



Development

Completion of existing development at Prusselstown Green to replace previously proposed estate design (Reg. Ref: 07/300028 – now expired) for 86 units (13 houses completed) with revised design that follows the established pattern of development around four green spaces. Proposed development shall consist of one four bedroom two storey detached house, 58 three bedroom two storey semi-detached houses in four designs, 4 no. three bedroom two storey terraced houses, 4 no. two bedroom two storey terraced houses and a crèche (260sq.m) with 2 no. two bedroom apartments over and for all associated roads, paths, boundary walls and services on and under land. This application is for phase 1 only consisting of 69 residential units and the crèche. Phase 2 shall be subject to a further application and shall consist of a further 54 units bringing the proposed overall total number of

units across the site to 136 units (123 proposed plus 13 completed).

Location

Prusselstown Green, Athy, Co. Kildare.

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

18718

Applicant(s)

Gareth & Arran McHale

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party v. Decision

Appellant(s)

Gareth & Arran McHale

Observer(s)

An Taisce

Paul Aspil (on behalf of the Prusselstown Green Residents Association)

Albert & Marie Caffrey

Maurice & Theresa O'Flaherty

Date of Site Inspection

21st May, 2020

Inspector

Robert Speer

1.0 Site Location and Description

- 1.1. The proposed development site is located in the townland of Prusselstown on the north-eastern fringe of Athy town in Co. Kildare, approximately 2.0km northeast of the town centre, in an area predominantly characterised by an increased proliferation of individual one-off dwelling houses and the transition to the surrounding rural / agricultural hinterland, where it occupies a position to the immediate southwest of a small housing scheme of 13 No. conventionally designed dwelling houses known as 'The Way, Prusselstown Green' which is accessed via an existing service road that extends westwards from Geraldine Road. The wider site surrounds include a crescent of semi-detached cottages alongside Geraldine Road to the southeast with a garden centre and a scrap merchants opposite in addition to the Athy Golf Club located further east, although the prevailing land use is largely agricultural.
- 1.2. The site itself has a stated site area of 3.87 hectares, is irregularly shaped and comprises an undeveloped parcel of greenfield lands that was previously in agricultural use but has since been disturbed in part by building / ground works associated with the construction of the neighbouring housing scheme within 'Prusselstown Green' (the northernmost extent of the site area accommodates the foul water pumping station and the surface water attenuation infrastructure serving the adjacent development). It is generally quite flat and low lying with the perimeter boundaries broadly defined by mature hedgerow, although a concrete post and timber panel fence divides the wider site from Prusselstown Green. There are agricultural lands to the southwest and northwest, the Moneen River to the north, and existing housing to the northeast and southeast.

2.0 Proposed Development

- 2.1. The proposed development is described as entailing the completion of an existing housing scheme known as Prusselstown Green through the replacement of the estate design previously approved under PA Ref. No. 07/300028 (since expired). It provides for the construction of 69 No. dwellings as follows:
- 1 No. 4-bedroom, two-storey detached house
 - 58 No. 3-bedroom, two-storey semi-detached houses

- 4 No. 3-bedroom, two-storey terraced houses
 - 4 No. 2-bedroom, two-storey terraced houses
 - 2 No. 2-bedroom apartment units
- 2.2. The proposal also includes for the construction of a new crèche facility (floor area: 260m²) with the 2 No. apartments located overhead.
- 2.3. The overall design and layout of the scheme is typical of a suburban format of development with each dwelling house having been provided with a rear garden area and dedicated off-street car parking. The individual houses are of a conventional design with external finishes including painted render / dash, selected brickwork, grey / black window frames, and black roof tiles.
- 2.4. Access to the site is obtained via an existing service roadway which extends from the public road (Geraldine Road) to serve the housing scheme known as 'The Way', Prusselstown Green, on the adjacent lands. The proposal also includes for connection to the existing water supply and drainage services.
- 2.5. By way of clarity, the Board is advised that the submitted proposal only forms Phase 1 of a larger development with Phase 2 (i.e. the provision of an additional 54 No. units) to be the subject of a separate application. When taken in conjunction with the existing 13 No. dwelling houses within 'The Way', a total of 136 No. units are planned for construction across the wider site area.
- 2.6. Amended proposals were submitted in response to a request for further information which include for the revision of certain house types / units, the re-orientation of the creche / apartment building, the provision of on-street visitor car parking, and revision of the surface water drainage arrangements.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Following the receipt of a response to a request for further information, on 11th July, 2019 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 4 No. reasons:

- Land Use Zoning Policy LU1 of the Athy Town Development Plan 2012-2018 states that it is the policy of the Council to ensure that a logical and sequential approach is adopted for development within the Athy Town Plan area (i.e. prioritising the development from the core area outwards). Given that the subject lands are physically separated from the existing built-up area of the town and are located at a further remove from the town centre than other lands zoned for new residential development which are as yet undeveloped, it is considered that, notwithstanding the zoning of the subject lands “Existing Residential and Infill”, the proposed development would be contrary to the stated sequential development objective of the Athy Town Development Plan 2012-2018, would be premature by reference to the order of priority for development indicated in the development plan and would therefore be contrary to the proper planning and sustainable development of the area.
- Section 3.4.6 of the Kildare County Development Plan, 2017-2023 states that all towns, villages, settlements, rural nodes (as appropriate) should be developed in a sequential manner, with suitable undeveloped lands closest to the core and public transport routes being given preference for development in the first instance. In addition, Policy HC 1 of the Kildare County Development Plan, 2017-2023 states that it shall be the policy of the Council to support the development of sustainable communities. Given that: the subject lands are physically separated from the existing built-up area of Athy; are located at a further remove from the town centre than other lands zoned for new residential development which are as yet undeveloped; are remote from public transport, social infrastructure and general amenities; are accessed predominantly by private car, it is considered that the proposed development would be contrary to a stated development objective of Kildare County Development Plan, 2017-2023 relating to the order of priority for development and would therefore be contrary to the proper planning and sustainable development of the area.
- The Development Plan Guidelines published by the Department of the Environment, Heritage and Local Government in 2007 require that lands zoned for development purposes should extend outwards from the centre of an urban area, with undeveloped lands closest to the core and public

transport routes being given preference. Furthermore, these Ministerial Guidelines require zoned areas to be contiguous to existing zoned development lands and state that any exception must be clearly justified in the written statement of the development plan. This approach is supported by Objective SO 9 of the Kildare County Development Plan, 2017-2023 which states that it is an objective of the Council to sequentially develop lands within towns and villages in accordance with the Development Plan Guidelines DEHLG (2007) and this objective complements more recent policy on consolidated and sequential growth as set out in the Government's National Planning Framework and the Regional Spatial and Economic Strategy (RSES) for the Eastern and Midland region. In the absence of any clear justification for the development of the subject site in advance of other lands zoned for new residential development which are closer to the town centre and are as yet undeveloped, it is considered that the proposed development would be contrary to a stated development objective of the Kildare County Development Plan, 2017-2023 relating to the order of priority for development and would therefore be contrary to the proper planning and sustainable development of the area.

- Having regard to the fact that 90% of all of the proposed dwellings would constitute three bedroom units, and to the peripheral location of the subject site, it is considered that the proposed housing mix is inappropriate at this location and is contrary to Objective MD01 of the Kildare County Development Plan, 2017-2023 which requires that all new residential development provide for a variety of housing types, sizes and tenures. The proposed development would be contrary to a stated development objective of the Kildare County Development Plan, 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

An initial report raises serious concerns as regards the peripheral location of the site. It proceeds to state that, notwithstanding the planning history of the site and the

presence of existing services, there have been significant changes in national and local planning policy since the original grant of permission in 2003. Furthermore, with the Athy Local Area Plan presently under preparation and in light of the requirements of the National Planning Framework, it is stated that the proposal must be assessed in this context and with regard to proper planning and sustainable development. Specific reference is made to the need for sequential development, particularly in the absence of an adopted Local Area Plan, the site location c. 2km from the town centre, the presence of intervening and sequentially preferable lands closer to the centre, and the absence of a Design Statement as per Section 17.3 of the County Development Plan.

