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<b>Development</b>	Permission for mixed-use development comprising the renovation of Protected Structures for cultural/commercial uses, new creche building and 99 no. houses.
<b>Location</b>	The Island, Skirteen, Portlaoise Road, Monasterevin, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	18/293
<b>Applicant(s)</b>	Michael Dunne
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Michael Dunne
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	27 <sup>th</sup> July 2019
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 5.59ha, is located to the west of the town centre of Monasterevin, Co. Kildare, on the Portlaoise Road – but within the confines of the town: on the west side of the Barrow River. The site is undulating – with a fall of approximately 5.0m – generally from west to east. It currently comprises rank agricultural land and a complex of older stone buildings (former Charter School – referred to locally as ‘The Hulk’), set back a short distance from the R445 (former N7). The agricultural part of the site comprises one large field; with a smaller field to the south of it – separated by a mature hedgerow with mature trees. There is a quadrangular walled garden to the rear of the complex of buildings – the boundaries of which are ivy/elder/bramble-infested, broken-down, stone walls. There is a range of ruinous outbuildings along the southwestern side of this walled garden area. There are a number of electricity lines traversing the site – supported on single timber poles.
- 1.2. The former Charter School building is principally of three storeys (with two-storey sections to the rear), and retains some original fabric, after conversion to warehouse use c.1870. A pair of two-storey flanking houses were erected on either side of the main building to provide for teacher accommodation; c.1840. The one to the northeast has been altered out of all recognition and is in a poor state of repair – notwithstanding its more recent tiled roof. The house to the southwest is in a tumble-down state. The complex is no longer used and is in a parlous state – as indicated by the many photographs on the file. Some attempts have been made to repair the slate roof of the main building, using corrugated iron sheeting.
- 1.3. Access to the site is from a short cul de sac laneway (55m long); off the R445 Regional Road. This narrow laneway forms a type of causeway linking the slightly elevated R445 with the site of the former Charter School. The laneway is somewhat overgrown – but passable for farm vehicles. The 50kph speed restriction applies in this area. There is a single, unbroken, white line in the centre of the R445 at this location. There is public lighting and there are public footpaths on either side of the road. The road was heavily trafficked on the date of site inspection – a Saturday afternoon.
- 1.4. To the north, the site abuts the remainder of the large field (which comprises most of the site) – the boundary with which is undefined. To the east, the site abuts

agricultural land – the boundary with which is a gapped hedgerow with some mature trees. This land to the east is undulating – with dredged spoil from the Barrow River forming a kind of levee along the river bank. There is some scrub woodland within this area. To the southeast, the site abuts the R445 – the boundary with which is a mixture of low wall – (part stone, part concrete block), metal crash barrier and timber post & barbed-wire fencing: there is mature scrub vegetation (including some mature trees) backing this boundary – screening the former Charter School from view from the road. There is open ground on the opposite side of the R445 at this location – in use for storage of chopped timber. To the south, the site abuts a large, detached bungalow site – the boundary with which is mature trees and an hedgerow. To the southwest, the site abuts the Barrow Close housing estate – the boundary with which is a 2.0-2.2m high concrete block wall, which is capped and plastered. To the northwest, the site abuts a towpath of the Grand Canal (Barrow Line) – the boundary with which is a mature hedgerow with some mature trees. This hedgerow effectively screens the site from view from the canal. There is currently no access from the appeal site to the canal bank.

- 1.5. The applicant indicates blue-line ownership of lands to the north and east of the appeal site – extending as far as the bank of the Barrow River. This area forms one agricultural unit, over which horses currently have uninterrupted access. There is a fenced-off drinking area for animals into the river. There are a number of manholes within the appeal site and wider blue-line boundary – indicating the presence of sewer lines. There is a four-arch culvert on the R445 – immediately to the east of the roadside boundary of the appeal site. This structure drains a flood channel of the Barrow River. The ground in the vicinity remains marshy underfoot – where the appeal site proper is dry underfoot: the exception is a low-lying scrub area immediately adjacent to the R445 (to the west of the causeway access). There is a very obvious level difference between the appeal site and the Barrow River floodplain lands to the east of it.

## 2.0 Proposed Development

- 2.1. Permission sought on 16<sup>th</sup> March 2018, for mixed-use development comprising the following elements-

- Renovation (1,550m<sup>2</sup>) of Protected Structures (former Charter School and associated house) and associated buildings, to provide for the following-
  - Craft retail/café space on ground floor of former Charter School.
  - Craft exhibition space, community meeting room, office and toilet facilities on first floor of former Charter School.
  - Historic exhibition space, offices and classroom on second floor of former Charter School.
  - Glazed connecting corridor from the former Charter School to proposed three-storey stair/lift core to the rear of the block.
  - Renovation of two adjacent former dwellings (Blocks A & B); for craft studio spaces (271m<sup>2</sup> total).
  - Refurbishment of two existing outbuildings along southwest side of walled garden for storage use (179m<sup>2</sup>) and associated facilities for proposed allotment area and proposed public market (87m<sup>2</sup>).
  - Car-parking.
- Single- and two-storey creche building (367m<sup>2</sup>), with associated car-parking and play areas.
- 99 no. houses – comprising 11 no. two-bedroom, 69 no. three-bedroom and 19 no. four-bedroom units; in a mixture of two- and three-storey, detached, semi-detached and terraced form.
- Surface water outfall to Barrow River to northeast of site – traversing lands with the ownership of the applicant. Two underground retention tanks (1,596m<sup>3</sup>) are proposed, together with hydrocarbon interceptor and ‘Hydrobrake’ control mechanism: to limit discharge to 12.4 l/s.
- Foul waste discharge to existing manhole to northeast of site – within lands in the blue line ownership of the applicant. Submersible pump to be used.
- Water supply from 150mm diameter public mains within Portlaoise Road.
- New vehicular access to the site from R445, and retention of existing causeway access for pedestrian/bicycle use.

- Removal of section of boundary wall on Portlaoise Road, and setback by 4.5m – to allow for creation of a right-turning lane into the site from the R445.

2.1.1. The application is accompanied by the following documentation of note-

- Natura Impact Statement – dated December 2017.
- Drainage Design calculations.
- Flood Risk Assessment – dated December 2017.
- Architectural Heritage Assessment – dated October 2017.
- Transportation Assessment Report – dated 29<sup>th</sup> November 2018.
- Road Safety Audit – dated 30<sup>th</sup> November 2018.

2.2. Following a substantial request for additional information (51 items), revised proposals were received on 21<sup>st</sup> December 2018, as follows-

- Reconfiguration of the southwestern portion of the site, to provide for improved open space in this area.
- Omission of some on-street, and provision of curtilage parking for houses.
- Schematic layout for potential development immediately to the north of the site – on lands in the blue line ownership of the applicant.
- Details of area of private open space associated with each house.
- Reduction in the amount of brick finish on buildings.
- Contiguous elevations from positions around the site.
- Proposed boundary treatments and storage provision for houses.
- Indication of trees and hedgerows to be retained – including tree survey.
- Details of parking to be provided for the cultural/commercial elements.
- 16 no. covered bicycle parking bays for the cultural/commercial elements.
- Corten steel finish for the vertical three-storey lift/stair core to the rear of the former Charter School.
- Area in the east of the site (4,400m<sup>2</sup>) will require a maximum of 800mm of fill. Only this area in the east of the site is at risk of flooding. Fill will be sourced from within the blue-line ownership of the applicant.

- Details of site investigation works for water table – at 3.60-3.85m below ground level of the site, within BH5: in summer.
- Minimum 500mm freeboard above flood levels will be observed for finished floor level of all houses.
- 1.2m high railings proposed along the eastern boundary hedgerow of the site.
- Details of Part V housing units within the scheme.
- Traffic-calming measures on the R445.
- Bicycle connectivity is provided at the site entrance and at the Grand Canal (Barrow Line).
- Revised Stage 1 & 2 Road Safety Audit.
- Preliminary Construction Management Plan.
- Swept path analysis for trucks.
- Revised road width for main access road (first section of 60m).
- Details and specifications of street lighting.
- Monasterevin WWTP has adequate capacity to deal with this development – 5,000 p.e. capacity.
- Inadequate soil infiltration exists on site – so drainage system has been designed for all hard surfaces.
- Lands to the north of the site will accommodate a mixture of apartments and houses – estimated at 33 no. units.
- Details of surface water drainage calculations.
- Surface water discharge to Barrow River at 57.3m OD (revised location).
- Location of proposed flow restriction device on surface water outfall – ‘Hydrobrake’ mechanism in MH1.
- Details of proposed service pipe extensions for lands to the north of the site.
- Design flows for foul sewer.
- Applicant willing to accept a requirement for a wayleave for a 375mm diameter foul sewer and a 180mm watermain which traverse the southeastern

corner of the site. At the time of construction of the foul sewer, provision was made to connect into it for development on this site.

