



An
Bord
Pleanála

Inspector's Report ABP-301299-18

Development	A residential scheme of 39 no. two storey houses
Location	Veldonstown Road, Kentstown, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	AA170888
Applicant(s)	McAleer + Rushe Ltd.
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Inland Fisheries Ireland
Observer(s)	None
Date of Site Inspection	18 th July 2018
Inspector	Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 1.9965 ha, is located to the north of Kentstown in County Meath and is accessed from the Veldonstown Road (L-10133-0). The site is irregular in shape and currently comprises undeveloped grassland. A residential estate known as Glasheen adjoins the site to the east, while a residential estate known as Slán Duff View adjoins the site to the west. To the north are undeveloped lands in the control of the applicant which together with the appeal site form one large field. To the south are lands on which planning permission has been granted for community sports facilities (PL17.246165; Reg. Ref. AA150591).
- 1.2. The boundary along the Veldonstown Road comprises mature hedgerows and trees, and the site is traversed by a number of overhead powerlines. The River Nanny runs to the south of the Village, in a west-east direction.

2.0 Proposed Development

- 2.1. The proposed development, as amended on foot of a request for further information, consists of 39 two-storey houses, comprising:
 - 28 No. 3-bedroom semi-detached houses (House Types A – A4).
 - 5 No. 3-bedroom detached houses (House Types B and B1).
 - 3 No. 3-bedroom mid-terrace houses (House Types C1 and C3).
 - 3 No. 2-bedroom mid-terrace houses (House Types C2 and C4).
- 2.1.1. The proposed development also includes three detached single storey garages, 4,358 sq m of public open space, 78 car parking spaces and all associated infrastructure and site development works.
- 2.2. The application was accompanied by, inter alia, a Planning Report, letter of consent from the landowner, Architects Design Report, Traffic Statement, Flood Risk Assessment, Outline Construction Environmental Management Plan, Waste Management Plan, Archaeological Impact Assessment, Part V information and an Appropriate Assessment Screening Report.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Meath County Council decided to grant planning permission and the following summarised conditions are noted:

- C2: Permission granted for 38 dwellings. Dwelling No. 5 to be omitted and provided as public open space.
- C6: Revised boundary details to be submitted.
- C7: Archaeological monitoring.
- C8: Footpath and verge to be constructed over full frontage.
- C9: Lighting scheme to be submitted.
- C20: Applicant must sign a connection agreement with Irish Water prior to the commencement of development. Irish Water has provided the applicant with Pre-Connection Enquiry Feedback Letter Ref. CDSCOF2 – CDSCOF5 which outlined upgrade works required to facilitate a wastewater connection. The connection agreement shall include details of the applicant's contributions towards the network/wastewater treatment plant upgrades specified by Irish Water.
- C21: Revised foul drainage design required for houses 11, 12, 15, 16, 31 and 32 to ensure no individual connections run through third party lands.
- C22: CCTV survey to confirm capacity at proposed connection point.
- C24/C25: All works to comply with Irish Water Code of Practice/Greater Dublin Regional Code of Practice for Drainage Works, respectively.
- C27/C28/C29: Development contributions.
- C30: Bond.
- C31: Contribution towards Planning Authority's expenditure in monitoring construction phases of proposed development.
- C32: Special contribution of €30,000.

3.2. Planning Authority Reports

3.2.1. The Planning Officer's reports can be summarised as follows:

- The site is not within an identified flood zone.
- The scale of residential development is consistent with recommendations contained in the Kentstown Written Statement.
- Proposed development will result in additional population of c. 115 persons, which is below the 15% or 164 persons population increased for the lifetime of the Plan.
- Having regard to the layout, pattern of surrounding and permitted development it is considered that the proposed residential density of 20 dwellings per hectare is appropriate in this instance.
- Adequate public open space is proposed.
- Proposed development satisfies minimum room size and private open space requirements.
- Minimum rear garden length of 11m is observed throughout the scheme and in the case of opposing windows, the separation distance exceeds 22m.
- Proposed layout does not appear to present undue overlooking or overshadowing of either existing or proposed properties.
- Proposed development, by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on European Sites. Stage 2 AA is not required.
- The provision of lighting can be addressed by way of condition.
- Revised proposal is considered to be acceptable.
- Dwelling No. 5 should be omitted. There is an indicative future access point shown on the zoning map from the Glasheen Estate. Dwelling No. 5 would not facilitate such potential future access. This site should be left free from any residential development.
- Concerns of IFI were brought to attention of Water Services Section, who stated that Irish Water are in the process of appointing a contractor to carry

out upgrade works, that works are due to commence in Q2 2018 and that Irish Water are satisfied that a wastewater connection is feasible subject to the completion of these upgrade works.