With respect to the overall design and layout of the scheme, the Planning Authority is generally satisfied in this regard, although a justification for the housing mix should be provided in accordance with Section 17.4.3 of the County Development Plan.

The report thus concludes by recommending that further information be sought in respect of a number of issues, including the submission of a detailed design statement providing a justification for the development at this location.

Following consideration of a response to a request for further information, a final report was prepared which recommended that permission be refused for the reasons stated.

3.2.2. **Other Technical Reports**

Environment: No objection, subject to conditions.

Heritage Officer: An initial report noted that the Appropriate Assessment Screening Report had identified potential impacts on the Barrow Special Area of Conservation during the construction phase before subsequently identifying a series of mitigation measures. Therefore, on the basis that mitigation measures cannot be considered at screening stage, it was recommended that the applicant be required by way of a request for further information to submit a Natura Impact Statement.

Following the receipt of a response to a request for further information, a final report was prepared which stated that the NIS was satisfactory and that the potential for any impact on Natura 2000 sites as a result of the development could be avoided by adherence to best practice pollution control measures in order to prevent silt or runoff from works discharging into the River Barrow.

Kildare National Roads Design Office: States that the proposed development will not impact on the existing national road network given the site location within the Athy urban area and the availability of access via the local road network. It is also noted that the development is not located within the proposed route of the Athy Distributor Road and thus will not impact on the proposed national road network.

Athy Municipal District: Recommends that the applicant be required to submit revised layout plans showing improved pedestrian movement and connectivity in addition to the provision of street lighting for the entire site.

Roads and Transportation: An initial report recommended that further information be sought in respect of a number of road safety / traffic management issues, including the redesign of specified junctions to accord with the Design Manual for Urban Roads and Streets, the provision of traffic calming along the main spine road, sightlines, street lighting, road markings and signage, and a Stage 2 Road Safety Audit.

Following the receipt of a response to a request for further information, a final report stated that there was no objection to the development, subject to conditions.

Water Services: An initial report referred to the requirements of Irish Water and the need to seek assurances as regards conformance with the applicable industry best practice standards. It subsequently recommended that further information be sought with respect to surface water drainage & attenuation as well as flood risk management.

Following the receipt of a response to a request for further information, a final report was prepared which stated that there was no objection to the development, subject to conditions.

Chief Fire Officer: No objection, subject to conditions.

Environmental Health Officer: No objection, subject to conditions.

Housing: No objection, subject to conditions.

3.3. **Prescribed Bodies**

Department of Culture, Heritage and the Gaeltacht: Given the scale of the proposed development, it was recommended that pre-development archaeological testing,

including the compilation of an Archaeological Impact Assessment, be undertaken in advance of any decision.

Irish Water: An initial report noted that PA Ref. No. 03300082 had been modified by PA Ref. Nos. 05300066 & 07300028 before subsequently being granted an extension of duration pursuant to PA Ref. No. 12/300011. It was also noted that as part of the site entrance and the foul water pumping station were located outside of the Athy UDC boundary permission for these items was granted by Kildare County Council under PA Ref. No. 04255. The report proceeds to state that there have been a number of significant developments in the area of surface water drainage design and flood risk management in the intervening period and that Irish Water has introduced new standard construction details and codes of practice for both wastewater and water infrastructure. Accordingly, it was considered prudent to seek assurances from the applicant on the conformance of the proposed development with these best practice standards. Therefore, it was recommended that further information be sought in respect of a number of issues pertaining to water and wastewater services, including the need to verify the capacity and storage of the existing foul water pumping station and rising main, in addition to a basic assessment of the impact of discharge from the development on network capacity (noting ongoing issues with odours and surcharging associated with the existing 225mm and 300mm gravity sewers on Geraldine Road and further wastewater constraints in Leinster Street and at the River Barrow siphon).

Following the receipt of additional information, a further report was received which stated that there was no objection to the proposed development, subject to conditions. Notably, these conditions include the following requirements:

- Prior to commencement of development, the applicant is required to agree with Irish Water and the Local Authority details of the required pumping station and rising main upgrades to comply with the IW Code of Practice for Wastewater Infrastructure (to include the provision of adequate capacity and storage to cater for the total development and velocities to avoid septicity and associated odours).
- Prior to occupation of the units, the provision of written confirmation to Irish Water and the Planning Authority that the agreed upgrading works have been

satisfactorily installed and that the applicant has contributed financially to Irish Water for the removal of the existing wastewater network constraints at Geraldine Road, the Leinster Street sewer, and the River Barrow siphon, and the required upgrading of c. 1.3km of the water network.

3.4. Third Party Observations

3.4.1. A total of 28 No. submissions were received from interested third parties and the principle grounds of objection / areas of concern contained therein can be summarised as follows:

- The inappropriateness of development on unzoned agricultural lands
- The site location partially outside the town boundary
- Contribution to urban sprawl
- The excessive density of development proposed
- The inappropriate nature of the house types / sizes
- The potential risk to livestock on adjacent lands
- Ongoing problems with the existing pumping station / drainage infrastructure and the associated risk of water pollution.
- The exacerbation of downstream flooding
- Impact on wildlife considerations
- The potential impact on neighbouring lands as regards loss of security, trespass & illegal dumping.
- The overall scale, nature and design of the proposal is out of character with the established pattern of development.
- The inadequacy of the open space provision.
- The unsuitability of the site location for apartment units
- Concerns as regards the transparency of the social / affordable housing proposals.
- The need for the proposed childcare facility
- The suitability of locating residential units above a childcare facility.

- The need to verify the capacity of the existing sewerage system to accommodate the proposed development.
- Increased traffic volumes & traffic safety concerns.
- Impact on the surrounding road network.
- The lack of street lighting along Geraldine Road.
- The additional demand placed on local services, including schools.
- The prolonged impact of construction works on neighbouring housing.
- The separation of the proposed development from existing housing.

4.0 Planning History

4.1. *On Site:*

PA Ref. No. 01/1712 / ABP Ref. No. PL09.130862. Was refused on appeal on 14th March, 2003 refusing Michael Purcell and Gerry Deane permission for a development comprising the construction of an access road serving the development of 38 No. four bedroom detached houses, 4 No. five bedroom detached houses and 28 No. four bedroom semi-detached houses with sewage pumping station and all associated site works.

- The proposed housing development on lands zoned for agricultural purposes, as set out in the current development plan for the area, would result in an unplanned and disorderly approach to the expansion of the town of Athy. The proposed development would constitute disorderly development in that the site is located a considerable distance beyond the built-up area of the town where there is an absence of public transport and basic community facilities and services. The proposed development would, therefore, be contrary to the proper planning and orderly development of the town.
- The site is located at a distance from the town centre on an unimproved stretch of county road where there are no public footpaths and only rudimentary public lighting. The proposed development would, therefore, endanger public safety by reason of traffic hazard.

PA Ref. No. 01/300047 / ABP Ref. No. PL35.130861. Was refused on appeal on 14th March, 2003 refusing Michael Purcell and Gerry Deane permission for a development comprising the construction of 38 No. four bedroom detached houses, 4 No. five bedroom detached houses and 28 No. four bedroom semi-detached houses with sewage pumping station and all associated site works to be served by a proposed access road.

- The proposed housing development on lands zoned for agricultural purposes, as set out in the current development plan for the area, would result in an unplanned and disorderly approach to the expansion of the town of Athy. The proposed development would constitute disorderly development in that the site is located a considerable distance beyond the built-up area of the town where there is an absence of public transport and basic community facilities and services. The proposed development would, therefore, be contrary to the proper planning and orderly development of the town.
- The site is located at a distance from the town centre on an unimproved stretch of county road where there are no public footpaths and only rudimentary public lighting. The proposed development would, therefore, endanger public safety by reason of traffic hazard.

PA Ref. No. 04/55. Was granted on 1st September, 2004 permitting Michael Purcell & Gerard Deane permission for the development of a site access road at Geraldine Road, Prusselstown, and a sewage pumping facility connecting to existing public mains on Geraldine Road, surface water attenuation and outfall to existing watercourse for servicing of a proposed housing development.