- Details of grease traps for creche and café units.

2.2.1. The response submission is accompanied by the following documentation of note-

- Report of NRB Consulting Engineers in relation to roads issues – dated 27<sup>th</sup> November 2018.
- Revised Stage 1 & 2 Road Safety Audit – Bruton Consulting Engineers – dated November 2018.
- Preliminary Construction Management Plan – NRB Consulting Engineers – dated November 2018.
- Bat Survey Report – Scott Cawley – dated 1<sup>st</sup> November 2018.
- Biodiversity Enhancement Measures – Scott Cawley – dated 27<sup>th</sup> September 2018.
- Tree Survey – Patrick Gleeson – dated 24<sup>th</sup> July 2018.
- Geophysical Survey Report – J.M. Leigh Surveys – dated 18<sup>th</sup> September 2018.
- Site Investigation Report – Irish Drilling Ltd. – dated August 2018.
- Business Organisation Plan for the commercial element of the scheme – John P. Burke & Co. – dated 10<sup>th</sup> December 2018.
- Landscape Specification & Maintenance Works – Landmark Designs – undated.
- Visual Impact Assessment for former Charter School – John Greene Architect – dated November 2018.
- Series of 12 no. A3 photomontages.

2.3. Following a substantial request for clarification of additional information (18 items), revised proposals were received on 15<sup>th</sup> February 2019, as follows-

- Justification for housing layout in vicinity of adjoining Barrow Close.
- There will be no clear vista between the former Charter School and the Grand Canal (Barrow Line), arising from differences in level (the building is 5.5m

below the level of the towpath) and the presence of a mature hedgerow along the towpath boundary.

- Units 53 & 54 have been brought forward. Units 57 & 58 and units 65 & 66, have been moved forward.
- Storage space within all house types is now submitted.
- Details of trees to be retained/removed.
- The requirements of the LAP for the former Charter School are not economically viable. The applicant has examined the proposal; and there is no commercial case for craft studios within the building. The applicant is prepared to restore the building, by making it water-tight. This will involve repair to the roof, replacing the windows and making good the façade. The applicant requests that the LA take charge of the building. The applicant suggests a phasing for the renovation of the building in association with the construction of houses in tranches/phases.
- Borehole testing in BH5 indicated a groundwater level of 1.25m.
- Details of boundary railings (1.1m high) and pedestrian gates to facilitate limited access to Barrow floodplain.
- Insufficient time to prepare a Tree Protection Plan – and request that this be dealt with by way of condition attached to any grant of planning permission.
- Hydrocarbon interceptors are provided for both inflows to the surface water attenuation tank.

2.3.1. The submission is accompanied by the following documentation of note-

- Report from Punch Consulting Engineers – dated February 2019 – Site-Specific Flood Risk Assessment.
  - As part of development works, developer will clear debris from the masonry bridge on the R445 – immediately adjacent to the existing former Charter School entrance.
  - CFRAMS mapping shows the extent of flooding in the area – located to the east of the site – between it and the Barrow River. A wall along the northeastern side of the current access to the former Charter School



acts as a barrier; and prevents flood waters from inundating the roadside portion of the current appeal site. Modelling carried out for flood zone mapping for the Monasterevin LAP, did not include this barrier wall and, therefore, showed the flood area extending across the roadside portion of the appeal site. No development is proposed in this area. No part of the development is within the CFRAMS flood zone – with the exception of part of the road along the eastern site boundary. If the aforementioned wall should fail, then, as indicated by surveyed site levels, the area of the site adjacent to the Portlaoise Road would flood (including part of the creche site). Ground levels for the access road in this area will be raised, to ensure that there will be no flooding. All residential development is located in Flood Zone C. Finished floor levels of houses will be 300mm above 1-in-1,000-year flood event.

- Flood mitigation measures include raised finished floor levels, attenuation tank (just one now proposed: with capacity of 1,260m<sup>3</sup>) and a non-return valve on the surface water outfall, to ensure that water does not back-up the pipe during a storm event.
- Compensation flood storage within the landholding is to be provided to the north of the site (alongside lands identified as a possible extension to residential development). The combined amount (from the eastern boundary and the access road off the Portlaoise Road) would be equivalent to 175m<sup>3</sup>.
- Report of Scott Cawley – dated 14<sup>th</sup> February 2019, relating to biodiversity.
  - Hedgerow survey carried out on 12<sup>th</sup> February 2019. Eastern hedgerow is approximately 280m in length – comprising mostly blackthorn, hawthorn and hazel. In addition, there are two mature beeches, one ash and one sycamore. The hedgerow is not continuous. The broken hedgerow is isolated and not connected to other hedgerows/scrub within the site. Management has been neglected, and the hedgerow is in a poor condition. The ecological value of this feature is not high. It is to be removed in its entirety – just one semi-mature beech tree being retained (notwithstanding that it is a

townland boundary). A new hedgerow of native species will be planted along this boundary.

- There are no amenity plans for usage of the lands between the proposed housing and the Barrow River. No works (other than the laying of sewer pipes) are to take place within this area. Construction works have potential to impact on Otter and Desmoulin's whorl snail: impact on these species was evaluated in the NIS submitted. There is no need for a Conservation Management Plan.
  - A pre-construction Badger survey will be carried out on the site – arising from presence of a disused sett.
- Details of costing for construction of 10 no. Part V housing units.

### 3.0 Planning Authority Decision

By Order dated 14<sup>th</sup> March 2019, Kildare Co. Council issued a Notification of decision to refuse planning permission, for 3 no. reasons, which can be summarised as follows.

1. The preponderance of suburban housing units fails to comply with the specific zoning objective (General Development) for the site – set down in the Monasterevin LAP, which refers to a 'limited level of residential development'. The development would contravene the zoning.
2. Residential development is considered to be substandard and an over-development of the site. There is considered to be excessive on-street parking; some units are located within a floodplain; poor disposition and quality of open space; poor integration with the Grand Canal (Barrow Line) and woodland and amenity characteristics of adjacent lands; poor relationship between houses and access points to the canal. Development is not in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the Kildare County Development Plan 2017-2023.
3. Removal of 280m length of hedgerow which has historical landscape value and the cluster of mature trees along the entrance point would be contrary to Policies NH 1, GI 8, GI 9 and GI 13 of the County Development Plan, and

would result in a loss of natural habitats which would seriously injure the visual amenities of the area.

## 4.0 Planning History

**Ref. 17/1428:** Application by Michael Dunne for mixed-use development, similar to the development the subject of this current appeal, was deemed invalid.

**Ref. 17/26:** Permission refused, for 9 no. reasons, for mixed-use development, which comprised the renovation of the former Charter School for use as craft centre/studios/exhibition space with glazed connecting corridor to a 60-bed nursing home (within walled garden area to rear of main block); shared-living redevelopment of two houses flanking the former Charter School; car-parking; creche; and 115 no residential units.

**Ref. 16/1363:** Refers to incomplete application for mixed-use development along the lines of application ref. 17/26 above.

**Ref. 05/121:** Permission granted for construction of 229 houses on a larger site adjacent to former Charter School. On appeal to An Bord Pleanála (**PL 09.216802**) by 1<sup>st</sup> and 3<sup>rd</sup> Parties, permission was granted on 28<sup>th</sup> November 2006. This permission was subject to Judicial Review in relation to condition no. 12, which restricted housing development on lands adjacent to the Barrow River, which were considered to be a floodplain. The relief sought by the applicant was turned down, in a decision dated 27<sup>th</sup> February 2008. This permission was never implemented.

**Ref. 03/408:** Permission granted for renovation of former Charter School for commercial uses and to construct 387 no. dwelling units on a larger site, of which the current appeal site forms part. On appeal by 1<sup>st</sup> and 3<sup>rd</sup> Parties to An Bord Pleanála (**PL 09.205667**) permission was refused on 21<sup>st</sup> July 2004.

## 5.0 Policy Context

### 5.1. National Planning Framework 2018

This document sets out a number of national objectives, of which the following are of note-

- Objective 11: to favour development that can encourage more people to live or work in existing settlements.
- Objective 27: to prioritise walking and cycling accessibility to existing and proposed development.
- Objective 33: to prioritise the provision of new homes that can support sustainable development.
- Objective 35: to increase residential density in settlements.