3.3. **Other Technical Reports**

- 3.3.1. **Water Services:** No objection, subject to conditions.
- 3.3.2. **Housing Department:** No objection. Part V to be delivered through the provision of units on site.
- 3.3.3. **Fire Service:** No objection.
- 3.3.4. **Environment:** No objection, subject to conditions.
- 3.3.5. **Road Design Office:** No objection, subject to conditions.
- 3.3.6. **Public lighting:** Refusal recommended.
- 3.3.7. **Transportation:** €30,000 special contribution should be levied towards road widening and footpath provision to the R150.

3.4. **Prescribed Bodies**

- 3.4.1. **Irish Water:** No objection, subject to conditions.
- 3.4.2. **Department of Culture, Heritage and the Gaeltacht:** No objection, subject to condition regarding pre-development testing.
- 3.4.3. **Inland Fisheries Ireland:** Issues raised were as per appeal.

3.5. **Third Party Observations**

- 3.5.1. One third party observation was made. The issues raised can be summarised as follows:

- Overlooking and overshadowing of houses in Glasheen.
- Residents are of the view that the plot of land to the rear of proposed house No. 5 will be used as an access road. To allow vehicular traffic through Glasheen estate would be detrimental to the estate, create congestion and pose a danger to child safety.

- Lack of footpath and street lighting from the end of No. 1 Glasheen to the junction of the R150.
- Speed ramps or traffic calming required on Glen Road to the R150.

4.0 Planning History

4.1. Appeal Site

4.1.1. I am not aware of any planning history on the appeal site.

4.2. Surrounding Area

4.2.1. **ABP Ref. PL17.246165 (Reg. Ref. AA/150591):** Permission granted in 2016 on the adjoining lands to the south of the appeal site for a community sports facility comprising playing pitch, all-weather floodlit playing pitch, two tennis courts, new access road, playground, 4 No. temporary portacabins and all associated site works.

5.0 Policy Context

5.1. Meath County Development Plan 2013-2019

5.1.1. Kentstown is designated as a Village in the Settlement Hierarchy for County Meath. The role of such settlements is indicated as providing for a population of up to 1,000. The following Objectives, which relate to Villages, are noted:

- **SS OBJ 15:** To ensure that Villages in Meath cater for a local catchment for service provision. Future population growth in Villages shall be managed to ensure that they do not lead to unsustainable commuting patterns.
- **SS OBJ 16:** To ensure that Villages grow in a manner that is balanced, self sustaining and supports a compact urban form and the integration of land use and transport.
- **SS OBJ 17:** To ensure that in Villages, no proposal for residential development should increase the existing housing stock (including permitted units) of the village by more than 15% within the lifetime of the Development Plan.

- 5.1.2. The Kentstown Written Statement is contained within Volume 5 of the Development Plan. The 2011 population is stated to be 1,099, with an allocation of 60 No. units under the Core Strategy.
- 5.1.3. The appeal site, adjoining lands to the north which are in the same ownership, and adjoining lands to the south are zoned 'A2', "to provide for new residential communities with ancillary community facilities, neighbourhood facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy".
- 5.1.4. The adjoining lands to the north, and northern parts of the appeal site have the specific objective "Residential Phase II (Post 2019) applied to them. The Land Use Zoning Objectives Map for Kentstown indicates an access point to the appeal site from the existing residential development known as Glasheen to the east, and indicates an access point from the A2 and G1 zoned lands to the south.
- 5.1.5. The appeal site is not located in or in the vicinity of the Flood Zones A and B that are indicated on the Land Use Zoning Objectives Map.
- 5.1.6. The Written Statement states that "the existing residential zoned lands to the north west of the existing Glasheen Estate are sufficient to cater for the future needs of the area over the life of the Development Plan". It also states that the lands identified for residential use largely arise following the application of the sequential approach from the village centre allied to topographical considerations. It requires all designers of multiple residential developments within the Plan boundary to submit a Design Statement with their planning applications.
- 5.1.7. In relation to water and wastewater services, Section 2 state that:

"the Village is currently served by Kentstown waste water treatment plant. This plant has been designed to cater for a design capacity of 600 population equivalent (PE) and there is currently limited capacity available. There are no immediate plans to upgrade the waste water treatment plant; however this would be desirable in order to facilitate future development in the area."

The public water supply in Kentstown is served by the East Meath Water Supply Scheme. There is a total capacity to cater for 500 PE. There is currently limited capacity available; an upgrade of this supply to increase capacity would be desirable.

All development proposals shall be considered in the context of the available waste water and water supply capacity. It is accepted that the future development of Kentstown and the realisation of the household allocation from the Core Strategy may not occur until the water services constraints have been remedied.”

