Officer:** No objections subject to conditions.

**Conservation Officer:** Further information required in relation to the impact of the retail block on the urban character of Kildare Architectural Conservation Area and the impacts on Clare Friary Monument, curtilage and setting.

**Chief Fire Officer:** Further information required.

Following receipt of the response to the FI request, no objections raised.

### 3.2.3. Prescribed Bodies:

**An Taisce:** Issues raised under the headings traffic & transport, including public transport and climate change, and impacts on the viability and vitality of Kildare Town Centre. It is requested that the proposed development be refused.

Following receipt of the response to the FI request, An Taisce considers that the FI has not adequately addressed traffic congestion associated with the Phase III expansion. It is further considered that the submission has failed to address the overarching requirements of the DoT 'Smart Travel: A Sustainable Transport Future: A New Transport Policy for Ireland 2009-2020. It is further considered that the submission has not addressed issues relating to permeability / urban design.

**Irish Water:** Further information required.

Following receipt of the response to the FI request, IW acknowledged receipt of the requested further information. Noting the information supplied, the report seeks to highlight that all new connections are

subject to a pre-connection enquiry and it is requested that confirmation that this enquiry has been initiated.

**DAU:** The Department of Arts, Heritage, Regional, Rural and Gaeltacht Affairs made a submission in relation to the proposed development. The report recommends that pre-development testing is carried out on the southern part of the site, as recommended in the archaeological assessment report submitted.

Following receipt of the response to the FI request, conditions recommended.

**TII:** Transport Infrastructure Ireland made a submission in relation to the proposed development and considers that it is at variance with official policy in relation to control of development on/affecting national roads, as outlined in the DoECLG Spatial Planning & National Roads Guidelines for Planning Authorities, 2012 as the proposed development by itself, or by the precedent a grant of permission would set, would adversely affect the operation and safety of the national road network for a number of reasons. The report considers that there is insufficient data submitted and that the TTA is insufficient to assess the potential impacts on the national road network.

Following receipt of the response to the FI request, the TII remain concerned and is not convinced that the further information submitted addresses concerns with regard to impact on the safety and efficiency of critical elements of the national road network.

#### 3.2.4. Third Party Submissions:

Third party submissions were lodged with the Planning Authority as follows:

1. David Mulcahy Planning Consultants on behalf of Eugene Moore. The submission requires that the third party be kept informed of the outcome of the application.
2. Simon Clear & Associates on behalf of Elstown Ltd. It is submitted that the full design information on the enhancement capacity of the motorway junction link

road R415 and the Modus/KTOV Roundabout intersection has not been provided in sufficient detail to demonstrate appropriate capacity

#### 3.2.5. Submissions from Elected Members:

##### 1. Cllr. Susanne Doyle:

Raises concerns that no meaningful permeable links have been made, or are proposed, to the historic town centre.

Permission for Phase II of the development conditioned delivery of links which have not yet been achieved.

There is a very high commercial vacancy rates in the town and the success of the Outlet has resulted in moving the axis of development from the town centre to edge of town centre, not in line with the principles of sequential development.

On completion of Phase III, the outlet will have reached over 25,000m<sup>2</sup> with over 1,700 car parking spaces which will impact on the transportation network.

## 4.0 Planning History

The following is the planning history relating to the subject site:

- 4.1. **PA ref 16/634:** Permission was granted for the temporary retention for car parking area originally used as a site compound in the construction of the KTOV Phase II extension under planning ref 12/61.
- 4.2. **ABP ref PL.09.241321 (PA ref 12/61):** 10 year permission granted for a Phase II extension to the existing Kildare Tourist Outlet Village (permitted under planning ref 04/927). The extension sought an additional gross area of 7,053m<sup>2</sup> (which would increase the total gross area of the Tourist Outlet Village to 18,219m<sup>2</sup>) including 34 retail units and an additional 409 car parking spaces and ancillary structures.
- 4.3. **ABP Ref PL.09.233763 (PA ref 08/1890)** Permission granted to Value Retail (Dublin) Limited for (1) Demolition of all existing buildings on site including uninhabited dwelling, staff room and storage buildings (total floor area 669.3 square metres), (2) change of use from existing buildings providers yard to car parking to provide 178 car parking spaces associated with the adjacent development known as

Kildare Village as permitted under planning register reference number 04/927, (3) a pedestrian entrance at the northwest corner of the proposed car park to give access to the adjacent Kildare Village Development, and (4) all associated site development works on a site of circa 0.5 hectares at Grey Abbey Road, Kildare Town, County Kildare.

- 4.4. **PA ref 04/927:** Permission granted for a tourist outlet village of 53 units (10,925sq.m. GFA) incorporating 51 tourist retail outlets ranging in size from 83 to 756sq.m. GFA; two coffee shops/cafes, also incorporating public toilet facilities at Nurney Road, Grey Abbey Road, Kildare. Also permitted is an 850 space car park, 7 space coach park, a new junction off the Nurney Road and a pedestrian link to Grey Abbey Road.
- 4.5. **File Ref. No. 09.RL2820:** A Section 5 declaration was sought from the Board on the 02/12/2010, to determine “Whether the sale of new products and in season merchandise in the Kildare Village Outlet in competition with town centre locations is or is not development and is or is not exempted development.” The Board determined that the sale of ‘in-season’ merchandise at the outlet is development and is not exempted development.

Adjacent sites:

- 4.6. **ABP Ref PL.09.240183 (PA ref 11/1104):** Permission refused on appeal for the development of a two-storey drive-thru restaurant on lands located to the south of the Monasterevin Road (R445), and to the west of the Nurney Road (R415). The site was located to the north-west of the KVOC. There were two reasons for refusal including reason 1 which stated as follows

“Having regard to the distance from the traditional town centre and its isolation from existing development to the east and south-east (Tesco and Kildare Village Outlet), it is considered that the proposed development would constitute an uncoordinated form of development which would not integrate effectively with the existing pattern of development, thus failing to provide appropriate pedestrian/vehicular linkages and would contravene Policy R23 as set out in the Kildare County Development Plan 2011-2017, which encourages such consolidation. The proposed development would, therefore,

seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area.”

- 4.7. **ABP Ref PL.09.237802 (PA ref 10/528):** Permission granted on appeal for the demolition of existing structures, construction of 4 no. retail units, signage, car parking, access and all associated works to Northline Developments Limited. This is the existing Tesco store site.
- 4.8. The Board will also note that an application was made to Kildare County Council, 17/1212 refers, by the current applicants for the provision of 375 No. car parking spaces with pedestrian and vehicular access from Grey Abbey Road and pedestrian and emergency vehicle only access from Tully Road and all ancillary site services, ground works, lighting, landscaping, site development works, at site (1.84Ha) adjacent to Aldi store, Grey Abbey Road, Kildare Town, Co. Kildare. This application was withdrawn, following the submission of a response to a further information request, and prior to a decision issuing.

## 5.0 Policy Context

### 5.1. National Spatial Strategy 2002-2020

This sets out a 20 year national spatial planning framework for the development of the country. The NSS is mandated to identify broad spatial development patterns for areas and to set down indicative policies in relation to the location of industrial development, residential development, services, rural development, tourism and heritage. Section 5.2.2 deals with employment in tourism.

### 5.2. Department of Transport ‘Smarter Travel: A Sustainable Transport Future: A New Transport Policy For Ireland 2009-2020

Section 1.4 of this document deals with strategic traffic and sets out that “the planning system must ensure that the strategic traffic function of national roads is maintained by limiting the extent of development that would give rise to the generation of short trip traffic on national roads or alternatively by ensuring that the trip demand from future development will primarily be catered for on the non-national network.” Section 2.7 of these Guidelines deals with development at national road



interchanges or junctions. These set out that development in such locations must be consistent with planning policies avoiding compromising the capacity and efficiency of the national road/associated junctions and possibly leading to premature and unacceptable reduction in the level of service available to road users.

### **5.3. Spatial Planning and National Roads Guidelines for Planning Authorities, 2012**

These guidelines are designed to ensure that development is guided to the most appropriate locations by ensuring that transport and land-use planning considerations are taken into account at development plan stage. The Guidelines recognise that a modern economy requires a world-class road transport network that is sustainable from an economic, social and environmental perspective. Better national roads improve access to the regions, enhancing their attractiveness for inward investment and new employment opportunities and contribute to enhanced competitiveness by reducing transport costs. The guidelines recognise that “new retail and employment opportunities tend to be attracted to motorways and national road corridors, particularly junctions and can lead to dispersed and car dependent forms of development. Such patterns of development are uneconomic and also lead to increases in trip distance making it difficult to develop attractive public transport, cycling, and walking networks while also having serious implications for the viability and sustainability of town and city centres.”

### **5.4. Retail Planning, Guidelines for Planning Authorities 2012**

The aim of the Guidelines is to ensure that the planning system continues to play a key role in supporting competitiveness in the retail sector for the benefit of the consumer in accordance with proper planning and sustainable development. In addition, the planning system must promote and support the vitality and viability of city and town centres thereby contributing to a high standard of urban design and encouraging a greater use of sustainable transport. The retail design Manual accompanies the guidelines and is also of relevance in seeking to promote quality design in retail developments.

## **5.5. Design Manual for Urban Roads and Streets, 2012**

This document was prepared by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government. The manual complements previous advice issued, including inter alia, Smarter Travel 2009, Traffic Management Guidelines, 2003. The Manual presents a series of principles, approaches and standards that are necessary to achieve balanced, best practice design outcomes with regard to street networks and individual streets.

## **5.6. Regional Planning Authorities for the Greater Dublin Area 2012-2022**

These Guidelines set out the planned direction for growth within the GDA up to 2022 by giving effect to national planning policy under the NSS. An integrated model of policy development is a key component of the RPGs, with economic, infrastructure and settlement policies being interdependent. Section 3.7.5 sets out details of Kildare as a secondary economic growth town and specifically mentions the thriving town centre with a strong retail offer, which has been improved with the development of a large retail outlet. The Guidelines recognise that Kildare has an opportunity to develop and promote its economic base to improve employment opportunities within the town for the surrounding population through capitalising as a tourism destination.

## **5.7. Kildare County Development Plan 2017 - 2023**

5.7.1 Table 2.2 in Chapter 2: Core Strategy indicates that Kildare Town is listed in the hierarchy as a moderate sustainable growth town. The town is located in the Hinterland area, circa 10 kilometres from a large growth town on public transport corridor, and serves the hinterland as a market town. Naas, is identified as a Large Growth Town I and Newbridge as Large Growth Town II.

5.7.2 Kildare Town is identified as a secondary economic growth centre providing an important and complementary role in developing economic growth and sectoral interests in tandem with primary economic growth towns. The CDP in Section 2.11 also identifies Kildare Town as having the opportunity to develop and promote its economic base through capitalising as an important tourism destination.