## 5.2. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas 2009**

This document sets out general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars; and to provide residents with quality-of-life in terms of amenity, safety and convenience. Chapter 6 deals with small towns and villages – such as Monasterevin. New developments should contribute to compact towns. The scale of new residential schemes should be in proportion to the pattern and grain of existing development. Section 6.11, in relation to ‘edge-of-centre’ sites states-

*The emphasis will be on achieving successful transition from central areas to areas at the edge of the smaller town or village concerned. Development of such sites tend to be predominantly residential in character and given the transitional nature of such sites, densities to a range of 20-35 dwellings per hectare will be appropriate including a wide variety of housing types from detached dwellings to terraces and apartment style accommodation.*

A design manual accompanies the Guidelines, which sets out 12 principles for urban residential design.

## 5.3. **Development Plan**

The relevant document is the Kildare County Development Plan 2017-2023. Map Ref. V1-12.5 indicates that the former Charter School and the walled garden to the rear of it, comprise a detached part of the Monasterevin Architectural Conservation Area (ACA) – the principal portion of which is encompasses the town centre –

located some way to the east and northeast. Section 12.7 deals with ACAs. Policy ACA 2 states-

*Ensure that any development, modifications, alterations, or extensions within an ACA are sited and designed appropriately, and are not detrimental to the character of the structure or to its setting or the general character of the ACA and are in keeping with any Architectural Conservation Area Statement of Character Guidance Documents prepare for the relevant ACA.*

#### 5.4. **Monasterevin Local Area Plan 2016-2022**

This site is within the boundary of this LAP.

- Within Map Ref. 1, the majority of the site is zoned Objective T – ‘General Development’. This is a specific zoning relating to ‘The Hulk’ site and a small area of land immediately to the north of the current appeal site, and states-  
*This zoning allows for a mix of uses. In this zone it is important to avoid abrupt transitions in scale and use at the boundary of adjoining land use zones and also to avoid developments that would be detrimental to the visual amenity and architectural/historical significant [sic] of the structure and it’s curtilage.*

*It is envisaged that The Hulk and surrounding area would offer a mix of attractions, arts and crafts studios, workshops, local artisan food/beverage producing and education and leisure amenities, enhanced river walkways and connections to the town centre, with a limited level of residential development. Any development of the site should have spin-off benefits for Monasterevin in terms of increased visitor numbers, local employment opportunities and spin-off trade into the community. The Council will encourage proposals to establish a unique, vibrant cultural amenity, commercial and creative hub for Monasterevin while having regard to the history, unique character and architectural heritage of The Hulk and its curtilage.*

*Development of the lands which the assess serves shall be accompanied by a Site Specific Flood Risk Assessment for the access to the site. This assessment shall:*

- 1) *Indicate and quantify loss of floodplain storage arising from the development proposal;*
  - 2) *Provide compensatory storage located within or adjacent to the proposed development;*
  - 3) *Indicate measures to ensure that water vulnerable elements of the development are above flood risk zones A and B insofar as possible and that access for emergency services is provided at all times; and*
  - 4) *Ensure that existing flow paths for flood waters will not be compromised.*
- The Land use Zoning Matrix (Table 18), indicates that dwelling, creche, community/recreational, cultural, and tourist-related uses are 'Permitted in principle' within the Objective T zoned lands.
  - A small portion of the appeal site, adjacent to the Portlaoise Road, is zoned Objective F – 'Open Space & Amenity'. Within this zoning, creche use is 'Open for Consideration'.
  - The Portlaoise Road is indicated for Street/Road improvements.
  - The Grand Canal (Barrow Line) is indicated as a Local Greenway Route.
  - Map Ref. 3 indicates that a Site-Specific Flood Risk Assessment is required for developments within areas at risk of flooding. [This includes the area between the former Charter School and the R445 – and includes the site of the proposed creche].
  - Table 14 contains the Record of Protected Structures within the town – of which there are two within the site boundary-
    - B21-29 – Monasterevin Charter School (former), The Hulk: Charter School (former).
    - B26-03 – Monasterevin Charter School (former), The Hulk, Monasterevin: House.
  - Map Ref. 5 indicates that the Grand Canal (Barrow Line) is a proposed Natural Heritage Area (pNHA).

- Map Ref. 5 indicates that there are trees for preservation immediately to the east of the former Charter School building.
- Treelines along the Grand Canal and to the southwest of the former Charter School are specifically indicated on Map Ref. 6 (Green Infrastructure).

## 5.5. Natural Heritage Designations

The site is not within any natural heritage designation. The closest such is the Grand Canal proposed Natural Heritage Area (pNHA), which forms the northwestern boundary of the site. The closest European site is the River Barrow and River Nore SAC (Site code 002162) located on the opposite side of the R445 Regional Road – some 15m from the closest part of the site. The SAC extends along the Barrow River through Monasterevin, and includes some lands on either riverbank. It is proposed to discharge surface water into the Barrow River to the northeast of the site – the discharge point itself being immediately adjacent to the SAC.

## 5.6. EIA Screening

Having regard to nature of the development, comprising a sub-threshold residential scheme (99 no. houses) with some craft/studio uses, on appropriately-zoned lands, where public piped services are available; there is no real likelihood of significant effects on the environment arising from the proposed development. The EIA threshold for housing developments is 500 dwelling units; whilst for mixed-use developments in urban areas, it is 20ha for a site such as this one. I note the area of the proposed site is 5.59ha. The need for environmental impact assessment can, therefore, be excluded at preliminary examination, and a screening determination is not required. A Natura Impact Statement accompanied the application to KCC.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The appeal from Declan Brassil & Co. Ltd, agent on behalf of the applicant, Michael Dunne, received by An Bord Pleanála on 10<sup>th</sup> April 2019, can be summarised in bullet point format as follows-

- The application has been made – to address criticisms of the former application on this site – for which permission was refused for 9 no. reasons (ref. 17/26).
- Public open space is provided at the rate of 18.5% of the residential area.
- The scheme has a low residential density of 22 units per ha, in order to respect the character of the former Charter School.
- Floor areas and storage areas for houses meet the minimum requirements.
- Car-parking is provided at the rate of 2 spaces per house and a number of additional spaces for visitors. Most parking is provided for within the curtilage of houses.
- The only development within lands zoned Objective F, are roads, car-parking and landscaping.
- The uses proposed for lands zoned Objective T, comply with the requirements of the LAP.
- The site is a short walk from all the amenities offered within the town centre.
- The proposed development is well connected to the amenities of the Grand Canal (Barrow Line).
- The number of houses proposed is substantially less than the 179 dwellings previously permitted by An Bord Pleanála (ref. PL 09.216802) on lands which included the subject appeal site and, therefore, represents an appropriate development response for this unique site.
- Six different house types are proposed.
- The development will be served by a creche.
- The development provides for extensive renovation and re-use of Protected Structures.
- Green infrastructure in the area has been maintained and augmented: as many mature trees as possible are to be retained.
- The initial assessment of the PA was that the scheme accorded with the zoning objectives and requirements. The design of the development was



altered at the request of the PA, but has not so much changed, so as to alter the initial appraisal.

- A high level of residential amenity is afforded to future residents.
- Pedestrian connectivity has been prioritised throughout the scheme.
- Retaining the maximum amount of vegetation on site has ensured that the sylvan character of the area will be maintained.
- A Site-Specific Flood Risk Assessment was undertaken. No dwelling-house is located within an area at risk of flooding.
- It is open to the Board to attach conditions to modify the layout or to seek additional information, under the provisions of section 132 of the Planning and Development Act, 2000.
- The hedgerow referred to in reason for refusal no. 3 was surveyed and was not found to be of significance. It will be replaced by a hedgerow of native species – a little way further to the east. One young beech tree within the old hedgerow is to be retained.

6.1.2. The appeal is accompanied by the following documentation of note-

- Report from Clarke Engineers/Architects (dated 9<sup>th</sup> April 2019).
  - On-street parking only applies to less than one third of the housing units proposed.
  - Safe pedestrian routes permeate the entire scheme.
  - Units 47-51 are not located within an area liable to flooding. Measures were put forward to raise the level of the access road in the vicinity of these houses, by way of clarification of additional information submission, on 15<sup>th</sup> February 2019.
  - A comprehensive landscaping plan has been submitted with the application.
  - The open space for the development, at 18.5%, excludes the walled garden area to the rear of the former Charter School.
  - Development of this site is restricted by the presence of Protected Structures, the Grand Canal (Barrow Line) and a floodplain associated

with the Barrow River – and the need to limit the impact on the adjacent pNHA and SAC.

