



An  
Bord  
Pleanála

## Inspector's Report ABP-301242-18

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<b>Development</b>	25 no. three storey houses
<b>Location</b>	Geraldine Road, Athy, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	17/751
<b>Applicant(s)</b>	MHL Site Developments Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Maguire and Associates
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> June 2018
<b>Inspector</b>	Ciara Kellett

## Contents

1.0 Site Location and Description .....	4
2.0 Proposed Development .....	4
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	6
3.3. Prescribed Bodies .....	9
3.4. Third Party Observations .....	9
4.0 Planning History.....	10
5.0 Policy Context.....	10
5.1. Kildare County Development Plan 2017 – 2023.....	10
5.2. Athy Town Plan 2012 – 2018 .....	11
5.3. Natural Heritage Designations .....	11
6.0 The Appeal .....	12
6.1. Grounds of Appeal .....	12
6.2. Applicant Response .....	13
6.3. Planning Authority Response .....	14
6.4. Further Responses.....	14
7.0 Assessment.....	16
7.1. Links into adjoining lands .....	16
7.2. Phasing of access onto Geraldine Road .....	18
7.3. Lands to the front of the development.....	20
7.4. Appropriate Assessment .....	20
8.0 Recommendation.....	20

9.0 Reasons and Considerations..... 21

10.0 Conditions ..... 21

## 1.0 Site Location and Description

- 1.1. The site is located in Athy, Co. Kildare. It is located to the north-east of the town and on the northern side of Geraldine Road. Geraldine Road forms a T - junction with the main road through the town, the N78 Dublin Road, c. 400m south-west of the site. The site is c.550m to the east of the railway line and c.1.1km to the north-east of Duke Street which crosses over the River Barrow.
- 1.1.1. The site is currently a greenfield site on the edge of a mainly residential part of the town, with the exception of a light industrial unit to the immediate west of the site. The lands to the east and north are also greenfield. The site has c.70m road frontage. A number of two-storey dwellings lie on the opposite side of Geraldine Road.
- 1.1.2. The site is rectangular in shape and is stated as being 0.8453 hectares in area. A low-plinth stone wall topped with a galvanised paladin fence forms the boundary with Geraldine Road on the southern end of the site, and an access gate is provided to the south-west corner of the site. Trees and hedgerows form the east and west boundaries. The northern boundary comprises less dense trees and hedgerows. The site is overgrown with brambles and vegetation. Some small deposits of what appears to be C&D waste are adjacent to the entrance at the south-west corner of the site.
- 1.1.3. The lands are zoned 'New Residential' in the Athy Town Development Plan 2012 - 2018.
- 1.1.4. Appendix A includes maps and photos.

## 2.0 Proposed Development

- 2.1. It is proposed to develop 25 dwellings on the site. The dwellings consist of 3 no. 4 bedroomed detached houses, 12 no. 4 bedroom semi-detached houses, and 10 no. 4 bedroomed terraced dwellings. All dwellings are three storeys. The density of development is 29.6 units per hectare.

- 2.2. The development includes for two links into lands to the north and east which are also zoned for residential purposes and owned by the appellant.
- 2.3. The development includes refuse and bicycle storage buildings, a new foul drainage network with a foul pumping station and associated rising main, as well as a new surface water drainage network, and a new road network with footpaths and a new access onto Geraldine Road.
- 2.4. A landscape masterplan and report, engineering report, and a Traffic Impact Assessment accompanied the proposal.
- 2.5. Following the request for Further Information, changes were made to the site layout, most particularly the dwellings facing Geraldine Road, as well as the proposed junction with Geraldine Road. Dwellings facing Geraldine Road were reduced to two storeys and 3 bedrooms. Internal changes to a number of the dwellings were made. The link to the land to the north was removed – leaving only the link to the east land. Parking arrangements were modified. The changes were deemed to be significant and re-advertised.
- 2.6. Following the request for Clarification of Further Information, the road access arrangements were amended. A temporary solution was proposed to provide access onto Geraldine Road only until lands to the north and east are developed. Following development of those lands, the direct access onto Geraldine Road is to be closed to vehicular traffic and remain an access for pedestrian and cyclists only. Vehicular traffic is to travel through the new development to the east to access Geraldine Road. A temporary parking arrangement for the houses facing Geraldine Road is proposed until the access is closed to vehicular traffic. Access to lands to the north for pedestrian and cyclists is reinstated.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. The Planning Authority decided to grant permission subject to 42 conditions. The appellant considers conditions 13, 14, 15, 17, 18 and 19 seriously impact on their draft proposal on adjoining lands.