5.7.3 Chapter 5 of the County Development Plan deals with economic development. Chapter 9 deals with retail development and the CDP recognizes that “there have been substantial improvements in the county’s attraction as a retail destination with key influences on its improved competitiveness being the Whitewater Shopping Centre in Newbridge and the Kildare Village Outlet Centre at Kildare town. Both have mass appeal beyond Kildare and the GDA’s boundaries in view of the quantum and quality of their retail offers and the profile of the retailers that have been attracted”.

5.7.4 Section 9.5.5 of the CDP deals with Hinterland Area: Sub County Town Centres of which Kildare Town is one. A copy of the policy has been attached as an Appendix for ease of reference and are examined in more detail in the assessment section of this report. Of particular relevance are the following policies objectives:

R23 To confirm in the emerging Kildare Town Local Area Plan the priority of strengthening the retail core of the town through identifying appropriate and effective linkages with the Kildare Village Outlet centre. The LAP shall identify key town and edge of centre sites as the locations for the consolidation and expansion of the retail and town centre functions for Kildare Town Centre ...

R24 To encourage and facilitate the expansion of the Kildare Village Outlet Centre in accordance with the guidance in the Retail Planning Guidelines and achieve greater linkage and commercial synergy with Kildare Town Centre and the offers and attractions of Naas and Newbridge.

## 5.8. Kildare Town Local Area Plan 2012-2018

5.8.1 The Kildare Town Local Area Plan took effect from 24<sup>th</sup> December 2012. The following sections and objectives are considered relevant in this instance:

- The subject site is zoned ‘A’ – Town Centre. The zoning objective seeks ‘to provide for the development and improvement of appropriate Town Centre uses including retail, commercial, office, residential, amenity and civic use. The purpose of this zone is to protect and enhance the special character of Kildare Town Centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing town. It will be an objective of the Council to encourage the full

use of buildings, backlands and especially upper floors. Warehousing and other industrial uses will not be permitted in the Town Centre.'

- Objective RIO 17 which seeks:

To preserve all indicative routes, listed below and identified on Map 8.2, free from development and to seek the construction of identified indicative routes, subject to environmental and conservation considerations as follows:

- (i) To preserve the indicative route identified for the Outer Relief Road, from the Kildare Retail Outlet roundabout (a) to the R415 Rathbride Road (i), free from development. To seek to construct a section of this road from the Kildare Retail Outlet roundabout (a) to the R445 Monasterevin Road (b), including the provision of new junctions/crossings at the following locations:

- The Kildare Retail Outlet roundabout (a)
- R445 Monasterevin Road (b)

To preserve the remaining section of this indicative route free from development, including the provision of new junctions/crossings at the following locations:

- A new crossing over the rail line (c)
- L7014 Green Road (d)
- The proposed Inner Relief Road (e)
- L7015 South Green Road (f)
- L7016 Old Road (g)
- R401 Dunmurray Road (h)
- R415 Rathbride Road (i)

- (ix) To seek the construction of the following new streets within the Expansion Area (SWEA) (refer to Section 7.6- SWEA Design Brief):

- From a new junction at Academy Street (dd) indicative location to the Tesco access road off Claregate Street (ee).

- From the Kildare Retail Outlet access road (ff) to the Tesco access road off Claregate Street (ee).

The design of these streets shall ensure that vehicular movement function is moderated and that a high quality pedestrian movement function is achieved, in the context of the type of development that is proposed within the SWEA.

The configuration and interconnectivity of the internal street layout, within the SWEA shall be designed in accordance with the following principles:

- Pedestrian movement shall be prioritised:
- Ease of movement within the area shall be facilitated by way of permeable and interconnected networks;
- The design parameters for individual links shall have regard to function and context.

## 5.9. Natural Heritage Designations

The subject site is not located within or boarding any designated Natura 2000 sites. The closest Natura 2000 site is the Pollardstown Fen cSAC (Site Code 000396), which is located approximately 5.6km to the north east of the proposed development site. Two further sites are located within 15km of the subject site including Mouds Bog cSAC (Site Code 002331) located approximately 7.5km to the north east and the River Barrow and River Nore cSAC (Site Code 002162) approximately 10km to the south west of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a multiple appeal including a first and third party. The issues raised are summarised as follows:

#### 6.1.1. First Party Appeal against 2 conditions:

The first party has appealed the inclusion of two conditions in the decision of the Planning Authority to grant permission. The two conditions, nos. 3 and 24, are presented in full in section 3.0 of this report. The submission provides an overview of the appeal and submits that options will remain achievable for additional interconnection between KTOV and the main Kildare Town Centre area as and when additional lands become available. The submission provides an illustration for a possible future link to Academy Street and it is noted that the possible route currently conflicts with the school. The grounds of appeal are summarised as follows:

Condition 3:

- It is requested that this condition be amended in order to enhance the delivery of further linkages through the KTOV with Academy Street and the town centre, without prejudicing the commercial viability or vitality of the proposed development.
- It is submitted that while no permission has been given to provide the pedestrian linkages on school lands, the development has been designed having regard to the policies and objectives which require the links. It is submitted that the identified possible future link along the northern boundary of St. Brigid's Primary School, could become available as part of the schools future redevelopment / improvement works.
- The proposal will also allow the town centre link to operate independently and outside the hours that KTOV is open. The Board is requested to note the willingness and commitment of the applicant to promoting permeability and linkages from KTOV and the town centre
- It is submitted that a sustainable and legible pedestrian / cycle route can be accommodated without the omission of unit 104, once third party lands

become available. The proposed design complies with the LAP requirements. The omission of unit 104 negatively affects the viability and vitality of the proposed development, impacting both revenue and job creation.

- It is further considered that the wording of parts of condition 3 are not precise or reasonable. There is no planning justification for the omission of unit 104.
- Should the Board accept the principle of the linkage shown on drawings, it is recommended that condition 3 be amended.

#### Condition 24:

- It is considered that the imposition of the condition is wholly unjustified and the Board is requested to reconsider the amount of the contribution. It is submitted that through discussions with the County Council, it was understood that the linkage was for pedestrians / cyclists rather than vehicles.
- Very little information as to the basis for calculating the apportionment of cost is provided.
- The Council is seeking to acquire an area of 0.8ha and the full cost for same has been passed onto the applicant. The area necessary for the provision of the pedestrian / cyclist route is 348m<sup>2</sup> - less than 5% of the land requirement identified by the Planning Authority.
- It is considered that a 25% Special Development Contribution would be more acceptable, in the amount of €362,500.

#### 6.1.2. An Taisce Appeal

This third party appeal provides an executive summary of the appeal, details of the proposed development, a planning history for the site and an overview of policies and zoning objectives affecting the site. The submission also considers the planning reports attached to the Councils decision. The grounds of appeal are summarised as follows:

- The proposed development would fall under the scope of zoning objective K1\* - Commercial. The proposed development site is zoned A: Town Centre.

- The vision for the South West Expansion Area seeks to integrate a mix of new buildings and uses, increase connectivity, create pedestrian routes, build a new urban square and capture views of the skyline.
- Policy R3 is relevant to the site and it is considered that the proposed development would materially contravene the LAP as the proposed development does not provide for a mixed use expansion of the town centre.
- A number of perceived flaws are identified in the Senior Planners report, which refutes the recommended reasons for refusal put forward by the case planner.
- The existing development is unsustainably car-dependent. This, together with the provision of free car parking, the proposed development would exacerbate congestion and would be contrary to a number of guidelines, policies and objectives.
- There does not appear to be any evidence that previous Travel Plans / Mobility Strategies have been successful given the high numbers of staff and visitors driving to Kildare Village – 85% and 93% respectively as indicated in the EIS.
- There is insufficient data to demonstrate that the proposed development will not have a negative impact on the national road network. The TII remains concerned regarding the potential impact of the development and the Senior Planners report ignores the requirement that issues raised be addressed prior to any decision on the development.
- Issues raised in relation to cumulative impacts on roads associated with extant permissions in the vicinity.
- Deficiencies in the EIS are identified.

It is requested that the Board overturn the decision to grant permission on the basis that the development would restrict more suitable mixed use facilities on the site, which are provided for under Policy R3 of the Kildare LAP and SEWA design brief and vision. The development would also undermine the strategic function of the M7.



## 6.2. Applicant Response to Third Party Appeal

The first party has responded to An Taisces appeal. The response is summarised as follows:

- The site is located in the backlands of the Town Centre expansion area and forms part of the SWEA without any road frontage. The proposed retail use is permitted in principle.
- The subject lands are physically separated from the historic town core and have a very different character to the tight urban grain of the traditional town centre.
- The subject site represents just over 10% of the overall SWEA lands with other uses already provided for including residential, educational, and open space. The proposed extension to KTOV provides a mix of retail and café units.
- The proposed development will not limit the future mixed use development of the SWEA and the land is only accessible from the west via the KTOV.
- The proposed development is supported by the new CDP, and will not detract from the historic core of Kildare Town.
- The LAP will have to be amended to be consistent with the policies and objectives of the CDP.
- In terms of linkages, the Board is asked to note that the provision of connectivity and connections informed the design process from the outset. The applicant has also demonstrated a commitment to promoting permeability and linkages from KTOV to the town centre and agrees to accept a Special Development Contribution of €372,500 for upgrade and improvement works to Grey Abbey Road and Academy Street.
- In terms of traffic and transport, it is submitted that KCC Transportation Department are satisfied that the TTA has demonstrated that the receiving road network has sufficient capacity to accommodate the development.
- The KTOV Travel Plan has been maintained over a decade where the mobility strategy initiatives have been continually updated and promoted.
- Conditions 16 and 17 attached to the grant of permission will be complied with. KTOV actively encourages and facilitates the use of public transport. Staff

surveys indicate that between 2010 and 2017, private car usage has decreased by 3% while bus travel has increased from 3% to 10%. Multiple car occupancy, i.e. two or more visitors, accounts for 77% of trips.

- The results of the TTA Assessment and the Microsimulation Assessment carried out concluded that in the unlikely event that the extremely robust assessment levels of traffic growth assumed in the TTA were to be realised on the network, the proposed development would not impact on the capacity, safety and operational efficiency of the national road network.
- The TII has no material objection to the proposed development and did not appeal the decision to grant.
- In terms of the adequacy of the EIS, it is submitted that all reasonable alternatives were examined.
- The proposed development will not preclude the realisation of the SWEA design brief.
- The proposal for an events car park off Grey Abbey Road were not in place during the preparation of the EIS for the current proposed development. This car park is not required for the operation of Phase III.<sup>1</sup>

It is requested that the Board grant planning permission for the proposed development in its entirety.