5.1.8. The following Policies are noted:

5.1.9. **Strategic Policy SP 2:**

- To operate an Order of Priority for the release of residential lands in compliance with the requirements of CS OBJ 6 of the County Development Plan as follows:
 - i) The lands identified with an A2 “New Residential” land use zoning objective corresponds with the requirements of Table 2.4 Housing Allocation & Zoned Land Requirements in Volume I of this County Development Plan and are available for residential development within the life of this Development Plan.
 - ii) The lands identified with an A2 “New Residential” land use zoning objective but qualified as “Residential Phase II (Post 2019)” are not available for residential development within the life of this Development Plan
- **WWS POL 1:** To actively pursue the provision of additional water supply for Kentstown to serve the existing population and any increases during the lifetime of the County Development Plan.
- **WWS POL 2:** To pursue the expansion in capacity of the Waste Water Treatment Plant in Kentstown in order to accommodate the current population and any population growth expected to occur during the lifetime of the County Development Plan.
- **RD POL:** Future residential development should integrate visually with the existing character of Kentstown.
- **CF POL 2:** To require as part of all new residential and commercial developments, and in existing developments where appropriate, provision to be made for facilities including community facilities and recreational facilities,

and to seek their provision concurrent with development. The Planning Authority shall seek the efficient delivery of community and social facilities in Kentstown commensurate with the needs of the resident population and that these facilities are developed.

- **UD POL 1:** To ensure that future residential development occurs in close proximity to existing services and facilities.
- **MA POL 3:** To require that cycle lanes be included in all new housing estates in Kentstown.

5.2. Natural Heritage Designations

- 5.2.1. The closest Natura 2000 sites to the appeal site are the River Boyne and River Blackwater SAC (Site Code 002299) and SPA (Site Code 004232) which are located c. 7.7km to the south west and c. 8km to the north west. The River Nanny, which flows to the south of Kentstown, enters the sea at the River Nanny Estuary and Shore SPA (Site Code 004158), c. 18km north east of the appeal site.
- 5.2.2. Balrath Woods pNHA is also located c. 1km north east of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was lodged by Inland Fisheries Ireland. The issues raised can be summarised as follows:
- Protection of aquatic ecosystems requires that river systems be protected on a catchment basis.
 - Article 5 of the 2009 Surface Water Regulations requires that a public authority, in performance of its functions, shall not undertake those functions in a manner that knowingly causes or allows deterioration in the chemical or ecological status of a body of surface water.
 - Article 28(2) of the Regulations states that a surface water body whose status is determined to be less than good shall be restored to at least good status

not later than the end of 2015. The status of the River Nanny at Kentstown is 'poor'. This should have been improved to at least good by 2015.

- Kentstown Wastewater Treatment Plant, which discharges to the River Nanny, has a design capacity of 800 PE, but there is wastewater for a population of 1089 PE entering the plant and it is therefore 36% overloaded.
- IFI is fearful that adding another 38 houses (116 PE) will have a further detrimental effect on the River Nanny by overloading it to 50% as the WWTP has a very poor record with regard to breaches of its operating licence.
- IFI refer to Board's decision in case PL2.248992, where permission was refused on the grounds of the inadequacy of Virginia WWTP to accept additional wastewater.
- IFI refer to 1st July 2015 judgment of the CJEU in case C-461/13 Bund fürUmwelt und Naturshutz Deutschland eV v Bundesrepublik Deutschland. The CJEU held that Member States are required to refuse authorisation for an individual project where it may cause a deterioration in the status of a body of surface water or jeopardise the attainment of 'good' status.

6.1.2. The appeal was accompanied by a copy of Irish Water's AER for the Kentstown WWTP for 2017 and a copy of the EPA's Wastewater Discharge Licence Audit Report for the plant.

6.2. Applicant Response

6.2.1. A response to the appeal was submitted on behalf of the applicant by Declan Brassil & Co. The issues raised can be summarised as follows:

- The upgrade of the Kentstown WWTP was recently permitted by the Planning Authority (Reg. Ref. AA170635) in response to capacity issues. Permission was granted to increase its capacity to 1500 PE and to provide storm water capacity. The Planning Report states that the development will prevent future incidents of non-compliance with the plant's operating licence.
- Applicant's engineers engaged with Meath County Council and Irish Water throughout the application process. A pre-connection enquiry was made for 60 houses on the subject lands in September 2017, too late for inclusion in the

planning application. Irish Water stated that a scheme of 60 houses can be facilitated in their network and that significant upgrades to the WWTP are required.

- Both Irish Water and Meath County Council are satisfied that the proposed scheme can be properly serviced. Correspondence between the MCC Planning Section and Water Services Section states that the WWTP works are due to commence in the second quarter of 2018. Irish Water is satisfied that a connection is feasible once the works have been completed.
- The permitted upgrades will be completed prior to occupation of the proposed dwellings.
- The upgrade works to the WWTP went out for tender in November 2017 and are due to be completed in late 2018.
- If the Board grants permission, the first units will be ready for occupation within 12 months of their decision. Occupation would therefore commence in Q3 2019 at the earliest, c. 9 months after completion of the upgrade works.
- Condition 20 requires the first party to undertake works to facilitate a wastewater connection in accordance with Irish Water's pre-connection enquiry feedback letter.
- Since the Planning Authority's decision, the applicant has made an application to Irish Water to identify precisely what works are required to facilitate the future connection. Through this application, the applicant can liaise directly with Irish Water.
- There is sufficient certainty that the works will be completed well in advance of the occupation of any units and on that basis the proposed development will not impact negatively upon the quality of the River Nanny.
- Appeal fails to consider the permitted upgrade works to the WWTP. These works will increase the capacity to 1500 PE, which more than adequate to accommodate the existing and additional loadings.