- 3.1.2. Condition no.13 requires the applicant to revise the overall Phase 1 layout plan (Drawing 01/02A received on November 20<sup>th</sup> 2017) to incorporate changes to the parking arrangement to reduce parking conflict adjacent to the temporary junction, as indicated on drawings submitted as part of response to Clarification of Further Information (January 24<sup>th</sup> 2018).
- 3.1.3. Condition 14 states that the footpath and roadway shall be constructed to link into the existing network on the L4007. Condition 15 requires the junction with Geraldine Road to be revised and constructed in accordance with drawing MCD P17/037 10/001 received January 24<sup>th</sup> 2018. Condition 17 refers to parking bays in green open space.
- 3.1.4. Condition no.18 requires the applicant to transfer land, as indicated on maps which form part of the grant to the Council, for the purposes of completing the future link road to the adjoining land to limit the number of vehicular junctions on Geraldine Road. Condition 18(a) in particular requires links from the development to the adjoining sites as shown “*At the northwest corner of the development, as shown on drawings (P17/037/) 10/010 received by the planning department on January 24, 2018*”. This element of Condition no.18(a) in particular, is being appealed by the third party, the owner of the adjacent lands.
- 3.1.5. Condition no.19 requires sight visibility lines at all entrance/exits to the estate.

## 3.2. **Planning Authority Reports**

### 3.2.1. **Planning Reports**

The Planner’s Report is the basis for the Planning Authority decision. There are a number of Planner’s Reports on file because the application was subject to a Further Information request as well as Clarification of Further Information. They include:

- Lands are zoned ‘C – New Residential’.
- Notes concerns regarding the scale of the units vis-à-vis the existing/established streetscape particularly the residential properties opposite the site. Considers a cross-section extending across Geraldine Road is required.

- Refers to location of units 1-5 and considers applicant should be requested to revise the orientation of the units to provide a deeper rear garden and a better dual aspect onto Geraldine Road.
- Rear garden plots fall short of 11 metre depths in some cases – this should be revised.
- No details regarding Part V have been provided – this should be addressed by way of Further Information.
- Green area should be revised from the proposed 13% to 15%.
- There are cul-de-sac road ends to potentially allow for future linkages to adjacent undeveloped residential lands beyond the site. Notes concerns from third parties relating to impact of increased traffic. Notes Transport Department states that the applicant should seek alternative site access, for example from Rheban Manor.
- Notes Water Services have raised concern with surface water and attenuation proposals, and Irish Water have raised concerns with the capacity and suitability of the proposed foul sewer network.
- Recommends Further Information should be requested in relation to outlined concerns.
- The applicant's response includes amendments to the layout to address those concerns. House no's 1-6 have been revised to a two storey design to reduce the bulk and present a more appropriately scaled frontage onto Geraldine Road. All rear gardens are a minimum depth of 11m and open space was increased to 14.54% (not including areas to the front of the development). A phasing plan was provided as well as Part V provisions.
- Following the response, it is noted that the Housing Department seek clarification in relation to Part V proposals. The Transport Department seek clarification on the revised access arrangements and associated car parking, as well as concerns regarding the temporary access for the sites only vehicular access from Geraldine Road.
- Clarification is sought - the applicant is requested to submit a drawing illustrating full details of the final pedestrian and cyclist access connection to

Geraldine Road, as well as revising the car park arrangements for house no's. 1 – 6 and house no's. 16 – 21. Applicant also requested to address concerns with internal space layout for Part V dwellings.

- A note is appended to the request stating that the Planning Authority is considering granting a temporary access from the development onto Geraldine Road, until access to adjacent residentially zoned lands can be achieved. The note continues stating that the applicant may be conditioned to open up access into the adjacent eastern development and to close off vehicular temporary access onto Geraldine Road within three months of adjacent development being provided.
- The applicant responded proposing a two-phase plan for the entrance. Phase one will allow the development to proceed as proposed with alterations to the car parking arrangements serving houses 1 – 6 to remove the perpendicular car parking arrangement. Phase two would commence when the developer of the adjacent lands, subject to another planning application (Reg. Ref. 17/1408), completes the access road and its junction with Geraldine Road. A cul-de-sac will be formed at the temporary junction with Geraldine Road and the parallel parking will be replaced with perpendicular parking.
- Revised layout alterations to Part V dwellings provided.
- The two-phase approach allowing for independent access for the scheme until such time as a suitable road access is constructed on the adjoining lands is considered acceptable by the Planner. No further issues are outstanding with respect to the layout of the Part V dwellings.
- The Planner recommends that permission is granted subject to conditions.