The submission includes a number of enclosures.

### **6.3. Third Party Response to First Party Appeal**

6.4. An Taisce submitted a response to the first party appeal as follows:

- Condition 3<sup>2</sup> was included following assessment by the Planning Authority and no significant new information to justify its reconsideration.
- The proposed linkage would not provide 'strong linkages' between KTOV and the historic centre as required under policies R3 and R4 of the LAP.

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<sup>1</sup> The Board will note that this application for the event car park has been withdrawn.

<sup>2</sup> Referred to as condition 2 in the text of An Taisces submission.

## 6.5. Planning Authority Response

The Planning Authority has submitted a response to both first and third party appeals in the form of a report from the Senior Planner and Senior Executive Engineer. The reports are summarised as follows:

- Senior Planner:
  - Given that it is a clearly stated objective to develop a new street / route between Kildare Village and St. Brigid's Square (via Academy Street) and the applicants were unable to provide such a route, it is entirely appropriate that the Planning Authority should seek to secure sufficient security from the applicant to enable the authority to take all reasonable steps to realise the objective.
  - The alternative connections suggested by the applicant would not achieve the high quality public realm required by the LAP.
  - The Special Development Contribution sought is necessary and considered reasonable to cover the exceptional costs not covered by the Kildare County Council Development Contribution Scheme, and which will directly benefit the proposed development.
  - The PA does not anticipate any public funding for this road scheme, the function of which is to facilitate the development of privately owned commercial lands adjacent to the town centre.
  - It is considered reasonable that the applicant should bear these costs which exclusively benefit the applicant and without which, planning permission for the proposed development could not otherwise be granted.
- Senior Executive Engineer:
  - A high quality pedestrian / cyclist access is required as part of the development from the KTOV Phase 3 development site to Academy Street in accordance with Objective TO3 of the Kildare Town LAP.
  - Kildare Co. Co will have to provide this infrastructure as the applicant is unable to do so following meetings with third parties.

- The Special Contribution in condition 24 will assist KCC in the delivery of objective TO3 and will also cover the CPO costs. The amount is substantial and covers the 'worst case' scenario for KCC.
- The delivery of the infrastructure will be managed by the KCC Roads Project Teams and the contribution will be refunded to the applicant if the works have not been complied with within the required timelines.
- The omission of unit 104 and the restriction of the use of the land hatched in green will give KCC options to examine the location of the pedestrian / cyclist access and the public realm works with the aim to minimise the impact on the St. Brigid's Primary School and two nearby properties.

## 6.6. Observations

There are two observations noted in relation to this appeal as follows:

6.6.1. Sean Lucy & Associates submitted an observation in relation to the proposed development on behalf of The Board of Management, St. Brigid's Primary School. It is submitted that the observation is made reluctantly, but in order to protect its interests in school property. It is considered that the decision of Kildare County Council has significant implications for the ongoing management and ownership of school grounds and the integrity of school property. The submission is summarised as follows:

- The planning application contained no proposal to create a pedestrian / cycle link between KTVO and Academy Street through lands in the ownership of the school.
- While discussions took place, no satisfactory solution was achieved.
- The imposition of conditions 3 and 24 as part of the decision could have serious consequences on the ability of the school to protect the integrity of the school grounds and their students.
- The two conditions concern the future use of lands outside the control of both Kildare Tourist Village Outlet and Kildare County Council, which is considered inappropriate.
- The proposal put forward in Condition 3 would effectively split the school campus and would be contrary to the proper planning and sustainable operation of an

integrated school campus, which has approximately 1,000 students, across three campuses, two of which bound the proposed development site. A masterplan is being prepared to envisage the future medium and long-term development of the school campuses.

- The special development contribution in condition 24 would not be adequate for the purposes of providing the link as envisaged by Map no 8.6 of the Kildare Local Area Plan.
- While it may be the case that post Masterplan, a pedestrian link might be facilitated, no provision could be countenanced that would sever the existing campus, increase risk to the safety of students and have a significant impact upon the schools insurance costs.
- Proper planning and sustainable development principles would dictate that maintaining the integrity of the current working school campus is of far greater priority than the provision of a pedestrian link to facilitate access to Kildare Village.
- It is requested that the Board ensure that the planning decision is determined having regard to the necessity to preserve the integrity of the school campus and that the creation of any pedestrian link between the appeal site and Academy Street be contingent on the adoption of a masterplan for the future development of the school grounds, a document which is currently being prepared.

6.6.2. Co. Kildare Chamber submitted an observation in support of the proposed development. The existing Kildare Village employs over 1,000 people with the proposed Phase III offering 500 jobs. The submission includes letters of support from County Kildare Failte Ltd, as the County Tourism Board and the Irish National Stud Company Ltd.

## 6.7. Further Responses

### 6.7.1. **First Party Response to Submission from Board of Management, St. Brigid's Primary School**

The First Party has submitted a response to the observation submitted on behalf of the Board of Management of St. Brigid's Primary School. The response is summarised as follows:

- No proposals to create a pedestrian / cycle link through school property is proposed. An indicative route was provided in response to the FI request to Kildare County Council.
- In the absence of a definitive agreement, the indicative route was identified following discussions with the school and is the most appropriate location so that when the lands become available, a safe and uninterrupted pedestrian / cycle route can be provided between Academy Street and KTOV without impacting on the day to day operation of the school.
- The applicant is committed to providing the link subject to agreement with all stakeholders.

#### 6.7.2. **First Party Response to Planning Authority Submission**

The First Party submitted a response to the Planning Authority submission on the appeals. The response is summarised as follows:

- The proposed link has been designed to ensure that following agreement with the school, the works would allow the school campus to continue to operate as a single integrated campus rather than the alternative proposed by Kildare County Council which would result in the segregation of the school campus.
- In terms of the special development contribution, it is considered that the €1,450,000 estimate is excessive and that the proposed land take proposed is excessive, unreasonable and disproportionate for the planning gain achieved.
- It is clear that the school will resist a scheme such as that proposed by the Council.
- With regard to the conditioned removal of unit 104, it is submitted that a direct footpath / cycle link through this area will have to overcome a significant level differential of 3m, making any ramp design inordinately long and difficult for use by mobility impaired persons.

#### 6.7.3. **Third Party Response to First Party Response to Third Party Appeal**

An Taisce submitted a response to the First Party response to the third party appeal. The submission is summarised as follows:

- An Taisce refutes the opinion that the appeal was lodged based on selected extracts of the LAP.
- Having regard to case law, An Taisce considers that the quantum of retail and car parking proposed, both alone and in combination with the existing KTOV, it would not be in accordance with the envisaged plan for the SWEA, would contravene the zoning objectives for the site, would be contrary to a number of guiding principles set out in the CDP for backland development and would be contrary to the sustainable development of Kildare Town.
- In terms of the overall SWEA, it is submitted that when the area of land already developed as part of KTOV as well as the subject site is considered, the area is significantly bigger than the 10% indicated by the applicant. The subject site is the only undeveloped town centre zoned site within the SWEA. A grant of permission would severely restrict future mixed use development required to achieve the overall vision for the SWEA and policy R3 of the LAP.
- The development strategy for the Town Expansion Lands provides that “...a careful balance between retail, commercial and residential development should be achieved”.
- If permitted without linkage, the development together with Phases 1 and 2, will operate as a standalone entity in retail terms and will not encourage multi-purpose trips, nor support the role of the town centre.
- There is no ambiguity regarding the intention of Policy R4 of the LAP which provides for ‘the appropriate expansion of the Kildare Retail Outlet on lands designated to the south west of the historic core....’
- The development, if permitted, will not contribute to a ‘vibrant urban expansion’ nor a ‘well designed public realm’, and all activity on the site would be confined to the operating hours of KTOV.
- There are no inconsistencies between the provisions of the Kildare Town LAP and the Kildare County Development Plan as claimed by the applicant.
- Notwithstanding the submission of the applicant, An Taisce remains concerned that KTOV is unsustainably car dependent.

- It is further considered that TII raised concerns in relation to the existing development have not been addressed and that the issues raised relate to the current situation, without the proposed extension. TII also advises that the proposed development is at variance with national policy, and that the further information submitted does not address the concerns with regard to the impact on the safety and effectiveness of the national road network.
- It would appear that TII have a number of concerns in relation to the proposed development.

## 7.0 Planning Assessment

Having examined all of the information presented in relation to the proposed development, I consider it reasonable to address the issues arising under the following headings:

- Principle of development & Compliance with Kildare Local Area Plan
- Roads & Traffic
- Retail Impact
- First Party Appeal Issues
- Other Issues

### 7.1. Principle of development & compliance with Kildare Local Area Plan

7.1.1. The proposed development is seeking to extend the Kildare Tourist Outlet Village. Planning permission for the original Village was permitted in 2004 under planning Kildare County Council Ref. No. 04/927. This grant of permission required a material contravention of the relevant plan at the time and provided for 53 units (10,925sq.m. gross floor area) incorporating 51 tourist retail outlets ranging in size from 83m<sup>2</sup> to 756m<sup>2</sup> and two coffee shops/cafes. The original development also provided for an 850 space surface car park.

7.1.2. Phase 2 of KTOV was permitted following an appeal to the Board, PL.09.241321 refers, and the permitted development provided for an additional gross area of c.7,053m<sup>2</sup> (the total gross floor area of the existing and proposed



Tourist Outlet Village will be c.18,219m<sup>2</sup>) in a one and two storey building form adjoined directly to the existing building complex consisting of 2 restaurant units, 34 tourist retail outlet units, a tourist information centre, public toilets, ancillary management office space/customer services facility, change of use of existing unit 53 from café/restaurant to tourist retail outlet and an expansion of car parking facilities resulting in 409 net additional car parking spaces.

7.1.3. The subject site is located to the south west of the town of Kildare, with access from the M7 motorway and through the existing Kildare Village development. The development comprises an extension to the existing Kildare Village, which is located approximately 260m from the centre of Kildare Town, and it is intended that the extension will utilise the existing roads infrastructure. The subject site is located on lands zoned 'A' Town Centre in the Kildare Town Local Area Plan 2012-2018 and is located in a backland location. In terms of considering the principle of the proposed development, it is reasonable to also consider national as well as local and regional policies.

7.1.4. The Regional Planning Guidelines for the Greater Dublin Area 2010-2022 sets out the vision for the RPGs as follows: "*The GDA by 2022 is an economically vibrant, active and sustainable international Gateway region, with strong connectivity across the GDA region, nationally and worldwide; a region which fosters communities living in attractive, accessible places well supported by community infrastructure and enjoying high quality leisure facilities; and promotes and protects across the GDA green corridors, active agricultural lands and protected natural area*". Kildare is identified as a moderate sustainable growth town in the RPGs.