6.2.2. The applicant's response also included a report prepared by Arup Consulting Engineers, copy of correspondence from Irish Water and emails between sections of the Planning Authority.

6.3. Planning Authority Responses

6.3.1. The Planning Authority's response to the appeal can be summarised as follows:

- All matters outlined in the appeal were considered in the course of its assessment. The proposed development is consistent with policies and objectives set out in the Development Plan and Kentstown Written Statement.
- The issue of sewerage capacity has been suitably assessed and addressed. The Board will note the wording of Condition 20 which specifically refers to upgrade works which are required in order to facilitate a wastewater connection to the proposed development.
- The Board should be aware of recently permitted upgrade works at Irish Water's existing Kentstown Sewerage Treatment Works (Reg. Ref. AA/170635).
- The Board is asked to uphold the Planning Authority's decision.

6.3.2. The Planning Authority stated that they had no further comment to make on the applicant's response to the appeal.

6.4. Observations

6.4.1. None.

6.5. Other Responses

6.5.1. Appellant's Response to Applicant's Response to Appeal

6.5.2. Inland Fisheries Ireland submitted a response to the applicant's response to their appeal. The issues raised can be summarised as follows:

- IFI was not referred the application by Meath County Council and there was no pre-consultation carried out with IFI, where the applicant would have been informed about their concerns.
- IFI was aware that Irish Water were in the process of carrying out improvement works to the WWTP, but has had no independent data regarding the new design population equivalent for the WWTP or whether the works will

just serve to curtail any extraneous flows emanating from the plant to the receiving waters of the River Nanny.

- IFI note that the proposed storm tank is designed for future capacity of 1500 PE, however while this may deal with hydraulic capacity it is unclear regarding the potential of the plant to deal with any extra organic loading.
- In the meantime, IFI has to assume that the WWTP will remain overloaded, especially since the WFD status of the River Nanny at Kentstown is 'poor'. Any public body such as IFI, Irish Water or the Board have to bear in mind article 5 of the 2009 Surface Water Regulations.
- IFI ask the Board to refuse the application as it stands unless a condition is inserted that any connection should be postponed until the upgrading of Kentstown WWTP has been completed and commissioned to at least a full and verifiable design capacity of 1200 PE.

6.5.3. Applicant's Response to Planning Authority's Response to Appeal

6.5.4. Declan Brassil & Co. submitted a response on behalf of the applicant to the Planning Authority's response to the appeal. The issues raised can be summarised as follows:

- First party supports the Planning Authority's submission regarding sewerage capacity.
- First party is dedicated to complying with Condition 20, or any similar condition attached by the Board.
- Arup Consulting Engineers have been in contact with Irish Water before, during and since the Planning Authority's assessment, in order that any works required to service the proposed residential scheme may be undertaken as expeditiously as possible.

7.0 **Assessment**

7.1. I consider that the key issues in determining this case are as follows:

- Principle of Proposed Development and Compliance with Planning Policy.
- Wastewater Treatment.

- Design and Layout.
- Residential Amenity.
- Traffic and Access.
- Other Issues.
- Appropriate Assessment.

7.2. Principle of Proposed Development and Compliance with Planning Policy

- 7.2.1. The appeal site, and the adjoining lands to the north which are in the same ownership, are zoned 'A2', "to provide for new residential communities with ancillary community facilities, neighbourhood facilities and employment uses as considered appropriate for the status of the centre in the Settlement Hierarchy".
- 7.2.2. The adjoining lands to the north, and small areas of the appeal site have the specific objective "Residential Phase II (Post 2019)" applied to them. I note that none of the proposed houses are located within this Phase II area, although parts of the rear gardens of House Nos. 34 – 39 are within the Phase II area, as are parts of the public open space.
- 7.2.3. The Land Use Zoning Objectives Map for Kentstown indicates access points to the appeal site from the existing residential development known as Glasheen to the east, and from the A2 zoned lands to the south, upon which permission was granted in 2016 for community sports facilities (PL17.246165 refers). The applicant is not proposing to provide access from either of these access points, and this issue is addressed in Section 7.6 below.
- 7.2.4. Objective SS OBJ 17 seeks to ensure that in Villages, no proposal for residential development should increase the existing housing stock (including permitted units) of the village by more than 15% within the lifetime of the Development Plan. The Development states that the population of the Village in 2011 was 1,099, and I consider that the construction of 39 No. additional 2 and 3-bedroom houses would not increase the population of Kentstown by more than 15%.
- 7.2.5. I also note that the Core Strategy provides for an additional 60 units in Kentstown, and that the appeal site is identified in the Kentstown Written Statement as being

“sufficient to cater for the future needs of the area over the life of the Development Plan”.