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

### 3.2.2. Other Technical Reports

- **CFO:** No objection subject to conditions.
- **Environment:** No objection subject to conditions.
- **Area/Roads Engineer:** Sought Further Information and Clarification of Further Information in relation to access onto Geraldine Road, and lack of car



parking spaces for some dwellings. With respect to access onto Geraldine Road, if the developer does not seek to consider an alternative vehicular access through adjacent lands, it is considered that if the applicant wishes to pursue a new junction with Geraldine Road then a Road Safety Audit Stage 1 and 2 must be carried out for a distance of 100m either side of the proposed access and the applicant should be asked to suggest some innovative traffic calming measures for Geraldine Road. Following the response, the Department had no objection subject to conditions.

- **Water Services:** Sought Further Information. Following the response, no objection subject to conditions.
- **Housing Department:** Sought Further Information and clarification of Further Information. Following the response, the Department had no objection subject to conditions.
- **Building Control:** No report

### 3.3. Prescribed Bodies

- **Irish Water:** Sought Further Information with respect to the foul sewer network and pump. Following the response, no objection subject to conditions.

### 3.4. Third Party Observations

- 3.4.1. There were 5 third party submissions initially and 5 following the re-advertisement of the Further Information which are summarised below.
- 3.4.2. The initial submissions were from local neighbours and a local Councillor. Objections related to concerns with traffic congestion and access to and from houses, odours and capacity issues with the sewerage system, lack of off-street parking, lack of adequate green space proposed, inadequate parking provision, 3 storey dwellings totally out of character, water pressure, street lighting, location of proposed entrance opposite a number of residences, inadequate sightlines, flooding, access for larger development to the rear, construction traffic, and traffic speeding.

3.4.3. Following the re-advertisement of the significant Further Information, five submissions were made, including one from the appellant. The concerns of the residents were reiterated. The appellant states that they are prepared to work with the local authority to achieve the solution regarding only one access from the lands onto Geraldine Road, and confirming that they have lodged a planning application for an entrance onto their lands.

## 4.0 Planning History

- **ABP Ref. 217944, KCC Reg. Ref. 04300056:** Permission was granted by the Board in December 2012 on the same site for 30 dwellings. The development was reduced to 26 dwellings by condition and the building line was set back a minimum of 15m from the road edge. No development has taken place on foot of this permission which has expired.

A Planning Application was submitted on lands to the east of the site over the course of the Planning Authority's assessment of the subject site.

- **KCC Reg. Ref. 171408:** Planning permission was refused in February 2018 for a new site entrance, roadway, footpaths and ancillary works to access the zoned residential development. Permission was refused for one reason. It was considered that the proposal was premature pending details on proposals for the land, having regard to the potential traffic generated by a future proposal at this location. It was further stated that the applicant has failed to provide sufficient information to demonstrate that the proposal would not prejudice public safety by reason of a traffic hazard. It was also considered that the proposal would represent a piecemeal form of development which prohibits the Authority from assessing the cumulative impact.

## 5.0 Policy Context

### 5.1. Kildare County Development Plan 2017 – 2023

5.1.1. Section 1.9 of Volume 2 of the Kildare County Development Plan notes with respect to the Athy Town Plan that 'The County Development Plan 2017-2023 will replace

the Naas and Athy Town Development Plans when adopted and Local Area Plans will be prepared for Naas and Athy.'

- 5.1.2. Table 3.1 in Chapter 3 identifies Athy as a Moderate Sustainable Growth Town along with Kildare, Monasterevin and Kilcullen. Section 3.4.2 states '*Within the Hinterland area the overall function is for the Moderate Sustainable Growth Towns to develop in a self-sufficient manner, reducing commuting levels and ensuring sustainable levels of housing growth, providing a full range of local services adequate to meet local needs at district level and for surrounding rural areas*'.
- 5.1.3. Chapter 17 refers to Development Management Standards. Table 17.4 lists minimum floor areas and storage areas for houses. Table 17.9 refers to Car parking standards and 2 spaces per dwelling are required.