7.1.5. The RPGs set out that the core principles from the strategic vision will be to focus development in the hinterland area on the high quality integrated growth and consolidation of development in key identified towns, separated from each other by extensive areas of strategic green belt land devoted to agriculture and similar uses. These towns will have high levels of employment activity, high order shopping and full range of social services, with good road and bus linkages to other towns and by high quality public transport to the City and play key roles in serving the surrounding rural communities and smaller towns and villages.<sup>3</sup> The RPGs recognise that Kildare

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<sup>3</sup> P33, Regional Planning Guidelines for the GDA, 2010-2022

has a strong retail offer, which has been improved with the development of the Kildare Village outlet centre. The Guidelines set out that “*Kildare town has the opportunity to develop and promote its economic base to improve employment opportunities within the town for the surrounding population through capitalising as a tourism destination and as attractive centre for business...*”. In principle, the RPGs would support the proposed extension to Kildare Village.

7.1.6. The Kildare County Development Plan 2017-2023, at section 9.4.6, acknowledges that Kildare Town has witnessed its regional, national and international retail profile being further enhanced through the recent opening of the extension of the Kildare Village Outlet Centre. In parallel, since the 2009 floorspace assessment, there has been the introduction of the neighbouring Tesco anchored shopping centre and an international discounter to Kildare Town’s retail profile. However, there are concerns that these developments are not providing the sought after linkages and benefits to the vitality and viability of the Core Retail Area of the town.

7.1.7. The subject site is zoned ‘A’ – Town Centre in the Kildare Town Local Area Plan 2012-2018. The zoning objective seeks ‘to provide for the development and improvement of appropriate Town Centre uses including retail, commercial, office, residential, amenity and civic use. The purpose of this zone is to protect and enhance the special character of Kildare Town Centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing town. It will be an objective of the Council to encourage the full use of buildings, backlands and especially upper floors. Warehousing and other industrial uses will not be permitted in the Town Centre.’

7.1.8. In terms of the subject appeal, the Board will note that the LAP also provides for a specific zoning objective for the existing KTOV site, zoning objective K1\*. This objective provides “to protect and improve existing commercial uses and provide for additional compatible uses”. The LAP sets out that the purpose of this zoning is to reflect the established mix of commercial and residential uses which have developed historically in Kildare. Any new development in this zone must not prejudice the viability of established land uses within the zone. The Plan indicates that the purpose of the lands zoned K1, to the west of the town centre is to facilitate the expansion of the Kildare Retail Outlet in accordance with the Design Brief set out in Section 7.6 of

the LAP. The Plan also requires that any development on these lands shall provide significantly enhanced high quality linkages between the retail outlet and the historic town centre and shall increase synergy with the town centre. Kildare Town is also identified as having the opportunity to develop and promote its economic base through capitalising as an important tourism destination.

7.1.9. In terms of the proposed development, I would not accept that it complies with this clear vision. In addition, I am not satisfied that the proposed development adequately accords with the Town Centre zoning afforded to the site.

7.1.10. Section 7.6 of the Kildare LAP deals with Design Briefs, including the South Western Expansion Area at Section 7.6.1. The SWEA relates to a block of land which covers approximately 22ha and is contained within the Monasterevin Road to the north, Academy Street and Grey Abbey Road to the east, the M7 motorway to the south and the M7 access road to the west. The area includes the Kildare Tourist Outlet Village, primary schools, residential and other commercial developments. There are also a number of landowners associated with this area of Kildare town.

7.1.11. Section 7.6.1.2 of the Kildare LAP seeks to *“create a new and vibrant urban expansion area to the west side of Kildare’s historic town centre that connects to Kildare Retail Outlet and Tesco supermarket by using a well-designed public realm to integrate a mix of new buildings and uses which are respectful of the towns existing historic fabric”*.

7.1.12. The site organisation plan for the area is based on four key concepts:

- (i) Connectivity - Increasing east-west permeability within the town by creating connectivity between the historic core and the Kildare Retail Outlet via a new urban street.
- (ii) Creating Key Pedestrian Routes - Providing highly legible pedestrian routes between the historic town centre, the Kildare Retail Outlet, St. Brigid’s Square and Tesco supermarket.
- (iii) Building a New Urban Square - Creating a central active civic space that acts as a focal point for the extended town centre and connects with the existing network of public spaces within the town.

- (iv) Capturing Views of the Skyline - Capturing views and vistas of St. Brigid's Cathedral and Round Tower, Market Square and White Abbey Church and designating a visual approach to St. Brigid's Square.

7.1.13. Based on the above, the Kildare LAP sets out a clear network of public routes within which different development blocks and urban spaces operate within the SWEA. While the indicative framework plan is provided for illustration purposes only, it is clear that the LAP is seeking to create a new street pattern which is sympathetic to the pattern of the historic core. A mix of development blocks are set out in the LAP and the Board will note that Blocks 2 and 3 also relate to the Kildare Village development with Block 2 identified for the extension to the outlets car park, and Block 3 identified for Outlet Phase 2. In terms of the subject site, the following is relevant:

4. Urban Mixed Use Block

Designing fine grained active streetscape buildings providing a vibrant mix of uses including local retailers, restaurants, cafes and delis. Civic and cultural uses are preferred with some office space and residential townhouses/over the shop living.

5. Urban Square/Civic Space

Creating an active vibrant focal point for the new urban street that provides an attractive outdoor space for adjoining uses. Detailed landscaping required.

7.1.14. Further to the above, Section 7.7.2.4 of the LAP deals with Roads and Streets Objectives. Objective RIO 17 is considered relevant and it is the stated objective of the Council

'To preserve all indicative routes, listed below and identified on Map 8.2, free from development and to seek the construction of identified indicative routes, subject to environmental and conservation considerations as follows:

- (ix) To seek the construction of the following new streets within the Expansion Area (SWEA) (refer to Section 7.6 –SWEA Design Brief):

- From a new junction at Academy Street (dd) indicative location to the Tesco access road off Claregate Street (ee).

- From the Kildare Retail Outlet access road (ff) to the Tesco access road off Claregate Street (ee).

The design of these streets shall ensure that vehicular movement function is moderated and that a high quality pedestrian movement function is achieved, in the context of the type of development that is proposed within the SWEA.

The configuration and interconnectivity of the internal street layout, within the SWEA shall be designed in accordance with the following principles:

- Pedestrian movement shall be prioritised:
- Ease of movement within the area shall be facilitated by way of permeable and interconnected networks
- The design parameters for individual links shall have regard to function and context.'

7.1.15. In terms of the proposed development, I am unclear as to how the proposal could comply with the above objective, without a clear proposal for the provision of the linkages required in the LAP. Overall, I do not consider that the proposal before the Board adequately complies with the zoning objective afforded to the site, nor does it adequately comply with the vision presented in the LAP for the South Western Expansion Area in terms of the mix of uses. I further consider that the proposed development is premature pending the determination of clear vehicular and pedestrian linkages between the Kildare Tourist Outlet Village and Kildare Town Centre as stipulated in the Local Area Plan.

## **7.2. Roads & Traffic**

7.2.1. An Taisce, in their appeal, has raised concerns regarding the proposed development and the potential impact on roads and traffic. It is submitted that the proposal is unsustainably car-dependent and together with the extensive provision of free car parking, the development would exacerbate congestion and would be contrary to national guidelines.

7.2.2. Having regard to the location of the site at the M7 Junction 13 Interchange, the Spatial Planning and National Roads Guidelines for Planning Authorities 2012, are considered relevant. The Guidelines require that Traffic and Transport Assessments (TTA) and Roads Safety Audits (RSA) should be used in preparing planning applications for major development affecting national roads. The Board will note that it is the opinion of Transport Infrastructure Ireland that the proposed development is at variance with official policy and would, either on its own or by the precedent it would set, would adversely affect the operation and safety of the national road network

7.2.3. The applicant has submitted a Traffic and Transportation Assessment, which has informed Chapter 6 of the EIS, where it is concluded that the existing road network has sufficient capacity to accommodate the development. The results of the TTA and the Microsimulation Assessment carried out concluded that in the unlikely event that the extremely robust assessment levels of traffic growth assumed were to be realised on the network, the proposed development would not impact on the capacity, safety and operational efficiency of the national road network. Notwithstanding this conclusion, TII has concerns about the proposed development. The information presented suggest that the existing development at Kildare Village has resulted in extensive queues on the M7 off-ramps to Junction 13 both in an easterly and westerly direction. These queues are considered to be exacerbated during 'private sales events' held at Kildare Village.

7.2.4. The updated TTA, submitted in response to the request for further information, was carried out using VISSIM microsimulation software. This modelling system allows for the 'linked' modelling of multiple junctions capturing the impact of upstream and downstream flows on the network and explicitly modelling the effects of queuing. The data used was the result of a number of surveys and a review of the daily traffic flow data at the site entrance shows that the 85<sup>th</sup> percentile traffic volumes generally occur on exceptionally busy weekends at the KTOV during the Christmas Shopping period, private sales events and bank holidays during the year. The modelling sought to provide for future year scenarios using the 85<sup>th</sup> percentile traffic volumes to ensure a robust assessment of the impact of the extension to Kildare Village on the network. The assessment assumes an annual growth rate for

development traffic of 4.2% from 2016 to 2024 with an initial 18% uplift in traffic generation arising from Phase 3 of KTOV.

7.2.5. The microsimulation assessment, in chapter 7 of the updated TTA, seeks to address the concerns raised by the TII in terms of the traffic generated by private sales events at Kildare Village. The modelling included the overflow car parks which are employed during such events. The results of the modelling suggest that sales events have no adverse impact on the national road network or M7 junction 13 interchange, but some delays locally, particularly along the R445 Monasterevin Road will arise. The results show that a partial upgrade to the R415/R445 junction would potentially alleviate much of the impact of the event sales on the local network. The assessment also notes the proposal to provide a new event car park at Grey Abbey Road and concludes that should permission be granted for this event car park, KTOV traffic would be diverted away from the above mentioned junction. The Board will note that the application for this event car park has been withdrawn and no proposals for the upgrading of the R415/R445 junction are proposed to be undertaken by the applicant.