- 7.2.6. In conclusion, I consider the proposed development to be consistent with the zoning objective applicable to the lands, and to be generally acceptable in principle, subject to further consideration of the planning issues identified in Section 7.1 above.

7.3. **Wastewater Treatment**

- 7.3.1. The applicant intends connecting the proposed development to the public foul network, which is treated at Kentstown Waste Water Treatment Plant (WWTP), c. 0.6km to the south east of the appeal site, and discharged to the River Nanny.
- 7.3.2. The appellant, Inland Fisheries Ireland, notes that the status of the River Nanny at Kentstown is ‘poor’ and that it should have been improved to at least ‘good’ status by 2015. The IFI further note that the Kentstown WWTP is currently overloaded and is operating significantly beyond its design capacity of 800 PE. They state that adding another 38 houses (116 PE) will have a further detrimental effect on the River Nanny. The IFI contend in this regard that the WWTP has a very poor record with regard to breaches of its operating licence, and in support of this position they have submitted copies of the Annual Environmental Report (AER) for the plant for 2017 and the EPA’s Wastewater Discharge Licence Audit Report for the plant.
- 7.3.3. In response, the applicant and the Planning Authority draw the Board’s attention to the recent granting of planning permission to Irish Water for upgrade works to the WWTP (Reg. Ref. AA/170635), which will increase its capacity to 1,500 PE. The applicant contends that the upgrade works will be completed well before any of the proposed houses are available for occupation.
- 7.3.4. The appellant subsequently asked the Board to refuse the application as it stands, unless a condition is inserted that any connection should be postponed until the upgrading of Kentstown WWTP has been completed and commissioned to at least a full and verifiable design capacity of 1200 PE.
- 7.3.5. The 2017 AER for the Kentstown WWTP states that the plant is currently both hydraulically and organically overloaded. It also states that installation of new inlet screening works and construction of a storm water holding tank has started and is due to be completed in Q4 2018.

- 7.3.6. The appellant makes reference to a previous decision of the Board in case PL02.248992, where the Board refused permission for a residential development in Virginia, Co. Cavan, on the basis that the proposed development would be premature by reference to the existing deficiencies in the provision of sewerage facilities. The Board's reasons and considerations in that case noted the existing constraints of the Virginia WWTP and the lack of certainty in respect of future capacity improvements.
- 7.3.7. As noted by the IFI, article 5 of the European Communities Environmental Objectives (Surface Waters) Regulations 2009 states that a public authority shall not, in the performance of its functions, undertake those functions in a manner that knowingly causes or allows deterioration in the chemical status or ecological status (or ecological potential as the case may be) of a body of surface water.
- 7.3.8. Having regard to the information on file, it is clear to me that the Kentstown WWTP is currently operating beyond capacity and that it would be inappropriate to permit any development that would result in additional wastewater load on the existing plant. However, it is also clear that planning permission has been granted to Irish Water for upgrade works to the WWTP that will increase its capacity, and that the works are either underway or are imminent. I am therefore satisfied that, unlike the Cavan case referred to by the IFI, there is sufficient certainty in respect of the capacity improvements and I do not consider that the proposed development should be refused permission on the basis of prematurity. Notwithstanding this, should the Board be minded to grant permission, I consider it necessary, in the interests of protecting surface water quality, aquatic habitats and species and meeting the Board's obligations under article 5 of the Surface Waters Regulations 2009, to include a condition requiring that no development is to commence until such time as the upgrade works to the Kentstown WWTP are completed and operational.
- 7.3.9. While the applicant contends that the works to the WWTP will be completed prior to occupation of the proposed dwellings, I do not consider it appropriate to include a condition regulating occupation rather than construction as such a condition would not be enforceable in my opinion, since the statutory planning system regulates development rather than occupation.

7.3.10. Finally, with regard to the particular technical requirements and conditions sought by Irish Water, and the requirement to contribute towards the WWTP upgrade costs, I note that the developer will be required to enter into a connection agreement with Irish Water, and that such matters can be addressed in any such agreement.

7.4. Design and Layout

7.4.1. I consider the design and layout of the proposed development to be broadly acceptable. While 36 of the 39 No. proposed houses comprise three-bedroom units (with the remaining 3 No. houses being two-bedroom units), there is a good mix of house types, including detached, semi-detached and terraced units. Modified house types are proposed at corner locations with additional window opes on the side elevations which will facilitate increased passive surveillance. The houses all comply with the minimum quantitative standards for unit size, room size and private amenity space, and the majority have either south or east-facing rear gardens. The areas of proposed public open space would be overlooked by new dwellings and raised tables are proposed at junctions as a traffic calming measure. I note that differing brick and render finishes are proposed in different parts of the development, which will assist in creating a degree of variety and visual interest. Taking all these aspects into consideration, I consider that the proposed development will offer a high quality of residential amenity to future occupants.