PA Ref. No. 03/300082. Was granted on 6th September, 2004 permitting M. Purcell & G. Deane permission for 10 No. four-bed detached houses, 12 No. two-storey four-bed, 52 No. two-storey, three / four bed semi-detached, 37 No. two-storey three-bed townhouses, 1 No. two-storey four-bed, 1 No. creche with two bed residential apartments at first floor level.

PA Ref. No. 05/300066. Was granted on 24th March, 2006 permitting G. Deane & M. Purcell permission for modifications to previously approved permission for a residential development (Reg. Ref. 03/300082), to include reduction in number of units in the proposed development from 112 No. units to 84 No. units, change of

house types and minor changes to the site layout as follows: Reduce the number and change the type of units from 10 No. 4 bed detached single storey units (Type D1), 12 No. 4 bed semi-detached 2-storey units (Type C), 52 No. 3/4 bed semi-detached 2-storey (Type A/B), 37 No. 3 bed townhouses 2 storey units, 1 No. 4 bed townhouse 2 storey to 28 No. 5 bed 2-storey detached units (Type A/A2); 38 No. 4 bed 2-storey detached units (Type B), 8 No. 4 bed 2-storey detached units with family room (Type C), 10 No. 3 bed single storey detached units with study (Type D/D2); minor alterations to the layout of the proposed units with larger areas of private open space to the units; minor alterations to the internal road layout including omission of the hammerheads within the mews referred to as 'The Court', 'The Crescent' and 'The Park'; minor alterations to the configuration of the open spaces with revisions to the open space layout to the south / southwest of the site creating two separate open spaces at 'The Court' and 'The Park' and relocating dwellings northwards; integration of open area along the northern boundary into private open space in 'The Way'; alterations to car parking layout in mews referred to as 'The Way' from shared parking areas to parking provided within the curtilage of each unit; minor revision to location of car park for creche with inclusion of a turning area and continuation of footpath into the crèche. A separate application has been lodged to modify the permission granted under Reg. Ref. 04/55 for site access road and sewage treatment works, surface water attenuation and outfall to existing watercourse to service the housing development to reflect the modifications being proposed to the housing development. No modifications are proposed to the development works permitted under 04/55.

PA Ref. No. 07/300028. Was granted on 10th August, 2007 permitting Michael Purcell / Gerard Deane permission for modifications to previously approved residential development 05/300066 (Application 05/300066 amended the original application 03/300083). The proposed modifications consist of alterations to House Types B, C, D and D2 to allow for the inclusion of optional sunrooms to the rear of each of the above mentioned units. It is the intention of the applicant that the use of the word optional would allow for the construction of the sunrooms or, if the applicant so chooses, the omission of the sunrooms.

- PA Ref. No. 12/300011. Was granted on 10th September, 2012 permitting Niall Murphy & Joseph Murphy an 'Extension of Duration' of PA Ref. No. 07/300028 until 8th August, 2017.

5.0 Policy and Context

5.1. National and Regional Policy

- 5.1.1. The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. In general, appropriate locations for such increased densities include city and town centres, 'brownfield' sites (within city or town centres), sites within public transport corridors (with particular reference to those identified in the Transport 21 programme), inner suburban / infill sites, institutional lands and outer suburban / 'greenfield' sites. The proposed development site is located on lands that can be categorised as 'greenfield' and the Guidelines define such areas as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers, and ancillary social and commercial facilities such as schools, shops, employment and community facilities. Studies have indicated that whilst the land take of the ancillary facilities remains relatively constant, the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares.
- 5.1.2. The '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2018*' (which update the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015*') provide detailed guidance and policy requirements in respect of the design of new apartment developments. Where specific planning policy requirements are stated in the document, these are to take precedence over any conflicting policies and objectives of development plans, local area plans and strategic development zone

planning schemes. Furthermore, these Guidelines apply to all housing developments that include apartments that may be made available for sale, whether for owner occupation or for individual lease. They also apply to housing developments that include apartments that are built specifically for rental purposes, whether as 'build to rent' or as 'shared accommodation'. Unless stated otherwise, they apply to both private and public schemes. These updated guidelines aim to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types. They also seek to ensure that, through the application of a nationally consistent approach, new apartment developments will be affordable to construct and that supply will be forthcoming to meet the housing needs of citizens.

5.1.3. The '*Urban Development and Building Heights, Guidelines for Planning Authorities, 2018*' are intended to set out national planning policy guidance on building heights in relation to urban areas, as defined by the census, building from the strategic policy framework set out in Project Ireland 2040 and the National Planning Framework. They aim to put into practice key National Policy Objectives contained in the NPF in order to move away from unsustainable "business as usual" development patterns and towards a more compact and sustainable model of urban development. Greatly increased levels of residential development in urban centres and significant increases in the building heights and overall density of development are not only to be facilitated, but are to be actively sought out and brought forward by the planning processes and particularly so at local authority and An Bord Pleanála levels. In this regard, the Guidelines require that the scope to consider general building heights of at least three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would include suburban areas, must be supported in principle at development plan and development management levels. Moreover, Specific Planning Policy Requirement 4 states the following:

'It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure:

- 1. the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as*

amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines;

- 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and*
- 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more’.*

5.2. Development Plan

5.2.1. Kildare County Development Plan, 2017-2023:

Chapter 2: Core Strategy:

Section 2.5: Settlement Hierarchy:

Moderate Sustainable Growth Towns – are located within both the Metropolitan and Hinterland Areas. They are at sub-county town level, with lesser levels of economic activity beyond that required to service the local population. Most of these towns are envisaged as having an interacting and supporting role to their adjacent higher order town in the Hinterland areas or as part of Dublin City within the Metropolitan area.

- *Athy:*

Moderate Sustainable Growth Town (in Hinterland Areas, circa 10km from large growth town on public transport corridor, serve rural hinterland as market town).

Chapter 3: Settlement Strategy:

Section 3.4.2: Role of Moderate Sustainable Growth Towns:

Moderate Sustainable Growth Towns are located both within the Metropolitan and Hinterland areas. These towns in the Metropolitan area will continue to have a strong role as commuter locations within the fabric of continued consolidation of the Metropolitan area. Future growth is related to the capacity of high quality public transport connections and the capacity of social and physical infrastructure. Connectivity to adjoining suburbs / towns and employment locations within the Metropolitan area is also a key requirement particularly focused on local bus / cycle / pedestrian routes.

Within the Hinterland area the overall function is for the Moderate Sustainable Growth Towns to develop in a self-sufficient manner, reducing commuting levels and ensuring sustainable levels of housing growth, providing a full range of local services adequate to meet local needs at district level and for surrounding rural areas. The provision of a strong social infrastructure in tandem with growth in population, particularly in relation to schools and leisure facilities is also required.

These towns will also seek to encourage economic opportunities through the provision of high quality transport connections, good social infrastructure provision and a strong local labour market.

Section 3.4.6: Sequential Approach:

All towns, villages, settlements, rural nodes (as appropriate) should be developed in a sequential manner, with suitable undeveloped lands closest to the core and public transport routes being given preference for development in the first instance. Zoning shall extend outwards from the centre of an urban area with strong emphasis placed on encouraging infill opportunities. Areas to be zoned should generally be contiguous to existing zoned development lands.

SO 9: Sequentially develop lands within towns and villages in accordance with the Development Plan Guidelines, DEHLG (2007)

Chapter 4: Housing

Chapter 15: Urban Design

Chapter 17: Development Management Standards

Section 17.2: General Development Standards

Section 17.4: Residential Development

Section 17.5: Childcare Facilities

5.2.2. *Athy Town Development Plan, 2012-2018*

Land Use Zoning:

The proposed development site is primarily zoned as '*B: Existing Residential & Infill*' with the stated land use zoning objective '*To protect and enhance the existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services*', although the northernmost extent

of the site area which accommodates the existing pumping station and other drainage infrastructure is located on unzoned lands outside of the town development boundary.

Explanatory Note:

This zoning principally covers existing residential areas. The zoning provides for infill development within these residential areas. The primary aim of this zoning objective is to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered appropriate to the area and to the needs of the population. While infill or re-development proposals would be acceptable in principle, careful consideration would have to be given to protecting amenities such as privacy, daylight and aspect in new proposals.