7.2.6. Having regard to all of the information presented, it would appear that in any of the future year assessments, any queuing arising from traffic looking to access Kildare Village will remain within the capacity of the existing slip lanes of the road network. The results of the modelling and microsimulation exercise would suggest that the development, if permitted, is unlikely to result in a significant adverse impact on the national road network. The Board will note that the Kildare Tourist Outlet Village operates a number of initiatives to encourage alternative modes of transport for both employees and visitors alike. The Travel Plan for Kildare Village seeks to take a proactive approach to modal management for both staff and visitors, aimed at reducing car based travel. Policies implemented by Kildare Village include:

- Providing feeder busses to and from rail services
- Ensuring that the site is served by private coaches
- Dublin Coach serves the site with scheduled express services from both Dublin and Limerick

- Providing signposting for pedestrian routes to sites of interest, the town centre, public buildings etc

7.2.7. Having considered all of the above, I am generally satisfied that the development, if permitted, will have an impact on the local road network. That said, I would also accept, given the location of the subject site within the context of the SWEA, that it would be unrealistic to suggest that development in this area of Kildare will not occur. I would also accept that the existing Kildare Village development does give rise to some level of delay and queuing, particularly during busy periods as described in the EIS and the TTA. However, I would agree that there is some capacity in the existing road network to accommodate some development. Where I remain concerned is in relation to the lack of any connectivity between the subject site and Kildare Town Centre. Such linkages, as required in the Kildare Local Area Plan, would facilitate traffic to move more freely and would eliminate the situation where all traffic enters and exits onto the roundabout to the west of Kildare Village. In the absence of such linkages, I consider that the development will have an impact on the existing road network, including the M7 Junction 13 interchange.

### 7.3. Retail Impacts

7.3.1. Having regard to the nature of the proposed development, the applicant submitted a Retail Impact Statement. The applicant considers that as the site is zoned Town Centre, and that the development complies with the zoning objectives for the site, a RIA is not required. Kildare Tourist Outlet Village operates at a Regional Level and is not directly comparable to existing high street comparison stores. The submitted RIS seeks to demonstrate that there is available capacity for the niche retail development in the design year of 2021 and that the tourist expenditure is an important source of trade for outlet centres. The RIS also refers to the proposed development facilitating a future link to the historic Kildare Town Centre.

7.3.2. The RIS refers to the findings of the Board with regard to Phase 2 of the KTOV extension and it is submitted that the zoning of the Phase 3 site as 'A' Town Centre, has identified the site as a key location for retail development. In this regard, I would advise that the lands associated with the Phase 2 extension were so zoned



to facilitate the expansion of the Kildare Village. The site of the subject appeal is zoned Town Centre and the Kildare LAP seeks 'to provide for the development and improvement of appropriate Town Centre uses including retail, commercial, office, residential, amenity and civic use. The purpose of this zone is to protect and enhance the special character of Kildare Town Centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing town. It will be an objective of the Council to encourage the full use of buildings, backlands and especially upper floors. Warehousing and other industrial uses will not be permitted in the Town Centre.' While retail development is permissible, I would not concur with the opinion of the first party that the LAP seeks 'new retail development' alone. This opinion is further supported by the objectives cited in the LAP in relation to the development of the SWEA, and as discussed above in Sections 7.1.10 to 7.1.13 above.

7.3.3. It has been determined under previous appeals to the Board that the Kildare Village is an Outlet Centre, as provided for in the Retail Planning Guidelines, and not a Factory Shop. It has also been established that the nature of the use is such that it is considered to be a niche form of retailing and as the products sold there are end of season / end of line stock which is not available on the high street. In this regard, it has been determined that Kildare Village does not compete with stores on the high street. Section 4.11.4 of the Retail Planning Guidelines, 2012, deal with Outlet Centres and submit that 'outlet centres within or immediately adjacent to a city or town centre can generate commercial synergies with the established retail outlets, thereby raising the profile of the centre and enhancing aggregate turnover on retail goods and leisure activities.'

7.3.4. The Guidelines further state that 'it should be recognised, however, that outlet centres are unlikely to succeed commercially in close proximity to the main urban centres in Ireland because retailers do not normally choose to trade at a large discount in direct competition with their high street outlets. However, experience shows that this constraint is unlikely to arise with smaller or secondary town centres, especially those in areas which attract large numbers of tourists. Consequently, the most appropriate location for outlet centres is likely to be where commercial synergy can be achieved between an outlet centre and an urban centre which would lead to

economic benefits for the overall area. Outlet centres should not be permitted in more remote out-of-town locations.'

7.3.5. In terms of the above, it would appear that the principle of the proposed development might be considered acceptable. However, given the lack of connectivity and linkages between the existing KTOV and the Kildare town centre, other than the pedestrian link to the Tesco site, I am not satisfied that the current proposal is acceptable. I further consider that the Town Centre zoning afforded to the site, together with the vision for the SWEA presented in the Kildare Local Area Plan, does not envisage a single use retail development which would not connect to the town centre or provide for public spaces which would be accessible to all at all times. Indeed, the RIS submitted describes the proposed Phase 3 development as providing 'an integrated and seamless extension to the existing KTOV.' Without links to the town centre, I am not satisfied that the proposed development adequately complies with the requirements of the Kildare LAP. I am also concerned that as the nature of the retail offer at Kildare Village would not accord with a high street retail offer, the development, if permitted, would detract from the viability and vitality of Kildare Town Centre.

7.3.6. In terms of retail impact, the RIS undertook an analysis of the existing retail floorspace and that which may be trading in 2021 within the county. A quantitative analysis was carried out examining the capacity in the County as a whole, identified other retail centres including Newbridge, Naas, Maynooth and Athy, assumed 10% of expenditure coming from the international tourist sector and 90% from the resident population and allowed for 30% of the KTOV turnover to come from the county, 40% to come from the wider primary catchment and 30% from the secondary catchment in line with trade draws attributed in the Phase 2 extension. The analysis concludes that there is need for not only the KTOV extension, but also other centres need to expand to maintain their role within the retail hierarchy.

7.3.7. In relation to retail impacts associated with the proposed extension to Kildare Village, I am generally satisfied that impacts on the larger urban centres in proximity, namely Newbridge and Naas, would not be significant, given the nature of the product sold there. Should the Board be minded to grant permission in this instance, a condition clearly stipulating the type of goods that can be sold at Kildare Village should be included. In terms of the impact of the development on Kildare Town

Centre however, I am not satisfied that the impact would not be significant, primarily due to the lack of linkages and connectivity achievable in the short term. In addition, I am not satisfied that the proposed nature of the retail offer, together with the proposed layout of the site, would improve the vitality or viability of the historic town centre.

#### **7.4. First Party Appeal Issues**

7.4.1. The first party has appealed the inclusion of two conditions in the decision of the Planning Authority to grant permission. The two conditions, nos. 3 and 24, are presented in full in section 3.0 of this report. The applicant submits that options will remain achievable for additional interconnection between KTOV and the main Kildare Town Centre area as and when additional lands become available. The submission provides an illustration for a possible future link to Academy Street and it is noted that the possible route currently conflicts with the school.

7.4.2. In terms of condition 3, it is requested that the condition be amended in order to enhance the delivery of further linkages through the KTOV with Academy Street and the town centre, without prejudicing the commercial viability or vitality of the proposed development. It is requested that unit 104 be retained and submits that while no permission has been given to provide the pedestrian linkages on school lands, the development has been designed having regard to the policies and objectives which require the links. It is submitted that the identified possible future link along the northern boundary of St. Brigid's Primary School, could become available as part of the schools future redevelopment / improvement works.

7.4.3. The Planning Authority has responded advising that the omission of unit 104 and the restriction of use of the land hatched in green will give Kildare County Council options to examine the location of the pedestrian / cyclist access and the public realm works with the aim to minimise the impact on St. Brigid's Primary School and nearby properties.

7.4.4. While I note the submission of the applicant that the omission of unit 104 would negatively affect the viability and vitality of the proposed development, I would not necessarily agree. I have raised concerns above in terms of the principle of the proposed development at this location. The Planning Authority, in seeking to include

condition 3, has, in my opinion, sought to control development for a piece of infrastructure which has no specific design prepared. Again, I would suggest that a grant of planning permission in this instance would be premature pending decisions pertaining to the design and delivery of the new street, provided for in the Kildare LAP.

7.4.5. In terms of condition 24, the first party considers that the imposition of the condition is wholly unjustified and the Board is requested to reconsider the amount of the contribution. It is further submitted that it was understood that the linkage was for pedestrians and cyclists rather than vehicles. The first party submits that a 25% Special Development Contribution would be more acceptable, in the amount of €362,500.

7.4.6. In response, the Planning Authority submits that given it is a clearly stated objective to develop a new street / route between Kildare Village and St. Brigid's Square via Academy Street, and that the applicant was unable to provide the route, it is entirely appropriate that the PA should seek to secure sufficient funds to realise the objective. It is considered that the Special Development Contribution sought is both necessary and reasonable to deliver the infrastructure which will directly benefit the proposed development.

7.4.7. I refer the Board to Objective RIO 17(ix) which specifically refers to the provision of a street, such that 'the design of these streets shall ensure that vehicular movement function is moderated and that a high quality pedestrian movement function is achieved, in the context of the type of development that is proposed within the SWEA.' There is no lack of clarity in the LAP in my opinion, that the new street referred to in the LAP includes vehicles as well as pedestrians and cyclists. As such, should the Board be minded to grant permission in this instance, I would consider that the Special Development Contribution should stand. I further consider that no development should take place prior to the finalising of plans for the provision of the new street, including the agreed route, type of street to be provided and all land transfer agreements have been completed to facilitate the infrastructure.

## 7.5. Other Issues

7.5.1. In terms of other issues, the Board will note that overall, I have no objections in principle to the overall design brief for the extension to Kildare Village. The proposed development seeks to reflect the existing design ethos of the Outlet Centre.

7.5.2. In terms of the proposed layout, I would have concerns that the development will result in an extension to the existing Kildare Village which is introverted and as discussed above in section 7.1 of this report, would fail to connect with the historic town centre of Kildare Town. While I acknowledge the efforts of the applicant to secure agreement for the provision of linkages through school owned property, no agreement has been achieved. The School Board has advised that no agreement could be forthcoming until such time as a masterplan for the future development of school property has been agreed and adopted. I note that this issue arose during the assessment for the Phase 2 extension to Kildare Village and little would appear to have been achieved in the interim. I would not consider it appropriate to grant permission for a third phase in the absence of clear and agreed proposals for the delivery of the infrastructure, stipulated as being necessary and appropriate in the Kildare LAP.

7.5.3. Given that the site is zoned for town centre development, I am satisfied that it is unlikely to remain undeveloped. Having regard to the design proposed, I am satisfied that any visual impacts arising can be considered acceptable in the context of the site.

7.5.4. I am satisfied that there are no servicing issues arising from the proposed development in terms of water services.