7.4.2. 4,358 sq m of public open space are proposed, which equates to c. 21% of the site area. I note that the Site Layout Plan shows an indicative layout for the future Phase 2 development to the north, and it appears that the applicant's intention is that the proposed public open space within this Phase 1 development will also serve the future Phase 2 development. The proposed gross density is c. 20 units per hectare, with a net density of c. 25 units per ha when the large areas of public open space are omitted. I note that Table 2.4 of the Development Plan indicates an average net density of 20 units per ha for Kentstown, and the Plan states that the density assigned to each centre has had regard to the place of the settlement in the county settlement hierarchy, existing and planned public transport investment in each centre and the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas'. I note, with regard to the Guidelines, that Section 6.11 states that densities in the range of 20 – 35 dwellings per ha are appropriate on edge-of-centre

village sites. Having regard to the site context, the provisions of the Development Plan and the Guidelines, I consider the proposed density is consistent with existing residential development in the vicinity and that it is appropriate on this edge-of-centre site within a designated 'Village' settlement.

- 7.4.3. I have considered the issues of connectivity and permeability with existing development in Section 7.6 below.
- 7.4.4. Finally, with regard to boundary treatments, I consider the front boundary treatments which generally comprise hedges and low rendered walls to be acceptable, however I note that concrete post and timber panel fences are proposed to the rear gardens. I do not consider that such fences are sufficiently robust or durable, and they have the potential to detract from residential and visual amenity over time as they degrade. I therefore recommend that, should the Board be minded to grant permission, a condition should be included requiring their replacement with rendered blockwork walls.

7.5. Residential Amenity

- 7.5.1. Having regard to the site context and the layout and alignment of the proposed houses relative to the existing residential development in Glasheen to the east and Slán Duff View to the west, and noting that the depth of the proposed rear gardens will ensure a separation distance greater than 22m between all directly opposing houses, I am satisfied that there will be no undue overlooking of existing or proposed houses.
- 7.5.2. Having regard to the height of the proposed two storey houses and the separation distances, I am also satisfied that no significant level of overshadowing of existing or proposed dwellings is likely to occur.
- 7.5.3. Subject to construction being undertaken in accordance with an agreed Construction Management Plan, which should include measures to control working hours, noise, dust and construction traffic mitigation measures, I am satisfied that the proposed development will not seriously injure the residential amenities of the area.

7.6. Traffic and Access

- 7.6.1. As noted above, the Land Use Zoning Objectives Map for Kentstown indicates access points to the appeal site from the existing residential development known as Glasheen to the east, and from the A2 zoned lands to the south, upon which permission was granted in 2016 for community sports facilities (PL17.246165 refers). The applicant is not proposing to provide access from either of these access points.
- 7.6.2. With regard to the connection to the lands to the south, the layout of the permitted community sports facilities development does not facilitate any connection to the appeal site. The issue was raised in the assessment of that proposal, and it appears to have been considered acceptable that access would be provided via an access point through the Glasheen estate, rather than via the access point through the sports facilities, both as indicated on the Zoning Map.
- 7.6.3. With regard to the indicative access point through the Glasheen estate, the position of proposed house No. 5 would prevent this access from being constructed. The applicant's engineers contended that the road within the Glasheen estate is too narrow to provide a safe, feasible access link and that the turning head beside house No. 6 could instead provide access to the permitted sports facility, if the facility was altered. Concerns were also expressed in the third party observation at application stage, that allowing vehicular traffic through the Glasheen estate would be detrimental to the estate, create congestion and pose a danger to child safety. The Planning Authority subsequently included a Condition requiring the omission of house No. 5 and the provision of the area as public open space.
- 7.6.4. I consider that the degree of connectivity and permeability that the proposed development provides to the surrounding area is not adequate, and I consider that access should be provided to the Glasheen estate in accordance with the Kentstown Zoning Map. However, given the existing context of the Glasheen estate, and noting the relatively close proximity of its access point onto the Veldonstown Road, relative to the proposed access point, I do not consider that vehicular access is necessary or warranted, and I consider that a pedestrian/cycle connection would be sufficient, with the remainder of the site of house No. 5 provided as landscaped public open space. Such a connection would be in accordance with the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009

and the associated Urban Design Manual, which seek to promote enhanced permeability for pedestrians and cyclists. If the Board is minded to grant permission, I therefore recommend that a condition be included, requiring the omission of proposed house No. 5 and its replacement with public open space and a pedestrian/cyclist connection to the Glasheen estate.