## **5.2. Athy Town Plan 2012 – 2018**

- 5.2.1. The Athy Local Area Plan 2019 – 2025 is currently being prepared.
- 5.2.2. Map 16.1 of the current Town Plan indicates that the site and surrounding areas are zoned C – New Residential. A label C6 is noted on the map.
- 5.2.3. Chapter 15 refers to Development Management Standards and Chapter 16 refers to Land Use Zoning.
- 5.2.4. Chapter 15 sets out Development Management Standards for houses in terms of minimum floor areas, open space requirements, storage areas, parking standards etc.
- 5.2.5. Table 16.2 in Chapter 16 states that the zoning objective for new residential development is '*To provide for new residential development, associated residential services and community facilities*'.

## **5.3. Natural Heritage Designations**

The site is c. 1km from the River Barrow and River Nore SAC (Site Code 002162).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A third party appeal against the decision of the Planning Authority to grant permission has been submitted by the owner of the adjoining landholding. In summary it states:

- Support the housing development in principle.
- A number of pre-planning meetings were held with the Council regarding the preparation of a planning application on their adjoining lands. A draft Site Layout is attached to the appeal.
- The appellant has made provision for vehicular, cycle and pedestrian access into the subject lands.
- Concerned with conditions no's. 13, 14, 15, 17, 18 and 19. Consider the conditions seriously impact on their proposals, as it is considered that there is no necessity to provide the north-west footpath and cycleway connection into the adjoining land as per condition 18(a). Consider that there should only be one cycleway, footpath and vehicular connection as shown on the submitted map to the north-east of the development. Accept that this amendment will require a revised site layout plan for the subject site.
- Note the Council state that they will only require one vehicular entrance to service the subject site. The appellant's site and the subject site form part of the overall landholding in the Athy Town Plan known as C6.
- Note that there is no specific condition to ensure the closure of the site entrance off Geraldine Road into the subject site, once a new site entrance has been provided by the appellant. Consider that this specific condition should be included.
- Note that lands edged in green on submitted drawing have not been reserved free from future development – these lands are necessary to ensure that there will be no future problems associated with the new individual vehicular site entrance into the adjoining landholding to serve both developments.

- Conclude that the decision to grant permission must be modified and that a revised site layout will be required for the subject site.

## 6.2. Applicant Response

The applicant submitted a response to the appeal. In summary it states:

- Notes appellant believes that aspects of the development may prejudice development of their lands.
- Welcomes appellants support for the development.
- Applicant has no objection to the points of concern raised by the appellant and is happy to receive amended conditions to any permission which address the appellant's concerns.
- Applicant considers the north-western pedestrian/cyclist access is unnecessary given the north-eastern connection.
- Agrees that the wording of the conditions regarding the phasing of access may lead to confusion. Applicant understands that original 'Phase 1' access would be closed to provide pedestrian and cyclist access only with a modified car park arrangement when adjacent lands and vehicular access are developed to allow for a Phase 2 combined access arrangement. The applicant accepts this as reasonable.
- Applicant accepts that the open space in front of house 1 to 6 should not present any barriers to the orderly and safe development of a combined access and is happy to ensure that a safe access can be made to any shared entrance and to ensure the continuity of footpaths and cycle lanes across the site frontage.
- Draws the Board's attention to the wastewater drainage network in the area stating it is at capacity and can only cater for small developments such as that proposed. Considers that it is extremely unlikely that further significant residential development would be permitted on the eastern side of Athy in the medium term without significant drainage infrastructure development. No such works are planned. Letter attached confirming that a connection to the Irish

Water network can be facilitated subject to upgrade works in the area, which involve the upgrade of c.90m of linear pipeline.

- Conclude that this site is serviced and available. Considers that it is unlikely that further significant residential development will be permitted on the eastern side of Athy in the medium term, and consider this should underscore the importance of this development.