## 8.0 Environmental Impact Assessment

### 8.1. Environmental Impact Statement:

8.1.1. The EIS submitted with the planning application is presented in a grouped format structure with appendices and a non-technical summary. In addition, separate reports are included to address topics including:

- Relevant plans and particulars
- Planning Report
- Retail Impact Statement
- Appropriate Assessment Screening
- Engineering Report
- Architectural Design Statement
- Landscaping Report
- Photomontages

8.1.2. The EIS provides 16 chapters and seeks to address all environmental matters associated with the proposed development. I have read this EIS, including the above mentioned reports and all documents submitted following the response to the further information request, in its entirety. The EIS provides a non-technical summary as well as a reasoning for the EIS, including its scope and the structure and methodology of same. The EIS submitted provides information in relation to a number environmental aspects and describes the potential effects the development will have on the receiving environment. It is also to be noted that the EIS is advertised in the public notices.

8.1.3. The Chapters of the EIS are as follows;

Chapter 1: Introduction

Chapter 2: Description of Proposed Development

Chapter 3: Planning & Development Context

Chapter 4: Examination of Alternatives

- Chapter 5: Population & Human Health
- Chapter 6: Traffic & Transportation
- Chapter 7: Soils, Geology & Hydrogeology
- Chapter 8: Hydrology
- Chapter 9: Biodiversity (Ecology)
- Chapter 10: Waste Management
- Chapter 11: Noise & Vibration
- Chapter 12: Air Quality & Climate
- Chapter 13: Landscape & Visual Impact
- Chapter 14: Archaeological, Architectural and Cultural Heritage
- Chapter 15: Site Services
- Chapter 16: Interactions & Potential Cumulative Impacts

8.1.4. This planning application, which was accompanied by an EIS, was submitted to the Planning Authority prior to 16 May 2017, the date for transposition of Directive 2014/52/EU amending the 2011 EIA Directive. Under the transitional provisions of the 2014 Directive, the 2011 Directive (Directive 2011/92/EU) as transposed into Irish legislation will apply to the appeal. I am satisfied that the information contained in the EIS complies with article 94 of the Planning and Development Regulations 2000. The document also seeks to comply with the new requirements introduced by Directive 2014/52/EU.

8.1.5. The EIS seeks to:

- Describe the proposal, including the site, and its surroundings, as well as the development's design and size;
- Describe the measures envisaged to avoid, reduce and, if possible, remedy significant adverse effects;
- Provide the data necessary to identify and assess the main effects the project is likely to have on the environment;

- Outline the main alternatives studied and the main reasons for the choice of site and development, taking into account the effects on the environment.
- A non-technical summary is provided in a separate document.

8.1.6. The EIS provides a Non-Technical Summary (NTS), associated with the main EIS document. The NTS provides an introduction and seeks to describe the proposed development, as well as provide a summary of the findings about each of the environmental topics that are examined in the EIS. The information presented is in clear and non-technical language. I am satisfied that the NTS is acceptable.

8.1.7. Chapter 2 of the EIS provides a description of the project in detail, which includes a description of the site and its surroundings. The proposed development comprises the construction of an extension to the existing Kildare Tourist Outlet Village to the north east of the existing development, including the construction of 31 structures and the demolition of 3 existing and permitted retail outlets and 1 restaurant / café building. In addition, a two deck car park is proposed in the north eastern area of the site to provide for 460 car parking spaces. It is estimated that the construction works will take approximately 12 months and a draft Construction Management Plan has been submitted in support of the proposed development. This Plan describes the construction procedures and methodology that will be used for the construction of the Phase III extension to Kildare Tourist Outlet Village. In terms of sustainability, the EIS notes that the project's approach to sustainability has been progressed with a view to minimising the environmental impact of the buildings from the outset. The project has been benchmarked against a number of sustainability criteria, designed to ensure that a high standard of overall sustainability is achieved.

8.1.8. The EIS includes a section on the alternatives examined, chapter 4. In terms of alternative sites, the EIS submits that the subject site is identified in the Kildare Town Local Area Plan, 2012 as a suitable location for retail expansion and has been subject to SEA. As such, it is considered that a requirement for an examination of alternative locations would be unreasonable. In terms of alternative layouts, the EIS provides details of the alternatives considered and a reasoning for the selection of the final layout proposed. The Board will note that a request for further information sought an examination of the potential to expand the KTOV on lands specifically zoned for such purposes, K1\*. No real assessment in this regard was provided.



- 8.1.9. In terms of alternative designs, the EIS submits that the design aim has been to create an interesting and varied street which is consistent with the existing streetscape throughout the Outlet Village. In the interests of avoiding the appearance of separate phases, the architectural approach is typically the same as the existing buildings and will give the impression of a single, seamless development.
- 8.1.10. In terms of alternative processes and mitigation measures, the EIS notes that the existing Outlet Village must remain 'live' throughout the construction phase. The construction phase will take approximately 12 months and the development will be carried out in a logical, sensible and safe sequence with specific measures incorporated to mitigate the impact on people, property and the environment. Finally, chapter 4 of the EIS submits in terms of alternative land uses, that given that the use of the site for retail purposes has been established since 2006 and such use is supported by both regional and local policy, the proposal is the most appropriate use for the site.
- 8.1.11. Having reviewed the Environmental Impact Statement, Stage 1 Appropriate Assessment Report and all the supporting documentation to the application, observers' submissions and the applicant's response, I am satisfied that the information is sufficiently detailed and comprehensive to allow the Board to carry out a robust and accurate assessment of the development for the purposes of environmental impact assessment.

## 8.2. Environmental Impact Assessment

8.2.1. In accordance with the requirements of Article 3 of the EIA Directive and Section 171A of the Planning and Development Act, 2000 (as amended), the environmental assessment is carried out under the following headings:

- (a) human beings, flora and fauna,
- (b) soil, water, air, climate and the landscape,
- (c) material assets and the cultural heritage, and
- (d) the interaction between the factors mentioned in paragraphs (a), (b) and (c).

8.2.2. This assessment has had regard to the application documentation, including the Environmental Impact Statement, and all other supporting reports submitted, as well as all written submissions.

**Identification & Description of the likely significant effects of the proposed development:**

8.2.3. The EIS chapters seek to address the main likely significant direct and indirect effects arising from the proposed development, and the interaction of the environmental aspects in accordance with the requirements of Schedule 6 of the Planning & Development Regulations, 2001 as amended. Chapter 16 considers the interactions and potential cumulative impacts by means of cross referencing each environmental aspect against all other aspects considered.

**Assessment of the Likely Significant Effects Identified, having regard to the mitigation measures proposed:**

**8.2.4. Population & Human Health**

The EIS, Chapter 5, seeks to address impacts associated with the development on population & human health. The EIS presents information with regard to impacts on human beings under a number of headings as follows:

- Population, Employment & Economic Activity:

Direct and indirect impacts will arise as a consequence of the construction and operation of the development. The development will generate approximately 150 jobs on the site during the construction phase with approximately 450 jobs associated with the operational phase in the retail stores. In addition, it is considered that the development will contribute positively to the employment rates in the area in the tourism industry in the longer term. It is likely that there may be limited impact on accommodation and housing demand, with a slight increase in population linked to the construction activity.

Cumulative impacts on population, employment and economic activity, from the proposed development in conjunction with existing, planned or proposed developments, are likely to arise and it is considered that these impacts will be positive.

- Community:

In terms of impacts on community, the EIS considers three principle elements including the resident community – including local residents living in proximity to the KTOV, the working community – including existing staff in the KTOV and other local retail and commercial premises proximate to the KTOV and the visiting community – including shoppers visiting the KTOV. The impacts these communities are likely to be sensitive to are indicated as being traffic and access, loss of amenity and visual amenities.

Impacts associated with the construction phase include construction noise and vibrations, other emissions, roads and traffic issues and visual impacts. During the operational phase, impacts may include roads and traffic issues and visual impacts. The EIS considers however, that said impacts will be temporary in nature during the construction phase and will be overall positive in the operational stage of the development.

In terms of cumulative impacts, it is concluded that that should all extant permissions in the vicinity of the site have concurrent construction programmes, there may be moderate negative impacts experienced during the construction phase arising from noise, transport issues and other construction related impacts. Cumulative impacts associated with the operational phase relate to traffic and visual amenities. Significant cumulative impacts are considered unlikely.

In terms of impacts on population and community, the Board will note that in the absence of the provision of pedestrian and cycle links from KTOV to the historic town centre of Kildare town, I have concerns that the policy objectives of the Kildare County Development Plan and the Kildare Local Area Plan will fail to be implemented. I also note that there are no current proposals or agreements to provide, such links proposed by either the applicant or the local authority.

The local authority has sought the payment of a Special Development Contribution to support the provision of such a pedestrian link and this condition is the subject of the first party appeal. The first party has appealed the inclusion of this condition which requires them to fully cover the estimated costs for the provision of the link. However, subject to the implementation of mitigation measures which include improved connections from the site to the town centre of Kildare, and subject to compliance with recommended conditions, I consider that

adverse and / or cumulative impacts on local land uses are unlikely to occur during operation and any residual impacts are likely to be minimal.

#### 8.2.5. **Flora & fauna - Biodiversity**

The subject site is not located within or boarding any designated Natura 2000 sites. The closest Natura 2000 site is the Pollardstown Fen cSAC (Site Code 000396), which is located approximately 5.6km to the north east of the proposed development site. Two further sites are located within 15km of the subject site including Mouds Bog cSAC (Site Code 002331) located approximately 7.5km to the north east and the River Barrow and River Nore cSAC (Site Code 002162) approximately 10km to the south west of the site. The closest Natural Heritage Area is the Curragh (Kildare) pNHA (Site Code 000392). The Tully Stream, which flows through the Curragh, is located 1.4km to the south of the subject site.

As part of the EIS, a biodiversity impact appraisal was prepared for the proposed development site. Habitats present on the site have been mapped and are generally considered to be of a local importance and of limited ecological value. No invasive species were identified within the proposed development site.

In terms fauna, surveys were carried out to determine the presence of bats and other mammals, amphibians, reptiles and birds. The results identify no evidence of bat activity at any of the buildings within the site. Activity was recorded along the northern, eastern and southern boundaries of the site. 4 bats were recorded between 21.35 and 22.27 on the date of the survey and included 3 Common Pipistrelle bats and one Soprano Pipistrelle. Rabbits were noted adjacent to the hedgerow and no suitable habitats are present on the site for amphibians or reptiles. Four species of birds were recorded within the boundaries, 3 of which are green listed and the Barn Swallow, which is amber listed. The surveys identified a number of key ecological receptors including the potential for foraging / commuting bats and nesting birds, both inside and outside the site.

In terms of potential impacts, the EIS notes that the following having been identified:

- Lighting during construction and operation
- Noise and vibration

Development works are likely to have a temporary impact on birds and bats in the short term and at a local level in the absence of mitigation. In terms of noise and vibration, it is considered that the impact may temporarily disturb bats and birds.