- 7.6.5. I note that Policy MA POL 3 require that cycle lanes be included in all new housing estates in Kentstown. The applicant is not proposing to provide cycle lanes on the basis that the proposed roads are 'local neighbourhood roads' on which cycle lanes are not considered necessary. The applicant's Planning Report makes reference to the National Cycle Manual, which states that where traffic volumes are low, cyclists can be integrated with vehicular traffic as long as motorists are aware of the presence of cyclists and will yield to them. The Manual identifies a number of benefits of integrated design, including increased driver awareness and freedom of movement for cyclists regarding access and egress. I consider that the applicant's approach is acceptable, and that the integration of cycle and vehicular traffic within what is a relatively small residential development is preferable from the perspective of driver awareness and discouraging excessive speeds.
- 7.6.6. With regard to the layout of the proposed development relative to the future Phase 2 development, I note that while the layout would generally facilitate the orderly development of the Phase 2 lands, subject to planning permission, the Site Layout Plan indicates narrow strips of landscaping at the site boundaries, blocking the proposed roadways. Notwithstanding that the lands to the north are currently in the same ownership, in my opinion this would have the potential to create 'ransom strips' that could jeopardise the future permeability and connectivity of the Phase 1 and Phase 2 lands. I further note that the Landscape Plan does not include these landscaping strips, and the applicant's intention is therefore somewhat unclear. Should the Board be minded to grant permission, I consider it appropriate in the interests of clarity and orderly development to require the roadways to be brought to the northern site boundary.
- 7.6.7. Finally, I note that there is currently no footpath on the southern side of the Veldonstown Road from a point to the east of Glasheen estate to the junction with the R150 Regional Road. Condition 32 of the Planning Authority's decision requires the payment of a special contribution of €30,000 in accordance with section 48(2)(c)

of the Planning and Development Act 2000, as amended, towards the provision of this public infrastructure which will facilitate the proposed development. I consider this condition to be reasonable and appropriate in the interests of traffic safety and recommend that it be included, should the Board be minded to grant permission.

7.7. Other Issues

7.7.1. Social Housing Provision

7.7.2. The proposed development comes within the provisions of Part V of the Planning and Development Act 2000 (as amended) for the provision of social housing. The applicant is proposing to provide 4 No. identified units on site, and a report from the Planning Authority's Housing Section has indicated that this is acceptable to them. I consider the applicant's proposal to be acceptable and a standard Condition requiring agreement with the Planning Authority should be imposed.

7.7.3. Archaeology

7.7.4. An Archaeological Impact Assessment (AIA) was submitted with the planning application. A desktop study and field survey did not identify any clear indication of archaeological potential, and the site is considered to be of low-moderate potential. The Assessment recommends that test trenching be carried out in advance of development. The Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht had no objection to the proposed development, but recommended that pre-development testing be carried out. Having reviewed the AIA, I would concur with the DCHG submission, and recommend that a suitable condition requiring archaeological testing and monitoring be included, should the Board be minded to grant permission.

7.7.5. Lighting

7.7.6. The Planning Authority's Public Lighting Section recommended that planning permission should be refused on the basis that inadequate information in relation to proposed street lighting had been provided in response to the request for further information. Having reviewed the information submitted, I would concur with the Planning Officer that this issue can be appropriately addressed by way of a pre-commencement condition, requiring detailed street lighting proposals to be submitted to the Planning Authority for agreement.

7.8. Appropriate Assessment

- 7.8.1. The closest Natura 2000 sites to the appeal site are the River Boyne and River Blackwater SAC (Site Code 002299) and SPA (Site Code 004232) which are located c. 7.7km to the south west and c. 8km to the north west. The River Nanny, which flows to the south of Kentstown, enters the sea at the River Nanny Estuary and Shore SPA (Site Code 004158), c. 18km north east of the appeal site.
- 7.8.2. The features of interest for the River Boyne and River Blackwater SAC are: Alkaline fens; Alluvial forests; River Lamprey (*Lampetra fluviatilis*); Salmon (*Salmo salar*); and Otter (*Lutra lutra*). The sole feature of interest for the River Boyne and River Blackwater SPA is the Kingfisher (*Alcedo atthis*). The features of interest for the River Nanny Estuary and Shore SPA are: Oystercatcher (*Haematopus ostralegus*); Ringed Plover (*Charadrius hiaticula*); Golden Plover (*Pluvialis apricaria*); Knot (*Calidris canutus*); Sanderling (*Calidris alba*); Herring Gull (*Larus argentatus*); and Wetland and Waterbirds.
- 7.8.3. An Appropriate Assessment Screening Report was submitted with the planning application. The Report notes that there is no direct hydrological link between the appeal site and the River Boyne and River Blackwater SAC/SPA. It notes that otter are likely to use the River Nanny and its network of drains, but that the appeal site is unlikely to be used due to its remove from the River. Kingfisher have been recorded in the same 2km grid square as the appeal site, but the drain along the northern boundary of the appeal site is not considered likely to be utilised by Kingfisher due to its shaded and heavily vegetated nature. On this basis, the AA Screening Report considers that there is no pathway for impacts on qualifying habitat or species. With regard to the River Nanny Estuary and Shore SPA, the Report considers that it is of sufficient distance downstream that effects are considered unlikely.
- 7.8.4. The AA Screening Report concludes that the proposed development poses no likely risk of significant effects to Natura 2000 sites within a 10km zone of influence, and that it does not require progression to second stage Appropriate Assessment. The Planning Authority concurred with this conclusion.
- 7.8.5. While I would concur with the conclusions of the AA Screening Report in respect of the River Boyne and River Blackwater SPA and SAC, I am not satisfied, beyond reasonable scientific doubt, that the construction of the proposed development, in