### **6.3. Planning Authority Response**

The Planning Authority responded to the appeal. In summary it states:

- Condition no.18(a) was inserted to promote pedestrian and cycle permeability and to promote north-south connectivity into adjacent lands in accordance with DMURS.
- Permission has not yet been granted for a development on the appellant's lands to the north and this condition is not considered premature. Urge the Board to insert a condition requiring the area to be landscaped should the Board consider omitting this condition.
- In respect of the closure of the Phase 1 entrance onto Geraldine Road, consider it appropriate that the applicant be conditioned to carry out these works within 3 months (or an alternative reasonable time) of the development being physically accessed from the east.
- With respect to the area referred to by the appellant as 'area of land reserved for road widening' note the development at this location includes pathways and cycle lanes along Geraldine Road and consider this is reasonable.

### **6.4. Further Responses**

The applicant's response to the appeal and the Council's response were circulated to all parties. The applicant responded to the Council's response. In summary it includes:

- Restate that they consider north-western access is unnecessary and willing to accept Council's suggestion of condition to landscape area. Notes that these

areas are to be transferred to the Council on completion of Phase 1 of the work in accordance with condition no.18.

- Notes conditions do not impose any time limits on the closing of Phase 1 but merely requires the transfer of lands for the purpose of completing future link roads.
- Restate drainage capacity constraints.
- Note that it is unlikely that development on adjacent lands will occur for a number of years leading to a situation where residents would be required to use a substandard construction road for an indeterminate time affecting their residential amenities.
- Suggest that the phase 2 arrangements not be imposed until the development to the east is completed and road fully surface dressed and not subject to construction traffic.

The appellant responded to the applicant's submission. In summary it includes:

- Notes the Council agree with their submission in terms of the north-west access. Suggest that house no's. 16 to 21 could be turned through 90 degrees to back onto the future houses in their proposed housing development. A change in house layout could be conditioned by the Board.
- Intend to lodge their planning application within the next two weeks.
- Contend that the applicant's comments on the wastewater are of concern. Include a copy of a letter from Irish Water stating that their housing scheme can be facilitated within the local foul sewer and water mains network.

The applicant and the Council were provided an opportunity to respond to the appellant's response. In summary it includes:

- Strongly disagree with any reorientation of houses 16 – 21. The private rear gardens serving these dwellings currently face west and if they are reoriented through 90 degrees the rear gardens would face northwards which significantly reduces the amenity of the rear gardens.
- The reorientation only serves the appellant's lands by removing the necessity to provide space for such permeability and is not necessary.

- A reorientation would prejudice the planning authority in its determination of a future application for development on the appellant's lands. Reference comment made by Planning Authority to the Board requesting that if the permeability is removed it is replaced with landscaping.
- Any requirement to reorient the houses would have a serious negative impact on the applicant's landholding and is not necessary even if the Board consider permeability not to be required.
- Reiterate development would be immediately available for construction following grant of permission and drainage is not an issue.
- Restate requirement that entrance arrangements from the east are not imposed until that entrance is fully surface dressed and completed.

## 7.0 **Assessment**

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

- Links into adjoining lands
- Phasing of access onto Geraldine Road
- Lands to the front of the development
- Appropriate Assessment

### 7.1. **Links into adjoining lands**

- 7.1.1. The proposed accesses/links into adjoining lands went through a number of different iterations over the course of the application process with the Planning Authority. The initial layout indicated a full vehicular and pedestrian access link into lands to the north-west, as well as a link to the lands to the east, albeit that link indicated a refuse and bicycle storage unit in place. Following the request for Further Information, the applicant submitted drawings in which the link into the north-west was replaced with



two car parking spaces and a small green area, and the link to the lands to the east became a full vehicular and pedestrian/cyclist access. At Clarification of Further Information stage, the link into the north-west was reinstated, but only for pedestrians and cyclists. The eastern link was to provide the vehicular access into the development, and indeed after the development of the lands to the east, was to become the only vehicular access from Geraldine Road into the development.