Mitigation measures are proposed to minimise the extent of light spill onto perimeter vegetation and all lights that are pole mounted will be directional and / or cowled to reduce light spill to the vegetated areas. In addition, there will be no clearance of woody vegetation during the breeding bird season.

I am generally satisfied that the matter of flora, fauna and biodiversity has been adequately addressed in the environmental impact statement and in terms of potential impacts on flora and fauna, it is not anticipated that there will be any significant impacts, or cumulative impacts arising.

#### 8.2.6. **Soil**

In terms of likely significant impacts arising with regard to soils, I refer the Board to Chapter 7 of the submitted the EIS, which deals with Soils, Geology & Hydrogeology. Direct impacts are likely to arise during construction of the proposed development, notably as the proposed development will involve site excavations requiring, approximately 65,000m<sup>3</sup> of overburden material to be removed, the majority of which will be removed from the site.

All development works are to occur within the KTOV site and mitigation measures are proposed. The measures include the preparation of a Construction Management Plan for the site development.

Based on the information presented in the EIS, it is anticipated that there will be no significant residual impacts on the soils, geology and hydrogeological environment, either on site or in the vicinity subject to appropriate mitigation and construction methodologies described and in this regard, I am satisfied that the mitigation measures as proposed are acceptable. Cumulative impacts on soil, from the proposed development in conjunction with existing, planned or proposed developments, are not likely to arise.

#### 8.2.7. **Water**

##### **Ground Waters:**

The underlying aquifer and groundwater levels have been extensively assessed as part of the preparation of the Environmental Impact Statement. The underlying groundwater is within a Regionally Important Gravel Aquifer where the bedrock is locally important and is moderately productive only in local zones. The Aquifer has a high vulnerability level and is an important source of water and base flow for the Grand Canal and major river catchments in Co. Kildare. The EIS concludes with the overall evaluation of hydrogeological attributes at the subject site as high to extreme importance.

No groundwater was encountered during the construction of Phase II of KTOV and it is anticipated that there will be no need for dewatering, due to the excavation works, at the site. Potential impacts on groundwaters potentially arise due to soil removal and compaction as well as accidental fuel and chemical spillages. Mitigation measures are proposed and subject to their implementation, no likely significant impacts on the geological or hydrogeological environment associated with the proposed development arise.

Having regard to the information presented in the Environmental Impact Assessment, and subject to the implementation of mitigation measures, no long term significant impacts or cumulative impacts, on the natural groundwater regime arise.

### **Surface Waters:**

Surface water and hydrology are dealt with in Chapter 8 of the submitted EIS. Construction activity has the potential to result in indirect effects and the key civil engineering works will involve excavation and the delivery and storage of construction materials. In this regard, there is potential for increased run-off and sediment loading as well as the potential for contamination of water courses through spillages of oil and fuels and from the use of concrete and cement.

During the operational phase, the EIS notes that localised accidental discharge of hydrocarbons could occur in the car parking areas and on roads. There will be waste water discharge through the foul sewer system and surface water run-off will be maintained at greenfield rates. The proposed development will give rise to an increase hardstanding area, in the order of approximately 1.9ha, reducing the area for natural infiltration of rainwater. The proposed development provides for the construction of a new surface water drainage network. Surface water arising from the

proposed development site will flow to a new attenuation tank located within the car park area associated with Phase II of KTOV to the west of the main development area.

Having regard to the short term and localised nature of the construction impacts, and the mitigation measures proposed, it is considered that no significant impacts on water will arise. The potential for impact during the operational phase, is considered to be long term and negligible, however, subject to the implementation of mitigation measures, the predicted impacts and residual impacts are considered to be short term – imperceptible - neutral. No cumulative impacts arise.

### **Flooding:**

The Stage 1 Flood Risk Assessment (FRA) indicates that the subject site is located within Flood Zone C, as defined in the Flood Risk Management Guidelines and as such, the site is not at risk of flooding. The proposed use of the site, as retail, is identified as a less vulnerable development.

The EIS notes that the site is not subject to tidal flooding. In terms of fluvial flooding, the EIS notes that no flood events have been recorded at the site, with the closest event at 1.5km to the north of the site. In terms of pluvial flooding, usually caused by intense rainfall and requiring steep land gradients, the FRA notes that the subject site and the surrounding areas are relatively flat and that the risk of overland flow is considered low.

The proposed development provides for the construction of a new surface water drainage network, therefore limiting the risk of pluvial flooding at the site. The underlying groundwater is within a Regionally Important Gravel Aquifer where the bedrock is moderately productive only in local zones. The Aquifer is an important source of water and base flow for the Grand Canal and major river catchments in Co. Kildare. The FRA advises that there is no evidence of groundwater flooding at the Kildare Tourist Outlet Village site.

The Flood Risk Assessment concludes that no flood hazards for the proposed development have been identified. It is considered that no significant impacts arise with regard to flooding either on the site or on adjacent sites. Cumulative impacts on water, from the proposed development in conjunction with existing, planned or proposed developments, are not likely to arise.

## 8.2.8. Air / dust / Climate / Noise & Vibration

### ***Air:***

There is potential for a number of emissions during the construction phase of the development including dust arising from construction activities as well as exhaust emissions from construction machinery and traffic. In terms of mitigation, a dust minimisation plan will be formulated as part of the Construction Management Plan and monitoring will ensure that any dust nuisance events occurring outside the site boundary will be curtailed and rectified. These impacts are considered to be local, temporary and will not give rise to significant impacts on amenity.

In terms of the operational phase of the development, the results of the air dispersion modelling study indicated that the residual impacts of the proposed development are predicted to be imperceptible in the short and long term. The issue of air quality impacts is most significant in terms of traffic and increased traffic movements arising should permission be granted for the proposed development.

In terms of the information presented and the nature of the development proposed, it is considered that the Environmental Impact Statement has adequately addressed the impacts in terms of air quality and that the development can be considered acceptable. Cumulative impacts, from the proposed development in conjunction with existing, planned or proposed infrastructure, are not likely to arise once appropriate mitigation measures are in place during the construction phase should the construction phases coincide.

### **Climate:**

In terms of the impact of the development on climate, it is acknowledged that there is potential for a number of greenhouse gas emissions to arise during the construction phase through construction traffic and during the operational phase due to increased traffic movements arising from the development.

Cumulative impacts, from the proposed development in conjunction with existing, planned and permitted developments, are unlikely to arise in relation to climate. Any cumulative impacts are predicted to be negligible during the operational phase of the development.



**Noise:**

The construction phase of the development has the potential to generate significant noise emissions particularly during the excavation works and piling. Construction traffic will also have potential to impact noise levels in the area. In particular, the EIS notes that the construction works required in the northern and eastern perimeters of the proposed multi-storey car park structure will generate noise levels which will exceed predicted construction noise levels (Table 11.7 of the EIS, page 14 Chapter 11). The impacts arising during the construction phase will be short term and temporary and, subject to appropriate mitigation, acceptable.

In terms of operational noise, the primary sources from the development will be long-term, arising from additional vehicular traffic on the public roads and site and the car park on site, as well as additional building services noises. Mitigation measures are proposed as a precautionary approach on the basis that predicted noise levels are likely to be below the criterion levels. Mitigation measures include the limiting the hours of site activities likely to create high levels of noise and the provision of a barrier along site boundaries. Subject to the implementation of mitigation measures, the predicted cumulative plant noise emissions are considered to be acceptable.

**Vibration:**

Vibration is only likely to occur during the construction phase during the excavation, rock breaking and piling phases. It is considered that, subject to the implementation of mitigation measures, no significant impacts with regards to noise and vibration arise.

Cumulative impacts on air, dust, climate, noise and vibration, from the proposed development in conjunction with existing, planned or proposed developments, are not likely to arise.

**8.2.9. Landscape**

Direct, indirect and cumulative impacts will arise as a consequence of the proposed development. The visual assessment includes a series of photomontages which seek to represent the proposed development from a number of points in and around the site and includes an assessment from the nearby roads and indeed, protected

structures. The proposed development will be visible within short range views, and particularly from the Nurney Road and Grey Abbey Boardwalk, as well as from the existing adjacent developments to the north and east. The development, if permitted, will result in a moderate and permanent visual impact once constructed.

In terms of the visual impacts, a number of mitigation measures to avoid or reduce effects on the appearance and character of the landscape, both locally and in the wider context, are proposed. It is considered that given the context of the site location on lands zoned for town centre uses, it is highly unlikely that the site will remain undeveloped in the medium to long term. The architectural response to the proposed development corresponds with the existing Kildare Village development and it is considered that in this regard, together with the mitigation measures proposed, the cumulative visual impacts associated with the proposed development are acceptable.

#### 8.2.10. **Material assets**

The description of Material Assets in the EPA Guidelines, 2002, include architectural, archaeological and cultural heritage, designed landscapes, natural resources of economic value, buildings and structures and infrastructure. Having regard to the format of the EIS submitted, these aspects of the environment are covered under a number chapters as follows:

Chapter 6: Traffic & Transportation

Chapter 7: Soils, Geology & Hydrogeology

Chapter 8: Hydrology. This chapter includes surface water, foul water, water supply and flooding

Chapter 10: Waste Management

Chapter 13: Landscape & Visual Impact

Chapter 14: Archaeological, Architectural and Cultural Heritage

Chapter 15: Site Services

#### **Site Services**

The EIS, at Chapter 15 deals with Site Services, and in particular, the impacts to foul and surface water drainage and water supply. The chapter notes that the existing

KTOV is serviced from public mains and sewers. The predicted impacts associated with the proposed development are described in terms of the construction and operational phases.

In terms of water services, the proposed development will connect to existing services existing within the Kildare Village complex. The proposed development will result in an increased demand for water services.

Cumulative impacts on material assets (utilities), from the proposed development in conjunction with existing, planned or proposed developments, are not likely to arise as there is sufficient capacity within the recently upgraded foul water collection and treatment infrastructure.

### **Traffic**

Chapter 6 of the submitted EIS deals with Traffic & Transportation issues and presents details of the methodology employed in the assessment as well as a description of the receiving environment and the characteristics of the proposed development. In terms of the proposed development, the EIS considers non-car modes and notes the existing pedestrian links from the north, to Tesco and the boardwalk linking KTOV to the Grey Abbey Road to the south east and the quality pedestrian access to the west via the KTOV roundabout. It is further noted that the applicant proposes to put in place infrastructure to accommodate a future pedestrian link from the north eastern area of the proposed mall to Academy Street. The creation of this link will require access over third party lands from the subject site to Academy Street.