Other Relevant Sections / Policies:

Chapter 4: Housing:

Section 4.3: Development Capacity:

HP4: To have regard to the provisions of the Guidelines on “Sustainable Residential Development in Urban Areas” and the accompanying ‘Urban Design Manual’ in assessing applications for housing development.

Section 4.4: Housing Location and Density:

Section 4.4.3: Infill Residential Development:

Potential sites may range from small gap infill, unused or derelict land and backland areas, side gardens of existing houses, up to larger undeveloped sites within an established residential area.

Section 4.4.4: Existing Greenfield Sites:

These are defined as greenfield sites on the outer edge of the existing built up areas of Athy Town. There are a number of residential zoned sites located in the town, which fall under this category. It is necessary to make efficient use of these lands in the context of their location and the provision of a variety of housing types. Densities in a range of 30-50 dwellings per hectare will be appropriate and should include a variety of housing types.

Section 4.4.5: Existing Greenfield Sites Outer Edge of Urban – Rural Transition:

The emphasis is on achieving successful transition from central areas to areas at the edge of the town. There are a number of residentially zoned sites which fall under this category. Given the transitional nature of such sites, densities in a range of between 20-35 dwellings per hectare will be considered appropriate and should include a variety of housing types.

HP5: To encourage appropriate densities of new housing development in accordance with Government advice set out in the ‘Sustainable Residential Development in Urban Areas’.

HP7: To ensure that all new urban development especially in and around the town centre is of a high design and supports the achievement of successful urban spaces and sustainable communities.

HP8: To require diversity in the density of development and in the form, size and type of dwelling within residential areas.

HP9: To secure the development of a mix of house types and sizes throughout the town as a whole to meet the needs of the existing and projected likely future population. A statement of mix may be required for multi unit schemes to demonstrate that the needs of the area are provided for within the scheme.

HP10: To require the submission of design statements for residential development in excess of 50 housing units to facilitate the proper evaluation of the proposal relative to key objectives of the Development Plan with regard to the creation of sustainable residential communities.

HP14: To require planning applications for new housing to demonstrate good pedestrian and cycle links between residential developments and key destinations within Athy.

Section 4.5: High Quality Design of Residential Areas

Section 4.7: Apartment Development

Section 4.8: Housing and Community Facilities

HP22: To facilitate and co-operate in the provision of services for the community including, in particular, schools, crèches and other education and childcare facilities in tandem with residential development.

HP23: To require the provision of Childcare Facilities in all new residential developments as appropriate. The indicative standard is one childcare facility, accommodating 20 children, for each 75 dwellings. This standard may be modified in any particular case where there are significant reasons for doing so.

Chapter 7: Movement and Transport:

DR 4: To require housing scheme roads to be provided in accordance with:

- a) Sustainable Residential Development in Urban Areas (2009) and accompanying Best Practice Design Manual (2009).
- b) Architecture 2009-2015 Towards a Sustainable Future: Delivering Quality within the Built Environment (2009).
- c) Manual for Streets published by the Department of Transport, and Communities and Local Government (England and Wales) (2007) and any new guidance/ standards issued from the DoECLG.

Chapter 8: Water, Drainage and Environmental Services:

Section 8.6: Surface Water and Drainage

Section 8.8: Flood Risk Management

Chapter 10: Social, Community and Cultural Development

Section 10.3: Community Services and Facilities:

CF2: To actively promote the provision of community, educational, social and recreational facilities in tandem with future housing development. In certain large mixed use schemes the frontloading of such infrastructure may be required prior to the commencement of development. In this regard, applicants will be required to submit a Social Infrastructure Assessment (SIA) for the following; residential schemes on zoned land which are greater than 50 units, or where deemed necessary by the planning authority. The suitability and scale of proposed developments will be assessed against the level of

social infrastructure in the town. The planning authority will seek to ensure that unsustainable levels of population growth do not take place in the absence of adequate levels of social infrastructure.

Section 10.10: *Childcare Facilities*

Chapter 14: Urban Design and Opportunity Areas

Chapter 15: Development Management Standards

Section 15.3: *Residential Development*

Section 15.4: *Childcare Facilities*

Chapter 16: Land Use Zoning:

LU1: To ensure that a logical and sequential approach is adopted for development within the Athy Town Plan area (i.e. prioritising the development from the core area outwards).

5.2.3. *Athy Local Area Plan, 2019-2025:*

This Local Area Plan remains at pre-draft stage.

5.3. Natural Heritage Designations

5.3.1. The following natural heritage designations are located in the general vicinity of the proposed development site:

- The River Barrow and River Nore Special Area of Conservation (Site Code: 002162), approximately 1.8km southwest of the site.
- The Grand Canal Proposed Natural Heritage Area (Site Code: 002104), approximately 2.3km southwest of the site.

5.4. EIA Screening

5.4.1. Having regard to the nature and scale of the development proposed, the site location outside of any protected site and the nature of the receiving environment, the limited ecological value of the lands in question, the availability of public services, and the separation distance from the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The

need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The existing 13 No. houses on the adjacent lands known as Prusselstown Green (constructed pursuant to PA Ref. No. 03/300082) form part of an unfinished estate and are listed accordingly for exemption from Local Property Tax.

Although the 2015 Overall Survey Results provided on the website of the Housing Agency indicates that Prusselstown Green was recommended for removal from the national database of unfinished developments on the basis that the constructed units and associated basic infrastructure were in place, it should be noted that whilst a small proportion of the permitted houses were completed and occupied, the estate as a whole cannot be considered to be complete and the development *in situ* does not reflect the intended outcome of the planning permission.

Furthermore, critical infrastructure (i.e. the pumping station and attenuation works) are situated within the subject site and thus are outside of the common landholding of the existing houses.

- The proposed development will deliver much-needed housing for Athy and Co. Kildare at a time when dwellings are scarce. It will also remove a blight on the landscape.
- The application site is zoned as '*Existing Residential & Infill*' in the Athy Town Development Plan, 2012-2018 which aims '*To protect and enhance the existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services*'. Having regard to the purpose of this land use zoning, it is submitted that the proposed development complies with the zoning objective as it provides for the appropriate completion of an unfinished estate thereby enhancing the amenities of existing residential dwellings.

- The proposed development provides for a variety of house designs in order to appeal to a mix of household types and life stages and also includes a community service (i.e. childcare facility). It will further ensure that existing infrastructure is up to standard.
- The subject lands were zoned as '*Existing Residential & Infill*' in recognition of the unfinished nature of the estate and the need for further investment to complete it to an appropriate standard.
- The subject site is distinct from those lands zoned as '*New Residential: To provide for new residential development*' and in this respect it is considered that the order of priority referenced in Policy LU1 of the Town Development Plan is more applicable to '*New Residential*'. Furthermore, to apply Policy LU1 to lands zoned as '*Existing Residential & Infill*' would be contradictory in terms of the need to consolidate the urban form of Athy.
- The application site does not comprise entirely undeveloped / agricultural land, but is rather an area which has been subject to disturbance arising from the partial construction of previously approved development. In this regard, it is reiterated that the site forms part of a larger parcel of land which accommodates 13 No. completed houses (all occupied and in separate ownerships) and the foundations of a further incomplete unit with the remaining lands fenced off due to their disturbed condition.
- In terms of sequential development, the subject site cannot be considered to be in the same category as other lands in the area, particularly those lands zoned as '*New Residential*'.
- The subject site accommodates the foul water pumping station and attenuation tanks associated with the development originally permitted under PA Ref. No. 03/300082 (including the 13 No. completed dwellings).
- The Planning Authority has unfairly dismissed the applicable land use zoning with the second reason for refusal referring to '*other lands zoned for new residential development which are as yet undeveloped*' in the context of applying the sequential approach.

From a comparison of the land use zoning map with aerial imagery of Athy town, it is clear that a significant quantum of '*Existing Residential & Infill*' lands has been developed with pockets of potential infill and undeveloped (but subject to some groundworks) sites directly abutting developed parcels. In contrast, '*New residential*' lands are greenfield in nature and / or are in agricultural use and have not been subject to any groundworks.

- The proposed development is not inconsistent with national and regional planning policy by reference to the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midlands Region, 2019-2031.