- The hedgerow on the Grand Canal (Barrow Line) boundary is to be retained – except to allow for provision of 3 no. pedestrian/bicycle access points.
  - The former Charter School will provide a sort of village centre for the development. Allotments are provided for within the walled garden area. Other market and community uses will be facilitated.
  - The standards of ‘Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes & Sustaining Communities’ (2007) and of the Development Plan, are adhered to in relation to room sizes and storage provided.
  - The development in no way conflicts with the principles set out in the ‘Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas’ 2009.
- Site layout plan to scale 1:500.

## 6.2. Planning Authority Response

There is no response from Kildare Co. Council, to the grounds of appeal submitted.

## 6.3. Further Responses

6.3.1. An Bord Pleanála referred to the appeal to the following Prescribed Bodies for comment-

- Inland Fisheries Ireland.
- An Taisce.
- Heritage Council.
- An Chomhairle Ealaíon.
- Fáilte Ireland.

6.3.2. There was one response, from An Taisce, received by An Bord Pleanála on 30<sup>th</sup> May 2019, which indicates that the decision of the PA is supported. Additional reasons

for refusal would be- a) adverse impact on the Barrow floodplain, and b) adverse impact on the setting of the former Charter School (a Protected Structure).

## **7.0 Assessment**

The principal issues of this appeal relate to zoning, national guidance for new housing, housing layout, works to Protected Structures, flooding, drainage and appropriate assessment.

### **7.1. National Housing Policy & Guidance**

The proposed development is in accordance with the relevant overarching national objectives set out in the National Planning Framework 2018. I would be satisfied that the housing element of the proposed development is in accordance with the general principles of sustainable development set out in the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009', whilst noting that the residential density proposed (22 units per ha), is towards the lower end of the recommended density of 20-35 dwellings per ha for 'edge of centre' sites. I would be further satisfied that the layout would generally be in accordance with the 12 principles for urban residential design, but with reservations in relation to the quantum of shared parking for housing at the southern end of the site.

### **7.2. Local Area Plan Zoning**

- 7.2.1. The specific zoning for this site, contained within the Monasterevin LAP, has to a large extent dictated the nature of the application. The zoning is specific to this site alone, within Monasterevin. It provides for arts and crafts studios, workshops, local artisan food/beverage-producing, education, leisure and amenity use, in and around the former Charter School building complex. The zoning then goes on to specify a 'limited level of residential development'. The first reason for refusal refers to the preponderance of residential use within the proposed scheme; and considers that the level of housing proposed would contravene the zoning. This would appear to be the case, with residential use (and associated open space) occupying approximately three quarters of the area zoned 'Objective T' – this taking into consideration the portion of the zoning to the north of the current appeal site (which has been excluded from this application), but which has been indicated for future residential use.

However, it is difficult to see how much more of the overall site could be devoted to craft/studio use, over and above what has been proposed within the curtilage of the former Charter School.

7.2.2. The zoning does not specifically state so; but is assumed the residential component of the development is to provide funding for the costly refurbishment of the two Protected Structures on the site. The request for additional information sought a business plan for the uses associated with the Protected Structures. The request for clarification of additional information further pressed this issue, and elicited a frank response from the applicant - giving an indication that the uses proposed were not commercially viable (following some research carried out by John P. Burke & Co, Accountants). The applicant indicated a willingness to make the former Charter School building watertight – involving repairs to the roof, windows and making good the façade: no mention is made of the second Protected Structure on the site or to the outbuildings and the walled garden. The applicant requests that the LA take the building in charge. The response submission goes on to suggest a phasing for the housing development – in tandem with the limited works to be carried out to the former Charter School. The applicant is stated to be at a loss to know how the objectives of the development plan can be achieved. A grant of planning permission for this development would not result in the completion of the development as described in the public notices – rather only the residential element and the creche; and limited works to the former Charter School. The applicant has plainly stated that the craft/arts studios aspect of the development is not viable. If permission is granted by the Board, it must be on the understanding that only the residential and creche element will likely be completed. This is a most unsatisfactory situation. The applicant has offered to carry out limited works to the former Charter School building; giving no indication as to what works would be carried out to the house on the site (which is also a Protected Structure) or to the walled garden and ruined outbuildings within it. If, as the applicant states, the premise of the zoning is not commercially viable, then it is a matter for the elected representatives of Kildare County Council to remedy this. It is the elected representatives who made the Local Area Plan, and it is up to them to amend or alter the LAP, if they deem such to be necessary. To grant planning permission for this development, in the knowledge that a substantial part of the zoning objective could not be achieved, would seem to undermine the LAP. I recommend that permission be refused, as the development proposed, on the

admission of the applicant, would not result in the realisation of the zoning objective for the site.

### **7.3. Protected Structures & Architectural Conservation Area**

- 7.3.1. There are two Protected Structures on the site – the former Charter School (locally referred to as ‘The Hulk’) and a former teacher’s house, immediately to the southwest of it. It could be argued that all structures within the curtilage of the former Charter School form part of the Protected Structure. However, as KCC has specifically listed another structure within the curtilage of the former Charter School, as a separate Protected Structure, it could be argued that any other elements within the grounds do not form part of the Protected Structure. However, as the applicant indicates that the two former teacher’s houses and the outhouses and walled garden are to be refurbished as part of the scheme – the point is moot. The former teacher’s house (Block A) is partly roofless, and the roof of the former Charter School has been poorly patched in the past; and contains a number of holes within the original slating. Both structures and the walled garden/outhouses to the rear are in a parlous state – as amply illustrated by the photographs submitted with various reports which accompany the planning application. It was not possible for this Inspector to visit the interior of either structure – owing to their state of collapse.
- 7.3.2. The development proposed provides for repair and re-use of the Protected Structures – including the construction of a three-storey, stair/lift-core to the rear of the former Charter School (to provide for access for those with mobility impairment and for fire purposes). The design of this stair/lift-core structure is unabashedly modern – being clad in ‘Corten’ steel (a deliberate rust finish) – and connected to the former Charter School by glazed curtain walling. It constitutes an alteration to the Protected Structure which would be readily reversible. It would not be visible from the front of the building, and would appear as a large sculptural item, when viewed from the walled garden area to the rear of the building. The walled garden to the rear is in a similarly parlous state – with boundary walls broken down and infested with elder/ivy/bramble. There are ruinous outhouses on the southwest side of this area. This single- and two-storey block is to be repaired and reused for the allotments use – providing toilets, storage, canteen, exhibition and lecture uses. On the southwestern boundary of the former Charter School complex, there is as further

single-storey building, which is heavily overgrown, and it was not possible to inspect it on the date of site inspection by this Inspector. This building is to be renovated for use in association with the proposed outdoor market – and will provide for toilet and storage uses. There is a small outhouse to the northeast of the former Charter School: this building is completely overgrown, and it was not possible to penetrate to it on the date of site inspection by this Inspector. This structure is to be retained and repaired – although a use for it is not indicated. The teacher's house to the southwest of the former Charter School (Block A) is a Protected Structure. It is in a parlous state, with some of its roof missing. It is to be renovated and used as an artist's studio. The second teacher's house (Block B), to the northeast of the former Charter School, is not a Protected Structure. It currently has a roof (although damaged). It has been radically altered in the recent past. It is to be renovated; and used as an artist's studio. There are a number of sheds to the rear of this house which would appear to be of modern date, and which are to be demolished. Finally, there are some ruinous sheds (which appear of more modern date), immediately to the rear of the former Charter School, which are to be demolished.

7.3.3. The application was accompanied by an Architectural Impact Assessment, which was expanded upon by way of additional information submission (a Visual Impact Assessment). The Conservation Officer for KCC was satisfied with the level of detail supplied; and recommended a number of conditions be attached to any grant of planning permission – relating to engaging a Conservation Consultant, provision of a Conservation Method Statement, salvage, recording, and submission of a Conservation Compliance Report. I would be satisfied that the proposed works and uses (if carried out) will ensure the survival of the Protected Structures and the buildings for retention within their curtilage. However, as noted elsewhere in this report, the applicant has indicated that the proposals are not commercial, and the applicant proposes only limited works to the former Charter School – to stabilise the building and prevent ingress of water.