Direct and indirect impacts are likely to arise during the construction period and the operational phases of the development. In terms of the construction phase, it is submitted that a detailed Construction Management Plan will be finalised prior to commencement. The proposed development represents an extension to the existing KTOV in the order of 36% but given the mature nature of existing trade levels, it is not considered that the extension will result in a pro rata increase in traffic generated. The EIS uses the comparison method to forecast traffic generation arising from the proposed development. Once operational, it is estimated that the development will generate an increase in traffic generation by 18% in the opening

year, returning to 4.2% for a five year period before reaching a plateau. The development, if permitted will result in a total of 1,813 parking spaces.

An assessment of the exiting road network, including the R415/R445 signalised T-Junction, the R415 KTOV Roundabout and the M7 Nurney Interchange Roundabout, was undertaken by the applicants. The EIS suggests that there are transport related benefits associated with the proposed development in terms of pedestrian connectivity enhancements with the town centre, alterations to the entry flare length on the northbound approach arm to KTOV Roundabout and the creation of additional parking. In terms predicted impacts, the EIS submits that the proposed development will have a significant impact on the existing road network but that the existing road network has sufficient capacity to accommodate the future traffic generated by the proposed development.

The Board will note that Transport Infrastructure Ireland considers that the proposed development is at variance with official policy in relation to the control of development on / affecting national roads, as outlined in the DoECLG Spatial Planning and National Road Guidelines for Planning Authorities (2012) as the proposed development, either on its own or by the precedent it would set, would adversely affect the operation and safety of the national road network. In particular, it is considered that the revised data submitted in response to the FI request demonstrates extensive queues on the M7 off-ramps to Junction 13 eastbound and westbound in the short to medium terms. In addition, concern is raised that data collected at an actual 'private sales event' has not been used and that the projected event queue lengths are not in keeping with conditions currently observed during such events. The National Road Office and the Transportation Department of Kildare County Council recommend that in advance of major sales events and in the weeks leading up to Christmas, a formal traffic management plan be developed and implemented. The Transportation Department do not consider it necessary to further assess the upstream and downstream junctions or the impact of traffic associated with special events, as there is already a formal TMP in place.

I have considered the issue of roads and traffic arising in relation to the proposed development. In principle, the assessment presented in the EIS would suggest that the existing road network has the capacity to accommodate the proposed development. However, the submission of TII would suggest that the existing

development at KTOV gives rise to queuing on the M7 off-ramps, which negatively impacts the operation of the national road network. I have concerns that mitigation measures do not address this issued. In addition, given that there is currently no agreement, or indeed proposal, to provide for pedestrian connectivity to the site from Kildare town centre, I would not agree with the EIS that the development, if permitted, would enhance or benefit pedestrians or other road users in the short to medium term.

### **Waste management**

Direct and indirect impacts will arise due to the construction phase of the proposed development, particularly during the ground works phase. A Construction and Demolition Waste Management Plan has been prepared for the site and mitigation measures proposed to minimise impacts. It is proposed to ensure that the regional target recycling rate of 70% is achieved.

In terms of the operational phase of the development, the EIS indicates that a structured approach to waste management will promote resource efficiency and waste minimisation. An Operational Waste Management Plan has been prepared for the development. The operational phase will ensure that a high rate of reuse, recycling and recovery is achieved, and operational waste will be managed in conjunction with the current waste management procedures at Kildare Tourist Outlet Village. It is predicted that the operational phase of the development on the environment will be neutral, long term and imperceptible. Cumulative impacts on waste management, from the proposed development in conjunction with existing, planned or proposed developments, are not likely to arise.

#### **8.2.11. Cultural Heritage Assessment & Archaeology**

The subject site lies outside the zone of archaeological potential for the historic town of Kildare, KD022-029. Within a radius of 200m, there are six archaeological sites recorded including Grey Abbey, graveyard, well, kiln, cremation and fulacht fia pit, with the kiln site being closest, but which was excavated prior to the construction of Phase 1 of the KTOV.

In terms of predicted impacts, the construction phase will primarily involve previously built / disturbed ground, which enabled the construction of a temporary car park in the north eastern part of the site. Given the lack of any recorded monuments within

the proposed development site, it is considered that no direct or indirect impacts arise. However, works are also proposed in previously undisturbed soils to the south of the temporary car park area, and therefore, there is a potential direct impact associated with unknown sub-surface archaeological features.

To mitigate against potential impacts on archaeology, a programme of pre-development archaeological testing and monitoring during the construction phase is proposed. No operational phase mitigation is required. Residual and cumulative impacts are not predicted, and are likely to be negligible.

In terms of architecture, no direct impacts arise in relation to any protected structures. There are six protected structures located within 200m of the site, with the closest, a house on Saint Brigid's Square, located 115m from the site, with an additional 14 properties identified on the NIAH survey. The subject site does not adjoin the Architectural Conservation Area of Kildare, being located approximately 75m to the west.

I consider that no significant visual impacts will occur as a result of the proposed development. There will be limited views of the proposed development from a small number of protected structure or the Kildare ACA, but the impact is considered insignificant. No mitigation measures are proposed and overall it is considered that once operational, while the development will be visible, the cumulative impacts will be minimal and it will not detract from the architectural heritage of the area or unduly impact on the character, setting or views, to or from, any structure of architectural merit.

In terms of cultural heritage, the EIS considers place-names and townlands as well as identifying 'Love Lane' which runs along the southern limit of the proposed development site. This track provided access from the Fair Green – now Academy Street – towards the Sovereigns Well until at least 1908. The only surviving evidence of the laneway is an embankment which forms a field boundary and which has been faced with a drystone wall.

There is potential for direct negative impact to the remains of this lane, caused by groundworks associated with the proposed development. The EIS submits a proposal to possibly re-establish a section of the former Love Lane which could provide a future link to Kildare Town. Such a proposal would have a moderate

positive impact on the cultural heritage of the area by improving access into the historic town and re-opening a former laneway.

In terms of mitigation, it is recommended that the path of Love Lane be included in the programme of archaeological testing. Further mitigation proposes that appropriate heritage information is erected to outline the history of the lane.

#### **8.2.12. Interaction of the Foregoing**

Chapter 16 of the EIS seeks to deal with the interactions of the environmental aspects considered and the means of reducing the impacts of the development during the construction phase and when it is in operation. I am satisfied that no likely significant effects arise.

#### **Conclusions Regarding the Acceptability or Otherwise of the Likely Residual Effects Identified**

8.2.13. The conclusions regarding the acceptability of the likely main residual effects of this proposal are identified and assessed under the various headings of the main assessment above. I am further satisfied that the significant environmental effects arising as a consequence of the development, including the residual and cumulative impacts have been adequately identified and assessed.

## 9.0 Appropriate Assessment

Introduction:

9.1.1. The subject site is not located within or boarding any designated Natura 2000 sites. The closest Natura 2000 site is the Pollardstown Fen cSAC (Site Code 000396), which is located approximately 5km to the north east of the proposed development site. Two further sites are located within 15km of the subject site including Mouds Bog cSAC (Site Code 002331) located approximately 7.5km to the north east and the River Barrow and River Nore cSAC (Site Code 002162) approximately 10km to the south west of the site. The EU Habitats Directive 92/43/EEC provides legal protection for habitats and species of European importance through the establishment of a network of designated conservation areas collectively referred to as Natura 2000 (or 'European') sites.

9.1.2. Under Article 6(3) of the Habitats Directive, an Appropriate Assessment must be undertaken for any plan or programme not directly connected with or necessary to the management of a European site but likely to have a significant effect on the site in view of its conservation objectives. The proposed development is not directly connected with or necessary to the management of a European site. A Stage 1 Appropriate Assessment Screening report was submitted in support of the proposed development to address the likely or possible significant effects, if any, arising from the proposed development on any European site.

Screening for Appropriate Assessment:

9.1.3. The purpose of AA screening, is to determine whether appropriate assessment is necessary by examining:

- a) whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
- b) the potential effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives, and considering whether these effects will be significant.

The AA Screening Report considered Natura 2000 sites within 15km of the subject site. Table 2 of the Report presents the analysis of the sites in tabular form and it is concluded, having regard to the lack of source-pathway-receptor links and the



separation distance between the site and the designated sites, that it is unlikely that significant effects will occur at designated sites.

Conclusion on Stage 1 Screening:

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

## **10.0 Recommendation**

It is recommended that permission for the proposed development be refused for the following stated reasons:

## 11.0 Reasons and Considerations

1. The site the subject of this appeal has 'A' – Town Centre zoning afforded to it in the Kildare Town Local Area Plan 2012-2018. The objective of this zoning is 'to provide for the development and improvement of appropriate Town Centre uses including retail, commercial, office, residential, amenity and civic use. The purpose of this zone is to protect and enhance the special character of Kildare Town Centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing town. It will be an objective of the Council to encourage the full use of buildings, backlands and especially upper floors.'

It is considered that the proposed development, which is an extension to the Kildare Tourist Outlet Village, would not protect or enhance the special character of Kildare Town Centre, would contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.

2. The Kildare Local Area Plan identifies the subject site as being located within the South Western Expansion Area and seeks to "create a new and vibrant urban expansion area to the west side of Kildare's historic town centre that connects to Kildare Retail Outlet and Tesco supermarket by using a well-designed public realm to integrate a mix of new buildings and uses which are respectful of the towns existing historic fabric". The LAP sets out a clear network of public routes within which different development blocks and urban spaces operate within the SWEA. While the indicative framework plan is provided for illustration purposes only, the LAP is seeking to create a new street pattern which is sympathetic to the pattern of the historic core.

Having regard to these objectives for the area and to the pattern of development in the vicinity, it is considered that, by reason of the nature of the proposed development and the lack of reference to the historical urban grain of Kildare Town Centre, together with the lack of connectivity from the site to the historic core of the town, the proposed development would militate against an attractive pedestrian environment connecting the site to the town centre.

The proposed development would, therefore, conflict with the objectives of the Local Area Plan and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Objective RIO 17 of the Kildare LAP sees to preserve all indicative routes, listed and identified on Map 8.2 of the LAP, free from development and to seek the construction of identified indicative routes, subject to environmental and conservation considerations. Part (ix) of this objective relates to the construction of new streets within the SWEA including from a new junction at Academy Street to the Tesco access road off Claregate Street, and from the Kildare Retail Outlet access road to the Tesco access road off Claregate Street.

The proposed development, notwithstanding efforts, has failed to agree for the provision of the new vehicular and pedestrian street. In the absence of appropriate links to the town centre (including roads, footpaths and public lighting) it is considered that the proposed development would be premature and would result in a form of development that would be contrary to the proper planning and sustainable development of the area.

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A. Considine  
Planning Inspector

28<sup>th</sup> June, 2018