The proposal seek to consolidate the urban form of this part of Athy and inherently comes within the overarching themes of the NPF by proposing a well-designed sustainable form of residential development on suitably zoned lands that can be defined as an unfinished estate.

- It is the intention to build out the development having regard to the presence of critical items of infrastructure required for the 13 No. completed houses located on the subject lands. This is the only way in which the issue will be resolved. Furthermore, although there may be other lands located closer to the town centre in comparison, where some landowners may have no interest in developing dwellings in the short to medium term, the subject proposal is 'shovel-ready'.
- The subject lands comprise an 'Infill Residential Development' as defined by the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*'.

The proposed development will have a net density of 24 No. units / hectare (when taking account of Phases 1 & 2 in addition to the 13 No. completed dwellings) and will comprise a mix of units. Although this is less than the national target of 35-50 No. dwellings / hectare, the proposed density is considered appropriate in the context of the site and existing surrounding character, with reference to Table 4.2 of the Kildare County Development Plan which recommends a density of 20-35 No. units / hectare for edge of urban areas. Therefore, the density proposed is appropriate having regard to

the transitional nature of the site on the urban edge and its location adjacent to 13 No. existing units.

- In addition to the high-quality housing design, landscaping will provide an appropriate mix of tree planting and open space for the benefit of both the proposed scheme and residents of Prusselstown Green.
- Without the rationalisation of the 13 No. existing dwelling houses through the completion of the development, those units will be detrimentally impacted upon. The public open space for the 13 No. houses was to be located on the subject lands as part of the now expired permission. Without the completion of the development, the residents will be without essential amenity space for the foreseeable future thereby impacting significantly on the enjoyment and value of their properties.
- There are unfinished elements to the completed development and the subject lands that result in adverse visual impacts etc. e.g. the screen fencing and the unattractive nature of those lands disturbed by groundworks. The redevelopment of the site will thus be of benefit to local residents and the wider area through the completion of an unfinished estate.
- Both the site and the completed dwellings have a footpath connection directly to the town centre. Furthermore, existing public street lighting ceases south of the existing entrance from Geraldine Road, but the scheme includes proposed lighting for 100m north and south of this area.
- There are a number of shortcomings with the completed dwellings, including issues with the existing wastewater / sewerage system and the need to complete the infrastructure in order to allow the Local Authority to take the estate in charge (e.g. the final layer of road tarmac and public lighting). The subject proposal represents an opportunity to ensure that existing infrastructure is of an appropriate specification and that additional infrastructure (including green spaces) is provided. Therefore, the proposal cannot be assessed in terms of sequential development as an undeveloped site. It will provide the opportunity to address long-running deficiencies at the site which affect local residents.

- The proposed development provides for a mix of housing types that will serve a wide range of occupants and life stages.
- The Athy Town Development Plan, 2012-2018 does not require a specific housing mix and aims to encourage diversity rather than uniformity.
- The proportion of two and three-bedroom units proposed has been informed principally by the demand in Athy and Co. Kildare for family sized housing whilst having regard to the location of the lands and the surrounding pattern of development. Cognisance has also been had to the housing mix previously permitted on site and the national trend for falling household sizes.
- Having regard to the SCSi Annual Residential Property Review and Outlook, 2018, it is considered that there is a greater need for 3-bedroom houses in Kildare.
- The housing mix proposed is inherently suitable having regard to recent trends, which are predicted to continue for the foreseeable future, and the significant employment opportunities in the area.
- The accompanying correspondence from Jordan Auctioneers, Newbridge, notes that the emphasis on demand for new homes in Athy is from first time buyers, many of whom are seeking 3-bedroom properties.

6.2. Planning Authority Response

- States that it has no further observations.

6.3. Observations

6.3.1. *An Taisce:*

- It is not considered that the applicant has substantiated any grounds on which to overturn the decision to refuse permission on the basis of sequential development and prematurity. The relevant development plan provisions on which the application was refused are valid and should be upheld accordingly.

6.3.2. *Paul Aspil (on behalf of the Prusselstown Green Residents Association):*

- The concerns of the observers as expressed in their initial objection have not been satisfactorily addressed.
- Having regard to the provisions of the Kildare County Development Plan, 2017-2023, the subject proposal cannot be considered to represent sequential development when there are lands closer to the town and in the same locality where permission has been granted for 135 No. residential units with a further 233 No. units awaiting approval. Accordingly, any grant of permission for the subject scheme would set a dangerous precedent for non-sequential development in Athy and the wider county.
- The National Planning Framework states that planned development should progress outwards from town centres, however, the proposed development is clearly at variance with this objective given the considerable tracts of undeveloped land available much closer to the town centre (there are in excess of 80 hectares of undeveloped residentially zoned lands in closer proximity to the town centre).
- The suggestion by the applicant that the subject proposal should not be restricted by sequential development concerns as the site is zoned 'residential / infill' is rejected. Furthermore, this submission is contradicted in the application itself wherein the applicant has sought to treat the proposal as a new development with the proposed house designs differing from those of the existing development (i.e. 'The Way', Prusselstown Green).
- The Kildare County Development Plan, 2017 states the following:

' . . . can accommodate new residential development without a dramatic alteration to the character or the area of a negative impact on existing residential amenities . . . maintenance of the public character of the area'.

The adjacent development (i.e. 'The Way') is characterised by 4 / 5 bedroom detached homes with a cream render and granite quoin stones and walled driveways set within a rural environment. In contrast, the subject proposal will include 2 / 3 bedroom apartments, terraces and semi-detached houses with a

red brick finish and open garden areas. Therefore, the proposed development will not maintain the existing character of the area.

- In terms of housing mix, it is submitted that the reason such a small number of 4-bedroom dwelling houses have been sold in Athy is that none were available in the area. From consultation with local auctioneers etc., it can be confirmed that there is a demand for 4 / 5 bedroom detached houses in Athy and the absence of any such units being available for purchase in the town has led to a situation where young professionals are instead choosing to purchase homes in other towns thereby contributing to the current socio-economic difficulties of Athy (please refer to the supporting correspondence prepared by Sean Ó Fearghail T.D. and Cllr. Brian Dooley).
- From a review of recent planning applications, it would appear that local developers are seeing a need to provide for a wider mix of housing, including larger four-bedroom dwellings, within their developments. The subject proposal is the only development that does not provide for any 4-bedroom dwellings (apart from that one house where the foundation is already in place), notwithstanding that the adjacent scheme is composed exclusively of 4 & 5 bedroom dwellings.
- The number of dwellings presently planned for development closer to the centre of Athy will more than meet the needs for the entire town. All of these dwellings will be sequentially closer to the town than the subject proposal.
- The existing residents of 'The Way', Prusselstown Green, are satisfied with the estate at present and are unanimous in their preference that it remain in its current state rather than be impacted by the proposed development. In this respect, it should be noted that the estate has won the 'Small Estate in Athy' category of Tidy Towns for a number of years and that its residents have applied for the estate to be taken in charge under Section 180 of the Planning and Development Act, 2000, as amended.

6.3.3. *Albert & Marie Caffrey:*

In the interests of conciseness, the Board is advised that this submission reiterates the concerns raised by Mr. Paul Aspil (on behalf of the Prusselstown Green Residents Association) as summarised above.

6.3.4. Maurice & Theresa O'Flaherty:

- Notwithstanding that 13 No. houses were built pursuant to PA Ref. No. 03/300082, the proposed development is in an agricultural area, which is not presently zoned or suitable for residential development, whilst the site itself is partially outside of the Athy town boundary. The subject proposal thus amounts to urban sprawl.
- Whilst permission was previously refused on appeal (PA Ref. No. 01/300047 / ABP Ref. No. PL35.130861) for the development of 70 No. houses on site, a total of 86 No. units was subsequently granted under PA Ref. No. 03/300082. However, the subject application (when taken in conjunction with existing and future phases of development) now proposes to construct 136 No. units on site i.e. 50 No. more units than was previously approved. Such an increase in density is inappropriate given the site location away from the town centre.
- The density of development proposed is greater than that of other housing estates which are located well within the town boundary.
- Given the site context, including its location on unzoned lands on the outskirts of Athy, the type of housing proposed is not considered appropriate i.e. 1, 2, & 3 bedroom units would be more suited to an urban environment within the town boundary.
- There are concerns that noise from both the construction and occupation phases of the development will pose a risk to the observers' livestock (horses and pedigree cattle) which grazes neighbouring lands.
- Whilst the grant of permission issued for PA Ref. No. 03/300082 approved 14 No. houses alongside the south-western site boundary shared with the observers' lands, the proposal to increase this to 24 No. houses of various sizes, including terraced units, is not considered appropriate.
- There are ongoing difficulties with the existing pumping station / attenuation services which are believed to have led to discoloration within the adjacent Moneen River which is a trout nursery. Therefore, there are concerns that the development poses a threat to the river and its wildlife.