7.3.4. The former Charter School and its curtilage forms an isolated part of the Monasterevin Architectural Conservation Area (ACA). The ACA is defined in the County Development Plan rather than the Monasterevin Local Area Plan. I would be satisfied that the development is in accordance with Policy ACA 2 of the County Development Plan, which seeks to ensure that any development, modifications, alterations, or extensions within an ACA are sited and designed appropriately, and

are not detrimental to the character of the structure or to its setting or the general character of the ACA and are in keeping with any Architectural Conservation Area Statement of Character Guidance Documents prepare for the relevant ACA. The new-build housing elements of the scheme are set back at some distance from the former Charter School – and the integrity of the walled garden to the rear has been maintained. The proposed creche building is located a sufficient distance away from the complex, so as not to impact on the view from the R445 (a view which is currently obscured by scrub vegetation).

## **7.4. Layout & Design**

### **7.4.1. Housing Layout**

Following a request for additional information and clarification of additional information, the original layout proposed was altered. The alterations relate largely to the southwestern portion of the site (adjacent to the Barrow Close housing development) – although minor alterations are made elsewhere in relation to positioning of houses on site. The PA was dissatisfied with the layout in this area – relating to car-parking, public open space and relationship to the canal and the Barrow Close housing estate to the southwest. I would consider that the revised layout is acceptable in all areas, excepting the communal parking concept – which is addressed elsewhere in this report. Throughout the alterations proposed, the number of housing units has remained constant, at 99. The PA was concerned that the scheme failed to provide a visual link between the Grand Canal (Barrow Line) and the former Charter School building. The layout provides for an open space link between houses 16, 17 & 34. The PA considered the link to be too narrow. The applicant pointed out that the former Charter School building is at a considerably lower level than the canal towpath – some 5.5m lower. The Charter School was never designed to be on any access with the canal. There is a particularly dense hedgerow on the canal boundary – which effectively screens the entire site from view from the canal – at least when leaves are on trees. There are no gaps within this hedgerow which permit of view, or indeed access, between canal and appeal site. I would be satisfied that the layout of the development does not require any alteration, in the matter of the relationship between the former Charter School building and the canal. The applicant is proposing 3 no. pedestrian/bicycle access points to the

canal. I would be satisfied that this would provide adequate access to the canal and permeability through the site. The manner of the creation of such access points is a matter for agreement with Waterways Ireland. A report on file from Waterways Ireland, indicates that the applicant should contact the organisation to discuss any boundary issues or planned pedestrian access points to the canal. It would be possible to attach a condition relating to such contact and agreement, to any grant of permission to issue from the Board. The public open space layout does provide for a potential future link with open space within the Barrow Close housing estate to the southwest.

Bin storage to the front of houses (for mid-terrace units) was indicated by way of additional information submission of 21<sup>st</sup> December 2018; and is acceptable. Other houses have side passages – which allow of storage of bins to the rear of units.

#### 7.4.2. Public Open Space and Amenities

The applicant states that 18% of the housing area of the site comprised public open space. This figure would appear to exclude the walled garden area to the rear of the former Charter School (which is indicated as allotments and an 'Activity Area' which includes a children's playground, tennis court, basketball court and mini-soccer pitch – some of which will overlap). The PA was concerned that it was not clear whether this area within the former walled garden would be available to future residents. It would be possible to require it to be available to future residents; by way of condition attached to a grant of permission. However, as noted elsewhere in this report, there is some question over whether the portion of the development within the former walled garden would be provided at all – owing to the non-commercial nature of the uses proposed within the former Charter School building and associated structures. The applicant/appellant has submitted a Proposed Site Layout to An Bord Pleanála, as part of the 1<sup>st</sup> Party appeal. This indicates a total of 9 no. public open space amenity areas (exclusive of the walled garden area) – with the area in square metres for each indicated. Most are too small to allow of any active amenity function – the exception being the 2,725m<sup>2</sup> area (within which the underground surface water attenuation tank is to be located): but even this area is sloping. The remaining open space areas would at best, have a visual amenity function. Whilst the quantum of open space proposed is acceptable – the fact that it is broken up into so many small areas – would render it of little practical amenity value for residents, and permission



should be refused for this reason. I note that the second reason for refusal, quoted by KCC, referred to poor disposition and quality of open space, and I would concur with that assessment.

The PA was concerned that the development did not appropriately address the canal. There are only four houses which back onto the canal towpath. A further four present side elevations to the canal towpath. I would not see this as a difficulty, as the hedgerow separating the site and the canal towpath is mature and dense; and is to be retained in its entirety (except for three pedestrian/bicycle access points. If this hedgerow were to be removed, then the layout would be less than optimal.

However, it is to be retained on visual amenity and biodiversity grounds. The canal is a pNHA at this location. It is not clear if the hedgerow is in the ownership of the applicant. It may in fact belong to Waterways Ireland or be jointly owned. I would see no difficulty with the housing layout, with regard to its relationship with the canal.

Provision is made for allotments within the walled garden area. Whilst not public open space, they are often associated with such – and perform a similar visual function to open space. All houses within the development are provided with rear gardens, and there are no apartments within the scheme. The allotments will likely serve apartment dwellers, elsewhere within the town.

#### 7.4.3. Housing Design

There is a total of six house designs within the proposed scheme. Houses are two- and three-storey, with provision made for future attic conversions within the two-storey units. There is a mixture of two-, three- and four-bedroom units. There is also a mixture of detached, semi-detached and terraced units. I would be satisfied that the scheme contains a wide mixture of unit types and sizes. In note that there are no apartment units proposed. Plans for the future development of the remainder of the zoned lands, indicate limited apartment uses – but such provision does not form part of this current application/appeal, and can be viewed as hypothetical only. The PA was concerned at the preponderance of brick in external finishes, and sought revised designs by way of additional information. Revised proposals indicate a preponderance of plaster finish, with some feature stone-cladding; and black slate/tile roofs.

Private open space to the rear of houses varies throughout the scheme – from a minimum of 55m<sup>2</sup> for a two-bedroom unit up to maximum of 220m<sup>2</sup> for a four-

bedroom unit. All but the mid-terrace units are provided with side passages. Rear gardens are screened from one another using 2.0m high walls. Rear gardens are screened from public spaces by 2.0m high stone-clad walls.

#### 7.4.4. Creche

The development provides for a 367m<sup>2</sup> creche building, beside the entrance to the development. This location is appropriate. The single/two-storey building has a maximum ridge-line height of 9.1m. External finishes are plaster and stone-cladding features, with an unspecified slate/tile, pitched roof finish. It is set back some 8.0m from the boundary with the garden of an adjoining bungalow on the R445 to the south. There will be no question of overlooking or overshadowing, owing to the building being to the north of the garden area, and screened from it by mature trees. Outdoor play areas are provided adjacent to the building. Some 9 no. adjacent parking spaces are provided for staff: with 3 no. set-down spaces. This quantum is acceptable. Drawings indicate that 32 no. children would be catered for within the facility. I would be satisfied that the development is in accordance with the 'Childcare Facilities: Guidelines for Planning Authorities' document, issued by the Department of the Environment and Local Government in June 2001.

#### 7.4.5. Development Lands to North

The additional information submission of 21<sup>st</sup> December 2018, indicated that zoned lands to the north of the site would be accessed through the current appeal site – there being none other. A schematic layout for these lands is indicated – a mixture of houses and apartments – 33 units. These units do not form part of the current appeal. It is not clear why this small area of the zoning has not been included within the current application. There can be no sense that a grant of permission for development, the subject of this appeal, would constitute any indication, as to the acceptability or otherwise, of outlined proposals on the adjoining site.

### 7.5. **Access & Parking**

#### 7.5.1. Access to Site

The current vehicular access to the site from Portlaoise Road is within the 50kph speed restriction zone of the town. This access is now only used for agricultural purposes, and the laneway/causeway has become somewhat overgrown. This

laneway is to be retained for dedicated pedestrian/bicycle access. The roadside boundary of the site is to be set back by 4.5m and a new plinth wall erected. This area of the site is low-lying, and the construction of a new access road into the site will have to be in causeway form – to ensure that it does not flood. The area is currently scrub woodland – with a number of mature trees. Some trees will be removed to facilitate the new access proposal. This is to be the only vehicular access to the site. A right-turning lane is to be created within the busy R445 Regional Road. This will ensure that interruption to traffic flow on the Regional Road will be limited. The PA had no objection to this aspect of the development. Provision is made within the setback for a bicycle lane. It is an objective of the PA to make improvements to the Portlaoise Road (R445) – included in which is the provision of a bicycle lane out from the town centre. The proposed development will facilitate these road improvements. The application was accompanied by a Stage 1 & 2 Road Safety Audit – which was revised by way of additional information submission of 21<sup>st</sup> December 2018.