- 7.1.2. The final layout of the land and access to the north-west is indicated on Drawing P17/037 10/010, as received by the Planning Authority on 24<sup>th</sup> January 2018, as per the design at Clarification of Further Information stage.
- 7.1.3. The appellant is requesting the Board to omit the north-west link as it is considered that it compromises their proposals for the lands to the north, and they consider the link to the east to be sufficient. A drawing of their proposals for their lands accompanies the appeal and indicates dwellings the far side of the link. I note that no planning application for development in lands to the north is indicated on the Planning Authority's website at the time of writing. The Planning Authority recently refused an application for entrance roadworks into the appellant's lands. As it currently stands, there is no extant permission for development on those lands.
- 7.1.4. The Planning Authority considered and zoned the subject lands and the appellant's lands as 'C6 – New Residential', effectively as one block of land for development. Permeability is a key consideration for compliance with the Design Manual for Urban Roads and Streets (DMURS). I am of the opinion that pedestrian and cyclist access into lands to the north-west is key to providing both potential residents of the subject application and of any future development with permeability in a north-south direction. I agree with the Planning Authority that Condition no.18(a) was inserted to promote pedestrian and cycle permeability and recommend to the Board that this condition remains, should the Board consider granting permission. I agree with the applicant that the re-orientation of the dwelling no's. 16-21 is completely unnecessary, in the event that the link is omitted by the Board.
- 7.1.5. In conclusion, I consider that the pedestrian and cyclist link into land to the north-west, as well as the link to the east is good design practice in accordance with DMURS, and promotes permeability and links to the larger landholding which is

zoned for residential development. Therefore, I consider that the link should remain in place.

## **7.2. Phasing of access onto Geraldine Road**

- 7.2.1. The Notification to Grant Permission issued by the Council, includes a number of conditions which the appellant considers seriously impacts on their draft proposals, namely condition no's. 13,14,15,17,18 and 19. The appellant specifically refers to the north-west link which I have addressed above, and refers to the lack of a condition requiring the applicant to close off the phase 1 entrance as part of phase 2 works.
- 7.2.2. The appellant does not have an issue with the proposed phasing arrangement for the access into their lands, and states that provision has been made in their Site Layout Plan to facilitate vehicular, cycle and pedestrian access through their site. The appellant's concern relates to the fact that there is no specific condition requiring the applicant to close the phase 1 access onto Geraldine Road.
- 7.2.3. The applicant has no issue with the appellant's concerns in relation to the imposition of a specific condition. The applicant has requested that the Board are more specific in terms of the timeframes and level of development of the internal road on the adjoining lands. The applicant does not consider it appropriate that residents of his site are required to use a 'construction' or 'unfinished' road when phase 2 is implemented.
- 7.2.4. It could be argued that the proposal is premature having regard to the Council's desire for one access only onto Geraldine Road in this general area. I have reviewed the proposed phasing arrangements – with and without future development of adjoining lands. In the first instance, the report from Trafficwise in response to the Further Information request confirms that the proposed phase 1 access is acceptable in terms of sightlines and visibility. Having regard to the 50kph speed, compliance with DMURS sightlines, and the existence of traffic calming measures in the vicinity, I am satisfied that the proposed access onto Geraldine Road from the subject site as per phase 1 is acceptable, and will not result in a traffic hazard or endanger public safety. Therefore, I am satisfied that the proposal is not premature or dependent on another development to provide proper and safe access.

- 7.2.5. I agree with the Local Authority's desire to minimise accesses onto Geraldine Road in this general location, and that one access into the larger site would be preferable. Hence, I accept the rationale behind the phased access approach. However, I have concerns with the wording of a number of the conditions. None of the conditions refer to the phasing arrangement. Condition no.13 refers to incorporating the changes to the parking arrangements into the Site Layout Phase 1 Plan drawing. Conditions no. 14 and 15 refer to the development of the junction as per the phase 1 layout.
- 7.2.6. Condition no.18 requires the applicant to transfer land (at each junction) to the Council for the purposes of completing future link roads. A series of maps is attached to the grant of permission indicating the lands to be transferred.
- 7.2.7. The applicant has stated that they have no issue with the phased approach, but request that for residential amenity purposes the development on adjoining lands should be completed, not subject to construction traffic and the road fully surface dressed, prior to closing the phase 1 access to vehicular traffic.
- 7.2.8. As noted above there is no extant permission on the adjoining lands, and it is unclear who will carry out phase 2 works with respect to closing the phase 1 lands should development ever occur on the adjoining lands. Condition no.18 simply requires the transfer of land after the satisfactory completion of all phase 1 works.
- 7.2.9. It is unclear if this is work that could be done prior to the Council taking one or both developments in charge. However as noted, it is unclear when this scenario will occur. In the meantime, I agree with the applicant and consider that a more precise condition should be appended to this application requiring the completion of roads on the adjoining lands to a reasonable standard, should development occur on those lands, prior to closing off the phase 1 entrance. Such a condition could address the Planning Authority's concerns by ensuring that there is only one entrance onto Geraldine Road. Furthermore, it would ensure the residential amenities of occupants of the subject dwellings are not seriously impacted by having to use an uncompleted or 'construction' road on adjoining lands.
- 7.2.10. To conclude, I note that neither party objects to the phasing arrangement. Should the Board be of a mind to grant permission, I consider it appropriate and reasonable to refer to the condition of any road expected to provide an alternative access to Geraldine Road for residents, before the phase 1 access is closed by way of