- There are concerns that the proposed development could potentially exacerbate flooding of the observers' downstream lands.
- The proposed development, with particular reference to the increased density, could impact on the existing natural boundary shared with the observers' lands as well as wildlife habitats.
- Concerns arise as regards the security of the observers' lands and the risk of unauthorised dumping and trespass by future residents of the development.
- The existing pumping station / attenuation tanks do not have sufficient capacity to accommodate the proposed development. There are also concerns that this infrastructure will not be maintained to a suitable standard and that it will pose a risk to the environment.
- The strip of land between the application site and the observers' lands should be planted with native trees / bushes.
- There are concerns that the proposed development will have a negative impact on the surrounding road network and will also contribute to traffic congestion.

6.4. **Further Responses**

None.

7.0 **Assessment**

7.1. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues relevant to the appeal are:

- The principle of the proposed development
- Overall design and layout
- Traffic considerations
- Infrastructural / servicing issues
- Surface water drainage / flooding implications
- Impact on residential amenity

- Appropriate assessment

These are assessed as follows:

7.2. The Principle of the Proposed Development:

- 7.2.1. From a review of the available information, it is apparent that the pertinent issue in assessing the overall principle of the proposed development derives from its location relative to the built-up area of Athy and, more specifically, the need to ensure that the town develops in a sequential and co-ordinated manner. In this regard, the applicant has put forward the case that the subject site comprises suitably zoned and serviced lands and that the proposal itself amounts to an 'infill' development intended to complete an unfinished housing scheme originally approved on the wider landbank under PA Ref. Nos. 03/300082 & 04/55 (and subsequently amended by PA Ref. Nos. 05/300066 & 07/300028).
- 7.2.2. Given the site context, and by way of background, I would advise the Board at the outset that despite permission having previously been refused on appeal under ABP Ref. Nos. PL35.130861 (PA Ref. No. 01/300047) & PL09.130862 (PA Ref. No. 01/1712) for the development of 70 No. dwelling houses on the subject lands (for reasons referencing the fact that the lands were then zoned for agricultural purposes and were located a considerable distance beyond the built-up area of Athy with the result that the proposal would amount to the unplanned and disorderly expansion of the town), approximately 18 No. months later, the Planning Authority opted to grant permission for in excess of 100 No. dwellings (PA Ref. Nos. 03/300082 & 04/55) on the same lands by way of material contravention. The rationale for this grant of permission is unclear from the information available, particularly as the circumstances then prevailing, including the applicable development plan and the relevant zoning provisions, would appear to have been unchanged from those previously considered by the Board in its determination of the earlier planning applications. Nevertheless, it is this decision (and the subsequent approval of revisions to the permitted scheme) which culminated in the construction of the 13 No. existing dwelling houses known as 'Prusselstown Green' on those lands to the immediate northeast of the subject site prior to the ultimate expiration of the grant of permission in 2012. Moreover, the aforementioned grant of permission, and the unfinished nature of the permitted development, would appear to have formed the

basis for the consequent zoning of the subject lands as '*B: Existing Residential & Infill*' in the Athy Town Development Plan, 2012-2018.

- 7.2.3. Notwithstanding the land use zoning and the suggestion that the subject proposal would amount to infill development which will serve to complete an unfinished housing estate previously approved on the wider landbank, given the specifics of the site context, in my opinion, it is clear that there are difficulties in reconciling the proposed development (and the land use zoning) with the broader strategic requirements of the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' and the National Planning Framework (Project Ireland 2040).
- 7.2.4. The subject site is located at a considerable remove from the built-up area of Athy, approximately 2.0km northeast of the town centre, where it occupies a position on the north-eastern periphery of the town alongside the former Town Council boundary in an area characterised by an increased proliferation of individual one-off dwelling houses and the transition to the surrounding rural / agricultural hinterland. With the exception of the existing housing within 'Prusselstown Green' and the crescent of semi-detached cottages alongside Geraldine Road to the southeast, the immediate site surrounds are predominantly agricultural with a notable expanse of undeveloped greenfield lands extending south / south-westwards from the site along Geraldine Road. Furthermore, although some of the intervening lands between the application site and the existing built-up area of Athy have been zoned for new residential development ('*C: New Residential*'), it is notable that a considerable extent of these lands are zoned for agricultural purposes ('*I: Agricultural*') in the Athy Town Development Plan, 2012-2018. Indeed, the subject site is entirely isolated from any other residentially zoned areas with all of the contiguous lands being either unzoned or having been zoned for agriculture in the Town Development Plan.
- 7.2.5. Both the Athy Town Development Plan, 2012 (Objective LU1) and the Kildare County Development Plan, 2017-2023 (Section 3.4.6: '*Sequential Approach*' & Objective SO9) reference the need for sequential development with those lands closest to the urban core and public transport routes to be prioritised for development purposes. This is in line with national policy and at this point I would draw the Board's attention to Chapter 2: '*Role of development plans and local area plans*' of the '*Sustainable Residential Development in Urban Areas, Guidelines for*

Planning Authorities, 2009’ which emphasises the need to adopt a co-ordinated and sequential approach to the zoning of residential lands, extending outwards from the centre of an urban area, as recommended by the ‘*Development Plans, Guidelines for Planning Authorities, 2007*’ (this latter guidance advocates a logical sequential approach to the zoning of land for development with undeveloped lands closest to the core and public transport routes being given preference over more remote areas thereby avoiding ‘leapfrogging’ and scenarios whereby housing estates are constructed beyond the outer edges of existing built-up areas while intervening lands lie undeveloped resulting in deficiencies in terms of footpaths, lighting, drainage or adequate roads infrastructure. It also states that areas to be zoned should be contiguous to existing zoned development lands with any exception to be clearly justified in the written statement of the development plan).

7.2.6. The National Planning Framework further emphasises the need to secure the compact and sustainable growth of urban centres with the preferred approach comprising compact development that focuses on reusing previously developed, ‘brownfield’ land, building up infill sites, which may not have been built on before, and either reusing or redeveloping existing sites and buildings. This is given practical expression in a series of National Policy Objectives with NPO 3c particularly pertinent to the development of Athy in that it aims to deliver at least 30% of all new homes that are targeted in settlements other than the five cities and their suburbs, within their existing built-up footprints (similar provisions are set out in the recently adopted Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy, 2019-2031).

7.2.7. The remote location of the development site and its physical separation from the built-up area of the town is further evidenced by the lack of services in the area, including schools, shops and general amenities etc., as well as the limited availability of public transport. From an infrastructural perspective, the proposed development will not only be reliant on the existing foul water pumping station and rising main serving Prusselstown Green, but will also be dependent on the completion of considerable upgrading works to the satisfaction of Irish Water and the Local Authority i.e. the removal of the existing wastewater network constraints at Geraldine Road, the Leinster Street sewer, and the River Barrow siphon, in addition to the upgrading of approximately 1.3km of the water supply network. Whilst I would

acknowledge that the proposal includes for the provision of a childcare facility and that the funding mechanism for the improvement of the water and wastewater services is a matter for agreement with Irish Water, it is unacceptable for this site to not be fully integrated with town services.