#### 7.5.2. Road Layout

There is just one road through the site, which twists and turns and divides to provide short culs de sac to access housing units. Turning areas are provided at the heads of all culs de sac. There are no roundabouts proposed within the scheme. A raised platform area is provided at the entrance to the site – and will act as a traffic calming measure in the vicinity of the creche and the artist/craft studios. Footpaths are dished at crossing points.

#### 7.5.3. Car Parking

The creche unit has dedicated staff parking (9 no. spaces) and 3 no. set-down spaces. 11 no. parking spaces are provided adjacent to the site entrance for the craft/studio uses. Further car-parking (58 no. spaces) is provided to the rear of the former Charter School building and Blocks A & B. This would seem to serve the allotments and outdoor market use also. The access arrangements are somewhat tortuous – involving crossing what appear to be pedestrianised areas to the rear and perhaps to the front of the former Charter School. I would see no difficulty with the principle of parking close to the artist studios and associated uses – rather with the access to some of these parking spaces.

Some 31 of the 99 houses will utilise shared parking. These houses are almost all the smaller, terraced units – located at the southwestern end of the site. The remainder of the houses will have two curtilage parking spaces each. The PA was concerned at the layout of the communal parking. It is not clear why curtilage parking is not provided for housing in this part of the site. The communal parking area will require a management company to oversee its maintenance – where other parts of the estate would likely be taken-in-charge by the Council. The units at this end of the estate are all houses: there are no apartments. I would consider that there is no good reason for not providing curtilage parking for houses in this area.

#### 7.5.4. Bicycle Parking

The additional information submission of 21<sup>st</sup> December 2018, indicated provision of 16 no. covered bicycle parking spaces adjacent to the creche/artists' studios element of the development – at two locations. Such provision is acceptable.

#### 7.5.5. Pedestrian/Cycle Permeability

There is one dedicated pedestrian/bicycle access to the development from Portlaoise Road – along the axis of the original laneway/causeway to the former Charter School. In addition, there are three access points to be provided to the Grand Canal (Barrow Line). Pedestrian and bicycle connectivity are provided in and around the former Charter School building and associated new uses to the rear – linking the complex with the proposed housing around it. I note that there is no connectivity proposed with the Barrow Close housing development to the south, but the location of open space within the development allows for a potential future connection to a small public open space area within the Barrow Close housing estate. A bicycle lane is indicated along the eastern boundary road – where it abuts the floodplain area of the Barrow River. Low railings (1.1m high), with access gates, is to be provided along this boundary: although the applicant notes that it is not intended to provide general public access to the floodplain as part of this development (notwithstanding that it is within the blue line ownership of the applicant). I would be satisfied with the arrangements provided for pedestrian and bicycle permeability throughout the scheme.

### 7.6. **Water**

#### 7.6.1. Water Supply

The water supply to the development is to be from a 150mm diameter main in Portlaoise Road. Irish Water originally indicated that it has concerns in relation to water supply. There would appear to be a watermain located in the southwest corner of the site – stated by the applicant to be 180mm diameter. The location of this watermain has not been shown on drawings submitted – but it would appear to be somewhere in the location of the proposed creche and house no. 99. The line of this watermain should have been indicated on drawings submitted – notwithstanding the applicant’s indication of willingness to provide a wayleave for this watermain. The layout of the development in this area may need to be altered to facilitate the necessary wayleave, or else the watermain itself relocated. A later report from Irish Water, dated 25<sup>th</sup> January 2019, indicates that there is no objection to the development.

#### 7.6.2. Foul Effluent

Foul effluent from the development is to be discharged to an existing foul sewer within the blue-line holding of the applicant (adjacent to the Barrow River). On the date of site inspection by this inspector, there were three manholes evident at this location. The connection will necessitate the construction of 170 linear metres of 225mm diameter sewer, outside of the site outlined in red – but within the blue line ownership of the applicant. Grease traps will be fitted on outfalls from the creche and from café/canteen units. Irish Water had no objection to the arrangement proposed. The effluent treatment plant for the town is located on the opposite side to the R445. The applicant states the WWTP is designed for a population equivalent (p.e.) of 9,000 – with only 4,000 p.e. of this capacity used. Details of potential pipe extensions to serve lands to the north, were submitted by way of additional information. There would appear to be a foul sewer located in the southwest corner of the site – stated by the applicant to be 375mm diameter. The location of this sewer has not been shown on drawings submitted – but it would appear to be somewhere in the location of the proposed creche and house no. 99. There was a manhole visible in the corner of the small field on the date of site inspection by this Inspector. The line of this sewer should have been indicated on drawings submitted – notwithstanding the applicant’s indication of willingness to provide a wayleave for this sewer. The layout of the development in this area may need to be altered to facilitate the necessary wayleave, or else the sewer itself relocated. A later report

from Irish Water, dated 25<sup>th</sup> January 2019, indicates that there is no objection to the development.

#### 7.6.3. Surface Water

It is proposed to discharge surface water to the Barrow River. The proposed discharge point was changed, by way of clarification of additional information submission. It is proposed to construct 85 linear metres of 600mm diameter sewer within the blue-line holding of the applicant – to connect the site with the Barrow River. It was originally proposed to construct two underground attenuation tanks within the site. This was changed to one single tank of 1,260m<sup>3</sup> capacity, within a public open space area adjacent to the eastern boundary. The soil on site is stated to be unsuitable for permeable paving – and hence the size of the attenuation capacity. Inflows are to be fitted with hydrocarbon interceptors. Discharge is to be throttled at 12.4 l/s, using an ‘Hydrobrake’ mechanism. The outfall to the Barrow River (at 57.3m OD) will be fitted with a non-return flap to prevent flood waters from the river backing up into the system. I have commented elsewhere in this report (Appropriate Assessment section) in relation to the outfall to the river. Details of potential pipe extensions to serve lands to the north, were submitted by way of additional information. A later report of the Water Services Section of KCC, indicated that there was no objection to the development – subject to attaching appropriate conditions relating compliance with SuDS, attenuation of surface water, and child-proof fencing along the floodplain of the Barrow River and the Grand Canal (Barrow Line).

#### 7.6.4. Flooding

The address of the site – ‘The Island’, gives some clue as to its topography. The construction of the Grand Canal (Barrow Line) radically altered topography and drainage in this area. The site, as outlined in red, largely comprises visibly elevated ground, by reference to the lower ground between the site and the Barrow River channel to the east. However, not all of the intervening ground can be classified as floodplain – the lands undulating noticeably – with one area of ground next to the river being as elevated as the appeal site itself. The river in this area has been dredged in the past and spoil banks created along the main channel. The R445 (former N7) is constructed on an elevated causeway (with a four arch culvert structure), immediately to the east of the current entrance to the former Charter

School. The entrance to the former Charter school itself is constructed on an elevated causeway – with lower, marshy ground on either side. To the southwest of this elevated causeway (the ground forms part of the appeal site – and is the location for a new vehicular entrance to the site. This area is currently overgrown with scrub (amongst which is some mature trees). It is the contention of the applicant that the entrance causeway prevents floodwaters from the Barrow entering this area. The topography of the area indicates that the eastern boundary hedgerow of the site marks the sweep or curve of a flood channel of the Barrow River – discharging back into the main channel of the river via the aforementioned four-arch culvert structure on the R445. The applicant indicates that only a small area of the site, on the eastern boundary (adjacent to the former Charter School) is liable to flooding in the 1-in-1,000-year flood event. This area is to be filled with spoil excavated further to the north; along the eastern boundary hedgerow – thereby providing compensatory measures for the flood storage lost within the appeal site (estimated at 175m<sup>3</sup>). This would appear to be reasonable.

The Clarification of Additional Information Submission submitted to KCC on 15<sup>th</sup> February 2019, included some detailed documentation in relation to flooding. In particular, the barrier effect of the aforementioned access causeway to the former Charter School was noted. Modelling carried out for the flood zone mapping for the Monasterevin LAP, did not factor in this flood barrier. The flood map, which is included within the LAP at Map Ref. 3, indicates the R445 roadside portion of the site as being subject to flooding. This would have implications for the new entrance road and part of the creche site. Having examined the site, I would be satisfied that the causeway to the former Charter School would act as flood barrier (unless the causeway is porous). However, even if flood waters were to breach this barrier – the ground level for the new entrance road and the creche site is to be raised above flood levels. The CFRAMS flood mapping does not include this area next to the R445 – as being liable to flooding. It does show a small section of the site on the eastern boundary as being liable to flooding – but measures are put forward to fill this area. Finished floor levels of all houses will be a minimum of 300mm above the 1-in-1,000-year flood event (originally 500mm was indicated).