the absence of the upgrade of the Kentstown WWTP, would not result in significant effects on the River Nanny Estuary and Shore SPA in the light of the conservation objectives of the site, notwithstanding its substantial separation distance from the appeal site.

- 7.8.6. However, noting that Irish Water's proposed upgrade works to the WWTP have been permitted and appear to be imminent, I consider that, subject to compliance with a Condition restricting the commencement of development until the permitted upgrade works are completed, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site Nos. 02299, 004232, 004158, or any other European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions as set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature and scale of the proposed development, to the pattern of development within the vicinity of the site, and having regard to the provisions of the Meath County Development Plan 2013 – 2019 and the Kentstown Written Statement contained therein, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or other amenities of the area, would not be prejudicial to public health, and would be acceptable in terms of traffic 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 25th 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 proposed development shall be amended as follows:-
 - (a) House number 5 shall be omitted, and the resultant area shall be provided as public open space with a pedestrian and cycle link to the Glasheen estate to the south east.
 - (b) The strips of public amenity space shown on the Proposed Site Plan submitted to the Planning Authority on the 25th day of January 2018 (drawing No. 2437-AL-0-200A) which block the proposed road connections to the lands to the north (indicated as the Phase 2 area), shall be omitted, and the roadways shall be continued to the northern site boundary without obstruction.
 - (c) Enclosed bin receptacles shall be provided for mid-terrace units.
 - (d) All of the rear gardens of houses shall be bounded by concrete block walls 1.8 metres in height, which shall be capped and rendered on both sides, except where they bound open space areas or footpaths, when the walls shall be two metres in height. Concrete post and concrete/timber panel fences shall not be used.

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

Reason: In the interests of visual and residential amenity and orderly development.

3. Construction of the proposed development shall not commence until the upgrade works to the Kentstown Wastewater Treatment Plant permitted under Reg. Ref. AA/170635 are completed, commissioned and operational, the plant has available capacity to cater for the proposed development and the developer has been informed of these facts in writing by the Planning Authority and/or Irish Water.

Reason: In the interests of public health and environmental protection and because it is considered that the construction of the development would be premature pending the provision of necessary upgrades to existing sewerage services to fully cater for the effluent from the development.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colours shall be blue-black or dark grey only, including ridge tiles.

Reason: In the interest of visual amenity.

5. The internal road network serving the proposed development, including turning areas, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

6. Proposals for a development/estate name, house and unit 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 signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

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

7. 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.

8. The development hereby permitted, including all roads, footpaths, and public lighting, shall be carried out in accordance with the standards and requirements of the planning authority for taking in charge. The development shall be maintained by the developer until taken in charge by the authority and shall not be operated or maintained by a private management company.

Reason: In order to comply with national policy in relation to the maintenance and management of residential estates, and to ensure that the development, when completed, can be taken in charge by the planning authority.

9. The areas of open space shown on the lodged 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.

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 noise and dust management measures, measures to prevent pollution to local watercourses, and off-site disposal of construction/demolition waste.

Reason: In the interests of clarity, orderly development and amenity.

11. 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. All existing overground cables crossing or bounding the site shall be undergrounded as part of the site development works.

Reason: In the interests of visual and residential amenity.

12. A construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and for storage of deliveries to the site.

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

13. 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.

14. 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 making available for occupation of any house.

Reason: In the interest of amenity and public safety.

15. The landscaping scheme shown on drawing No. 300, as submitted to the planning authority on the 25th day of January 2018, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season

with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

16. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interests of residential amenity and proper waste management.

17. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site (including archaeological testing) and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

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

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in situ or by record) and protection of any archaeological remains that may exist within the site.

18. 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.

19. 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.

20. 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.

21. The developer shall pay the sum of €30,000 (thirty thousand euro), updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office, to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000, in respect of road widening and the provision of a footpath from the L-10133-0 Local Road to the R150 Regional Road. This contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning

authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Niall Haverty
Planning Inspector

25th July 2018