- 7.2.8. Having considered the foregoing, I would concur with the assessment of the case planner that the proposed development is contrary to current planning policy and good practice as regards the order of priority for development. The application site is remote from the built-up area of the town and, in my opinion, the construction of further housing as has been proposed in such a location would amount to uncoordinated and disorderly development.
- 7.2.9. By way of further comment, I am also cognisant that the Athy Town Development Plan, 2012-2018 (including the relevant land use zoning provisions) has expired and that the Athy Local Area Plan, 2019-2025 remains at pre-draft stage (having been deferred pending the incorporation of recent changes in national and regional policy, namely, the publication of 'Project Ireland 2040: National Planning Framework', the Implementation Roadmap for the National Planning Framework, and the Eastern and Midland Regional Assembly (EMRA) Regional Spatial and Economic Strategy, 2019-2031, into the current Kildare County Development Plan). In this regard, the greater emphasis placed on the need for compact growth and sequential development expressed in current national and regional policy would seem to undermine the merits of the subject proposal.

7.3. **Overall Design and Layout:**

7.3.1. *Proposed Housing Density:*

- 7.3.2. By way of context, I would advise the Board that Athy has been identified as a '*Moderate Sustainable Growth Town*' in the county settlement hierarchy which is situated within the hinterland area outside of the Dublin Metropolitan Area. Within this 'hinterland area', it is envisaged that towns such as Athy should develop in a self-sufficient manner with a view to reducing commuting levels and ensuring sustainable levels of housing growth whilst also providing for a full range of local services adequate to meet local needs at district level and for surrounding rural areas. The provision of a strong social infrastructure in tandem with growth in population, particularly in relation to schools and leisure facilities is also required. In

accordance with the Core Strategy, the town has an allocated growth rate of 4.8% for the period 2016-2023 which is considered to equate to the provision of 1,560 No. additional dwellings, however, from a review of Table 3.4: *'Development Capacity in Kildare'* it would appear that as 1,896 No. 'Potential Units' were deemed to be deliverable by 2015 (based on a net capacity figure derived from the sum of all lands then zoned (105 No. hectares), adjusted to exclude surplus zoning (capacity beyond the plan period) and include deficits that will be addressed through LAP), there was a capacity surplus of 336 No. units for the period 2016-2023 with 678 No. units having been granted permission but as yet to be constructed. In this respect, it is perhaps of further relevance to note that while Section 2.5 of the Athy Town Development Plan, 2018 refers to a requirement to zone c. 28 No. hectares for residential development in order to accommodate the applicable housing projections, the Plan actually zoned 75.8 No. hectares for housing (sufficient to facilitate approximately 1,667 No. units), although this represented a significant decrease in the lands zoned for new residential development from 185 No. hectares in the Athy Town Development Plan 2006-2012. Accordingly, on the basis of the foregoing, I would have some reservations as regards the demand for housing in the town and, in particular, the appropriateness of siting new residential development at the peripheral location proposed.

- 7.3.3. Notwithstanding my reservations as regards the actual development capacity of Athy for new housing construction, I would reiterate that the proposed development site is located on greenfield lands on the north-eastern periphery of the town on lands which are zoned for residential purposes and where public services are available (subject to certain infrastructural improvements). In this regard I would draw the Board's attention to Policy HP4 of the Athy Town Development Plan, 2018 wherein it is stated that the Council will have regard to the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities'* and the accompanying Urban Design Manual in assessing applications for housing development and, more specifically, Objective LDO 1 of the current County Development Plan which aims to ensure that the density of residential development maximises the value of existing and planned physical and social infrastructure and makes efficient use of zoned lands in accordance with the aforementioned guidelines.

- 7.3.4. The *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* generally encourage more sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. Given the site location, and notwithstanding its planning history or land use zoning as *'B: Existing Residential & Infill'* in the Athy Town Development Plan, 2012-2018, in my opinion, it is clear that the subject lands can be categorised as outer suburban / 'greenfield' as defined by the Guidelines where the greatest efficiency in land usage is to be achieved by providing net residential densities in the general range of 35-50 No. dwellings per hectare and that such densities (involving a variety of housing types where possible) are to be encouraged generally. Moreover, within such areas development at net densities of less than 30 No. dwellings per hectare is generally to be discouraged in the interest of land efficiency.
- 7.3.5. At this point, I would also draw the Board's attention to Specific Planning Policy Requirement 4 of the *'Urban Development and Building Heights, Guidelines for Planning Authorities, 2018'* which expressly states that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure *'the minimum densities for such locations set out in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled "Sustainable Residential Development in Urban Areas (2007)" or any amending or replacement Guidelines'*.
- 7.3.6. The subject proposal comprises the development of 69 No. dwelling units on a site of 3.87 hectares which equates to a net density of c. 18 No. units per hectare, however, it should be acknowledged that the layout proposed includes for open space and roadways intended to serve Phase 2 of the development of the applicants lands i.e. an additional 54 No. units. In this respect, I am similarly cognisant that the proposed development also incorporates that area of open space which presently serves the existing 13 No. dwelling houses on the adjacent lands known as 'The Way', Prusselstown Green. Accordingly, for the purposes of completeness, I would advise the Board that the wider housing development (including all existing, proposed and planned units) envisages the provision of a total of 136 No. units on a site area of 5.7 hectares which would equate to an overall density of approximately 24 No. units per hectare.

- 7.3.7. In my opinion, the density of the development proposed, taken both in isolation or in conjunction with adjacent lands, is unacceptably low and cannot be considered to represent an efficient or economic use of land or services. The proposal would, therefore, be contrary to local planning policy and national guidance as well as the proper planning and sustainable development of the area.
- 7.3.8. *Proposed Design, Layout & Housing Mix:*
- 7.3.9. The proposed development involves the construction of 69 No. residential units, a significant majority of which (i.e. 58 No.) will comprise 3-bedroom, two-storey, semi-detached houses set around a series of cul-de-sacs with the overall design and layout of the scheme being rather conventional in appearance and typical of a suburban format of development with each unit having been provided with front and rear garden areas and dedicated off-street car parking. In terms of house design / type / size and variety of building typology, whilst there is some variation in the individual house types in terms of floor areas, building footprints, and external finishes, they share a common design theme based on a principle rectangular plan with an asymmetrical elevational treatment utilising varying combinations of differing features and finishes (with the exception of House Type 'C' / Unit No. 14 which follows the established pattern of development within 'The Way', Prusselstown Green).
- 7.3.10. In terms of the wider design merits of the submitted scheme, it should be noted that the primary objective of the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*' (together with the accompanying '*Urban Design Manual: A Best Practice Guide*') is to produce high quality, and crucially, sustainable developments. In this respect I would have particular concerns as regards the overall conventionally suburban design of the development and its failure to adhere to a number of the key criteria set out in the best practice design guide, most notably, the need for a variety of housing types / building typologies and the creation of distinctiveness / sense of place. I would also reiterate that the site is effectively isolated from the built-up urban form of Athy town and thus is remote from local services and amenities available within the town proper. This peripheral location is also likely to limit interaction beyond the confines of the site and whilst provision has been made for the inclusion of linkages through to neighbouring lands to the

immediate north and south, these lands are not zoned for development and are unlikely to be developed for any purpose other than agriculture in the near future.

- 7.3.11. With regard to the mix of housing types and sizes, notwithstanding the variations in individual house designs, the proposed development is predominantly composed of 3-bedroom, two-storey, semi-detached dwelling houses (58 No.) with an even greater proportion of the development allocated to three-bedroom housing when cognisance is taken of the terraced units (4 No.). In this respect I would draw the Board's attention to Policy MD 1 of the County Development Plan which seeks to *'ensure that a wide variety of adaptable housing types, sizes and tenures are provided in the county in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual to support a variety of household types'*.
- 7.3.12. The Guidelines and the Urban Design Manual state that a successful neighbourhood will be one that houses a wide range of people from differing social and income groups and recognises that a neighbourhood with a good mix of unit types will feature houses of varying sizes etc. in order to achieve a balanced mix of house design, mix and tenure. Indeed, the National Planning Framework also recognises that the current average of 2.75 No. persons per household is likely to fall to 2.5 No. persons.
- 7.3.13. Given the predominance of three-bedroom, two-storey semi-detached housing, it is my opinion that the proposed development fails to comply with local and national planning policy, as outlined above, would be contrary to the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities'*, and would, therefore, be contrary to the proper planning and sustainable development of the area.
- 7.3.14. In addition to the foregoing, and deriving to some extent from same, I would have reservations as regards the somewhat generic format of the development proposed and its lack of distinctiveness / sense of place. The subject proposal effectively serves to replicate the suburban character of similar schemes, and although I would acknowledge the applicant's intent in this regard, there is nevertheless the potential to create a greater degree of distinctiveness and sense of place within the scheme

through an amended site layout, variations in density, and the inclusion of a greater variety of unit types in accordance with the principles of the Guidelines.