The Water Services Section of KCC, in a report dated 6<sup>th</sup> March 2019, indicated that it was satisfied with the arrangements to be put in place to prevent flooding. It recommended that a number of conditions be attached – relating to regular clearing

(scouring) of the channel beneath the masonry arch culvert structure on the R445 (the adjoining ground forming part of the blue line ownership of the applicant), and compensatory flood measures. I note that this culvert structure was clear on the date of site inspection. New support columns for former road-widening/strengthening on the R445, were visible within each of the four arches. The level between the ground and the roof of each arch is not much more than 1.5m at present. It is not clear from site inspection, if it was ever higher – and if the ground level beneath the bridge has become silted over time by floodwaters from the Barrow. I would be satisfied that the proposed development will not be subject to flooding, and will not result in the flooding of adjacent lands – provided all of the works proposed are properly carried out.

## **7.7. Other Issues**

### **7.7.1. Development Contributions**

As permission was refused, there is no indication of the level of contribution which would be required under the terms of the Development Contribution Scheme for County Kildare. If the Board is minded to grant permission, a condition requiring payment of a development contribution, in accordance with the Scheme, should be attached.

The Roads & Transportation Department of KCC, in a report dated 23<sup>rd</sup> January 2019, recommended a Special Development Contribution of €83,768, for construction of a combined footpath and cycleway from the site entrance on the Portlaoise Road as far as the bridge over the Barrow River – back towards the centre of the town. I note that there is already a footpath along both sides of the Portlaoise Road at this location. There is a broad objective in the Monasterevin LAP to undertake street/road improvements on the Portlaoise Road – but nothing more concrete. I do not see that a Special Development Contribution has been justified in this instance. The applicant is to undertake works on the Portlaoise Road at the proposed new entrance to the site – in order to introduce a right-turning lane into the site and to reduce traffic speeds. It would be reasonable to require provision of a cycle lane along the Portlaoise Road frontage of the appeal site – or to provide a footpath sufficiently wide to incorporate such a cycle lane in the future. Beyond that, it would seem that improvement works on the Portlaoise Road should form part of



the general development contribution for the county – particularly where road improvements have been identified within the LAP and where they would serve other road users.

#### 7.7.2. Ecology & Biodiversity

The site is located between a pNHA to the northwest and an SAC, a little way to the east. The additional information submission of 21<sup>st</sup> December 2018, included a series of biodiversity enhancement measures: following a request for such from the Heritage Officer of KCC. These related mostly to swifts, landscaping, hedgerow retention and bats. It is proposed to retain the mature hedgerow along the Grand Canal (Barrow Line) boundary. This is the finest of the hedgerows within/abutting the site. The Heritage Officer was satisfied with the measures put forward. The eastern boundary hedgerow is to be removed in its entirety (with the exception of one young Beech). This hedgerow is gapped in places. The photographic survey submitted by the applicant was undertaken when trees and shrubs were bare. The appearance, when in full leaf, is not so gaunt. This hedgerow roughly marks the boundary between higher ground to the west and the floodplain of the Barrow River to the east. It is noted that it also forms a townland boundary. A road is to be constructed along most of its length, and the ground level (closest to the former Charter School) is to be raised – to guard against flooding. I note that there is no hedgerow at this location anyhow. The third reason for refusal related to loss of this hedgerow and some mature trees along the R445. The applicant has indicated that an hedgerow of native species will be planted in place of the removed hedgerow – a little way to the east. I would see no difficulty with this arrangement. It is unfortunate that the hedgerow, which divides a small field on the southwestern boundary from the remainder of the site, is to be lost. However, it is difficult to see how this narrow strip of land could be readily developed without removal of most of the hedgerow. There is scrub vegetation (with some mature trees) – located adjacent to the R445. The scrub and some of the mature trees are to be removed to facilitate the creation of a new entrance to the site (above the flood level of the Barrow River). Drawings submitted indicate that some of the mature trees are to be retained – something which will improve the visual amenity of the entrance to the site, and serve to retain some of the biodiversity of the site.

The Monasterevin LAP indicates at Map Ref. 5 that there are trees immediately to the east of the former Charter School for preservation. The symbol on the map does not correspond to the low-lying area between the former Charter School and the R445 – rather, it would appear to relate to the curtilage of the complex; the extreme eastern corner. However, there are no trees in this area worthy of preservation. The legend which accompanies Map Ref. 5 states, in relation to the ‘Tree’ symbol – (Refer to Section 7.10.7). However, there is no section 7.10.7 in the LAP. Drg. 01-110-400 (received by the PA on 15<sup>th</sup> February 2019), indicates the mature trees to be removed and those to be retained. Trees within the blue-line ownership of the applicant will not be affected by the proposed development. The clarification of additional information submission of 15<sup>th</sup> February 2019, indicated that there was insufficient time to prepare a Tree Protection Plan – and requested that this issue be dealt with by way of condition attached to any grant of planning permission.

A disused badger sett was noted on the site. The applicant has offered to undertake a pre-commencement badger survey of the site, as the sett might be re-inhabited in the interim; which would appear reasonable.

#### 7.7.3. Waste

Construction & Demolition waste will arise within a scheme of this size. If the Board is minded to grant permission, a condition should be attached in relation to storage and disposal of C&D waste within the site.

#### 7.7.4. Part V

The application includes details of the provision of 10 no. housing units to comply with the requirements of Part V. The applicant has been in contact with the Housing Department of KCC. The clarification of additional information submission, of 15<sup>th</sup> February 2019, contains information in relation to the cost of constructing the 10 no. units. A report of the Housing Department (dated 4<sup>th</sup> March 2019) indicated that the proposal was acceptable. If the Board is minded to grant permission for this development, a condition should be attached requiring compliance with Part V of the Act.

#### 7.7.5. Archaeology

Following a request for additional information, the applicant undertook a geophysical survey of the site – the results of which were submitted by way of additional

information on 21<sup>st</sup> December 2019. The survey noted linear trends which may relate to former field divisions. The results would not appear to require an alteration of the development layout. The Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht recommended the geophysical survey of the site. If the Board is minded to grant permission, a requirement relating to archaeological test trenching in the vicinity of the linear trends, revealed by the survey, should be attached by way of condition; and archaeological monitoring of ground disturbance over this extensive site should be required.

#### 7.7.6. Street Lighting

The additional information submission, of 21<sup>st</sup> December 2018, contained details of a street lighting scheme for the development.

#### 7.7.7. Overhead Electricity Cables

There are a number of overhead electricity cables traversing the site – supported on timber poles. The lines are not shown on drawings submitted. The lines would have to be rerouted or undergrounded to facilitate the development. If the Board is minded to grant permission for this development, a condition should be attached relating to rerouting or undergrounding.

## 8.0 **Appropriate Assessment**

### 8.1. **General Comment**

The site is neither within or immediately abutting an European site. It is proposed to discharge surface water from the development into the Barrow River (which does form part of an European site). This will necessitate the construction of a new outfall to the river. Appropriate assessment was carried out by KCC, prior to deciding to refuse permission. None of the reasons for refusal relate to an unacceptable impact on an European site. Notwithstanding the submission of an NIS, I proposed to carry out a Stage 1 screening for appropriate assessment, using six steps as follows.

### 8.2. **Stage 1 Screening**

#### 8.2.1. Step 1 – *Identify European Sites which could potentially be affected by the development (source-pathway-receptor model)*

The closest such is the River Barrow and River Nore SAC (Site code 002162) – located some 15m due east of the site at its closest point. The site will be connected to the SAC by way of a 600mm diameter surface water sewer, which will outfall to the river a short way to the southeast of an existing farm animal watering point. There are no other European sites which could potentially be affected by this development.

#### 8.2.2. Step 2 – Identify the Conservation Objectives of the relevant site(s)

The qualifying interests of the River Barrow and River Nore SAC are as follows-

- Estuaries.
- Mudflats and sandflats not covered by seawater at low tide.
- Reefs.
- Salicornia and other annuals colonising mud and sand.
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*).
- Mediterranean salt meadows (*Juncetalia maritimi*).
- Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation.
- European dry heaths.
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels.
- Petrifying springs with tufa formation (Cratoneurion). [Annex I]
- Old sessile oak woods with Ilex and Blechnum in the British Isles.
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*). [Annex I]
- *Vertigo moulinsiana* (Desmoulin's whorl snail).
- *Margaritifera margaritifera* (Freshwater pearl mussel).
- *Austropotamobius pallipes* (White-clawed crayfish).
- *Petromyzon marinus* (Sea lamprey).
- *Lampetra planeri* (Brook lamprey).