condition. I am also satisfied that the development is not premature having regard to the acceptability of the phase 1 access arrangement in its own right, should development not occur on the adjoining lands.

### **7.3. Lands to the front of the development**

- 7.3.1. On the drawing submitted with the appeal, lands to the front of the subject development are highlighted in green. The appellant requests that these lands are conditioned to remain free from future development, because these lands are necessary to ensure that there will be no future problems associated with the new vehicular site entrance into the adjoining landholding to serve both developments.
- 7.3.2. The drawing indicates the strip of land to the front of dwellings 1 – 6. The applicant's drawings 10/001 and 10/011 indicate that there will be a footpath, cycle access to the development and vehicular access (per phase 1). There is no other development proposed.
- 7.3.3. The appellant does not specify what future problems could occur, but I am satisfied that the development on the above-mentioned drawings will not impede sightlines. I am satisfied that a specific condition to this effect is not required. Condition no.1 is sufficient to ensure that the development will be carried out in accordance with those plans, should the Board consider granting permission.

### **7.4. Appropriate Assessment**

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

## **8.0 Recommendation**

- 8.1. I recommend that permission should be granted for the proposed development subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the residential zoning of the site under the Athy Town Plan 2012 – 2018, and compliance with the development standards as set out in the Kildare County Development Plan 2017 – 2023, it is considered that the proposed development, subject to compliance with the conditions below, would not detract from the character of the area, would not seriously injure the residential or visual amenities of the area, and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 20<sup>th</sup> day of November 2017 and the 24<sup>th</sup> day of January 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The cyclist and pedestrian links to the north-west of the development shall be carried out and completed as indicated on Drawing (P17/037) 10/010 submitted to the planning authority on the 24<sup>th</sup> January 2018.

**Reason:** In the interest of residential amenity.

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

**Reason:** In the interest of visual amenity.

4. (a) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (c) The internal road network to serve the proposed development (including junctions, parking areas, footpaths and kerbs) shall comply with the detailed standards of the planning authority for such road works.
- (d) The materials used, including tactile paving, in any roads/footpaths provided by the applicant shall comply with the detailed standards of the planning authority for such road works.
- (e) Access to the development from Geraldine Road shall be carried out on a phased basis in accordance with Drawings (P17/037) 10/001 (Phase 1) and (P17/037) 10/010 (Phase 2) submitted to the planning authority on the 24<sup>th</sup> January 2018. Access onto Geraldine Road as indicated on Drawing (P17/037) 10/010 shall only be closed to vehicular traffic following the satisfactory completion of the alternative access through adjoining lands as submitted to and agreed in writing with the planning authority.

**Reason:** In the interests of traffic, cyclist and pedestrian safety.

5. Prior to commencement of development a revised landscaping scheme shall be submitted to and agreed in writing with the Planning Authority outlining changes to the as-permitted site layout from that outlined in the original scheme drawing no.17/AG/GR/001 submitted to the planning authority on 28<sup>th</sup> June 2017. All planting/landscaping required to comply with the landscaping scheme submitted to the planning authority shall be maintained, and if any tree or plant dies or is otherwise lost within a period of five years, it shall be replaced by a plant of the same species, variety

and size within the planting season following such loss.

**Reason:** In the interest of visual amenity.

6. The areas of public open space shown on the revised plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

7. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility.

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

**Reason:** In the interest of public health.

9. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the occupation of the development.

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

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed

in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, dust minimisation measures, and off-site disposal of construction/demolition waste.

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

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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

**Reason:** In the interests of visual and residential amenity.

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

**Reason:** To comply with the requirements of Part V of the Planning and



Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

14. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

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

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

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Ciara Kellett

Senior Planning Inspector  
19<sup>th</sup> July 2018