- *Lampetra fluviatilis* (River lamprey).
- *Alosa fallax fallax* (Twaite shad).
- *Salmo salar* (Atlantic salmon) – but only in fresh water.
- *Lutra lutra* (Otter).
- *Trichomanes speciosum* (Killarney fern).
- *Margaritifera durrovensis* (Nore freshwater pearl mussel).

The Conservation objectives for the 12,373ha site, are to maintain the favourable conservation condition of Desmoulin's whorl snail, White-clawed crayfish, Estuaries, Mudflats and sandflats, Salicornia, Killarney fern, Water courses of plain to montane levels, European dry heaths, Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels, Petrifying springs: and to restore the favourable conservation condition of Sea lamprey, Brook lamprey, River lamprey, Twaite shad, Atlantic salmon, Atlantic salt meadows, Otter, Mediterranean salt meadows, Nore freshwater pearl mussel, Old sessile oak woods, Alluvial forests. The status of the Freshwater pearl mussel is currently under review, to establish whether a site-specific conservation objective is set for this species.

8.2.3. Step 3 – *Identify the potential- a) likely, and b) significant, effects of the project with reference to the site's Conservation Objectives, in light of best scientific knowledge*

The principal impacts which may occur (both negative and positive), largely relate to water quality during the construction phase; and the potential for discharge of contaminated surface water to the river via the new 600mm diameter outfall, during the operational phase.

8.2.4. Step 4 – *As above, but considering in-combination effects with other plans or projects*

There are no other plans or projects in the vicinity which could be considered to have in-combination effects.

8.2.5. Step 5 – *Identify any measures in place to reduce/lessen likely significant impacts on European sites*

Surface water on site is to be attenuated and inflows are to be fitted with hydrocarbon interceptors; as would be normal when dealing with drainage in housing

estates, in order to comply with the SuDS system. A preliminary Construction Management Plan was included in the additional information submission of 21<sup>st</sup> December 2018.

8.2.6. Step 6 – *Determine whether likely significant effects, either individually or in combination with other plans or projects, on European sites, can reasonably be discounted, on the basis of objective scientific information*

The applicant deemed that it was not possible to discount likely significant effects (particularly on aquatic species of conservation interest within the Barrow River), arising from the potential for contamination of the Barrow River during the construction phase. The document goes on state that surface water is to be discharged to the Monasterevin Wastewater Treatment Plant. [This is incorrect: surface water is to be discharged to the Barrow River via a new 600mm diameter sewer line and outfall. I note that Figure 2-3 of the NIA does indeed show surface water from the development discharging to one of the manholes in the vicinity of an existing foul sewer line beneath the Barrow River – within the blue line ownership of the applicant].

### 8.3. **Natura Impact Statement**

8.3.1. The proposed development was determined to have a potentially detrimental impact on the SAC at construction phase: through accidental release of silt, concrete or hydrocarbons/chemicals to land which would eventually find its way to the Barrow River. However, the NIS does not assess the potential for contaminated surface water, which is to be discharged to the river on a continuing basis once the development is built, to impact on the receiving SAC waters. The natural flow of surface water from this site is ultimately to the Barrow River – whether directly or via a secondary flood channel, which runs beneath the R445 Regional Road, and re-joins the main channel of the river some way further to the south. This could impact directly on species and habitats by way of reduced water quality.

8.3.2. The NIS submitted, is dated December 2017. The proposed development is not required for the management of the nearby SAC. The site was visited on 14<sup>th</sup> August 2017. Neither a Desmoulin's whorl snail survey, aquatic river vegetation survey, fisheries assessment or crayfish survey were undertaken. Figure 3-8 is a map of the site, based on the habitat survey undertaken. An abandoned badger sett

was recorded. The Q-rating water quality status of the Barrow River (both upstream and downstream of the site), at most recent measuring, was 'Good'. The NIS identifies habitats and species which could potentially be impacted during the construction phase as-

- Floating river vegetation.
- Hydrophilous tall herb fringe communities.
- Desmoulin's whorl snail (if it exists in the area).
- White-clawed crayfish.
- Atlantic salmon.
- Brook lamprey
- River lamprey.
- Otter.

Surface water pollution is the only one of the identified threats to the entirety of the SAC, which could be impacted by the development.

8.3.3. Mitigation measures, in relation to surface water contamination during the construction phase, include the following items of note-

- A Construction Environmental Management Plan will be prepared, and submitted to KCC for written agreement, prior to commencement of development.
- No water abstraction or discharges from/to the Barrow River.
- Site compound will be sited as far as possible from the river.
- Fencing will limit access for construction traffic to river bank area.
- Bunded storage of fuels and refuelling area.
- Spill kits to be available in the event of accidental spillages.
- Erosion and silt controls – to include trenches along the eastern and southern boundaries of the site.
- No storage of materials or machinery within the river floodplain.
- Trenchwork within the floodplain to be carried out only in dry weather.

- No construction work carried out on the river bank or in the area of wet marsh on the floodplain.
- Use of sediment tank – to be emptied off-site.
- Trenching works will not allow for areas where otter might get trapped – escape ramps will be used where necessary.
- Night-time working will not be permitted in the river floodplain area.
- No removal of riparian vegetation.
- Wet grassland/marsh area to the southeast of the floodplain will be avoided – in case Desmoulin's whorl snail is present.

8.3.4. I would be satisfied that if the mitigation measures proposed are carried out and observed, there will be no detrimental impact on the SAC during the construction phase. However, owing to an assumption that surface water is to be discharged to a sewer rather than to the river (at variance with what is stated and indicated elsewhere throughout the application and appeal documentation), I would be concerned that the impact of the surface water outfall to the Barrow River has not been addressed within the NIS. The clarification of additional information submission, of 15<sup>th</sup> February 2019, provided a drawing of the proposed headwall at the outfall – indicating a minimum set back of 2.5m from the riverbank. The drawing does acknowledge that the river level varies. Any outfall from a drain such as this, is likely to lead to scouring of the soft riverbank. Permission should be refused as the NIS has not addressed the potential impacts on the SAC of the creation of a new surface water outfall, direct to the river.

8.3.5. On the basis of the information provided with the application and appeal, including the Natura Impact Statement, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site no. 002162, in view of the site's Conservation Objectives. In such circumstances, the Board is precluded from granting permission.



## 9.0 Recommendation

I recommend that permission be refused for the Reasons and Considerations set out below.

## 10.0 Reasons and Considerations

1. The absence of any commercial viability for the elements of the proposed development within the curtilage of the former Chartered School, as acknowledged by the applicant in submissions to Kildare Co. Council of 21<sup>st</sup> December 2018 and 15<sup>th</sup> February 2019, would result in a failure to meet with the principal part of the 'Objective T' zoning for the site – as set out in the Monasterevin Local Area Plan 2016-2022, which envisages the former Charter School ("The Hulk") and surrounding area offering a mix of attractions, arts and crafts studios, workshops, local artisan food/beverage-producing and education and leisure amenities, enhanced river walkways and connections to the town centre, with a limited level of residential development. The Council seeks to encourage proposals to establish a unique and vibrant cultural amenity and a commercial and creative hub for Monasterevin, whilst having regard to the history, unique character and architectural heritage of the former Charter School and its curtilage. The proposed development will not/cannot result in the full realisation of the zoning objective for the site and so, would contravene the zoning objective and be contrary to the proper planning and sustainable development of the area.
2. The fragmentary nature of public open space provision within the housing development, would render it of little practical or active amenity value for future residents. The proposed development would seriously injure the amenities of future occupants of the housing scheme, and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed communal car-parking, to serve 31 no. houses, at the southern end of the housing development, represents a less than optimal site layout, where curtilage parking for houses could be provided – as it is for the remainder of the 99 no. houses within the scheme.

4. Drawings submitted with the application fail to show the location of an existing watermain and an existing foul sewer, in the southern part of the site. In the absence of knowledge as to the location of these pipelines, there is concern that the development of the creche and/or nearby housing, could impact on these underground utilities. The proposed development would, therefore, be prejudicial to public health.
5. The Natura Impact Statement submitted with this application has failed to consider the proposal to create a new surface water outfall to the Barrow River. The Board is not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European site no. 002162, in view of the site's Conservation Objectives.

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**Michael Dillon,  
Planning Inspectorate.**

**7<sup>th</sup> August 2019.**