7.4. Traffic Considerations:

- 7.4.1. The proposed development will be accessed from Geraldine Road via the existing estate roadway serving 'The Way', Prusselstown Green, with a new spine road and associated footpaths extending from same and providing access to a series of cul-de-sacs. Notably, the junction of the existing service roadway with the public road is within the 60kph speed limit with the start of the 50kph limit situated approximately 50m further southwest.
- 7.4.2. Following a review of the Traffic & Transport Assessment submitted with the initial application, as supplemented by the additional details and revisions provided in response to the request for further information issued by the Planning Authority, including the Road Safety Audit, and having regard to the scale of development proposed, the projected traffic volumes, and the overall condition of the public roadway in the vicinity of the site, it is my opinion that the surrounding road network has sufficient capacity to accommodate the additional traffic volumes consequent on the proposed development and that the subject proposal does not pose an undue risk to traffic / public safety.

7.5. Infrastructural / Servicing Issues:

- 7.5.1. In order to connect the development to the public mains foul sewerage network, it is proposed to drain the scheme by gravity to the existing pumping station located in the northernmost corner of the site which presently serves the neighbouring housing within Prusselstown Green. Foul water from the development will thus be pumped by way of an existing rising main (previously permitted under PA Ref. No. 07/300028 & extended by PA Ref. No. 12/300011) to the mains sewer at Shamrock Drive from where it will be gravity fed to the municipal wastewater treatment plant.
- 7.5.2. Concerns have been raised by a number of parties as regards the capacity of the existing pumping station to accommodate the additional loadings consequent on the proposed development, particularly in light of ongoing difficulties with its operation and repeated incidences of odorous emissions. It has also been suggested that the pumping station / attenuation tanks may have led to discoloration within the adjacent Moneen River and that they pose a risk of water pollution.

- 7.5.3. From a review of the available details, including the report of Kavanagh Burke Consulting Engineers prepared in response to the request for further information, it would appear that there are no capacity issues as such with the pumping station and the rising main. Instead, the occurrence of unpleasant odours is likely attributable to an insufficient flow of effluent entering the pumping station from the existing 13 No. houses with the result that waste in the rising main is retained for a longer period than would be the case had the estate been completed in full. In this regard, it is envisaged that the increased loadings and throughput consequent on the proposed development would serve to avoid the problem of septicity within the rising main and the associated odours.
- 7.5.4. In relation to the suggestion that the existing pumping station and its holding tanks may have led to discoloration within the adjacent river and that they pose a further risk of water pollution, no evidence has been put forward to support such an assertion. Moreover, given that this infrastructure functions as a sealed system with its only discharge to the public mains sewer, and noting the applicant's submission that the location and level of the pumping station is outside the extent of flood events whilst all covers and lids to the pump sump, valve chamber and holding tanks will be lockable and sealed to ensure safety and that no water enters the foul pumping facility at any time from any source, I am unconvinced that it poses a risk of leakage or water pollution. By way of further comment, it should also be noted that the appropriateness and suitability of this system was previously assessed and granted permission by the Planning Authority under PA Ref. No. 07/300028.
- 7.5.5. With respect to the issues of odours and surcharging of the existing 225mm and 300mm gravity sewers on Geraldine Road and the network constraints on Leinster Street and at the River Barrow siphon, both the applicant and Irish Water have indicated that a financial contribution will be required towards the costs of rectifying these matters.
- 7.5.6. *Water Supply:*
- Irish Water have confirmed the need to upgrade c. 1.3km of the water network in order to service the proposed development. The contribution of the developer to the costs associated with any such works will be addressed as part of the connection process.

7.6. Surface Water Drainage / Flooding Implications:

- 7.6.1. Concerns have been raised as regards the potential flooding implications of the proposed development and, more specifically, its impact on the existing flood regime (including the displacement of flood waters), particularly in light of its location and proximity to the Moneen River.
- 7.6.2. In terms of flood risk identification, at the outset, it is apparent from a review of the National Flood Hazard Mapping available from the Office of Public Works that a substantial extent of the proposed development site is identified as an area subject to flooding, however, I would advise the Board that this mapping is not definitive and only serves as a useful tool in highlighting the potential for flood events in a particular area.
- 7.6.3. On examination of the most up-to-date flood mapping prepared by the Office of Public Works as part of its CFRAM programme, which has recently been made available on www.floodinfo.ie and serves to inform the development of Flood Risk Management Plans for specific areas, it would appear that only the northernmost extent of the site (i.e. that area occupied by the existing foul water pumping station etc. and the existing & proposed surface water attenuation infrastructure) is within Flood Zone 'A' as defined by the *'Planning System and Flood Risk Management, Guidelines for Planning Authorities'* in that it is presently subject to a 'medium probability' of fluvial flooding from the Moneen River ('Medium Probability' flood events have approximately a 1 in 100 chance of occurring or being exceeded in any given year). A marginally greater proportion of the site area is within the 'low probability' 0.1% (1 in 1,000 chance in any given year) AEP fluvial flood extent which would equate to 'Flood Zone B'.
- 7.6.4. Some further credence is lent to the likelihood of flood events occurring within the site confines in the Strategic Flood Risk Assessment appended to the Athy Town Development Plan, 2012-2018 which makes reference to instances of flooding having been recorded to the south of the Moneen River in the townland of Prusselstown, although it does not identify the location or extent of any such flood events. However, this SFRA does state that proposals for further development on lands zoned as '*B: Existing Residential and Infill Development*' within Flood Zones A & B should be the subject of a site-specific flood risk assessment appropriate to the

type and scale of the development being proposed which should incorporate mitigation measures that:

- i. Indicate and quantify the loss of floodplain storage arising from the development proposal;
- ii. Provide compensatory storage located within or adjacent to the proposed development;
- iii. Indicate measures to ensure that water-vulnerable elements of the development would not be flooded during the 1000 year flood;
- iv. Ensure that existing flow paths for flood waters will not be compromised.

(For the purposes of clarity, the Board is advised that the Strategic Flood Risk Assessment appended to the Kildare County Development Plan, 2017-2023 does not examine flood events in Athy as the town was then the subject of a separate Local Area Plan and SFRA).

- 7.6.5. In light of the foregoing, the subject application has been accompanied by a site-specific flood risk assessment prepared by JBA Consulting. This report states that whilst the National Flood Hazard Mapping has identified the site as being partially located within an area that has previously flooded, and although the flood outline shown is suggested as being representative of recurring flood outlies, the extent of the flooding indicated would appear to have been derived from information provided by the Barrow Drainage District which identifies lands that were drained prior to 1945 with the result that the flood extent shown is most likely based on that which would have occurred prior to the drainage works being carried out and thus is not representative of present day flood events. Moreover, the FRA has sought to emphasise that the National Flood Hazard Mapping has been superseded by the South Eastern CFRAM which confirms that the majority of the site is within Flood Zone C and thus has a low probability of flooding with only the northernmost part being located within Flood Zones A & B. It also states that all of the dwelling houses will be located within Flood Zone C and that their finished floor levels will be set 0.5m above the high water level in the attenuation tank and 0.85m over the 0.1% AEP event which is used as a substitute for the 1% AEP event plus climate change. In addition, it has been confirmed that the siting of the proposed housing within Flood Zone C and location of the attenuation tank (a water-compatible development) within

Flood Zones A & B are appropriate as per Table 3.2 of '*The Planning System and Flood Risk Management, Guidelines for Planning Authorities, 2009*' thereby avoiding any requirement for a Justification Test.

- 7.6.6. With regard to surface water drainage, it is proposed to extend the existing attenuation system on site and to undertake various improvement works, including the installation of a replacement flow control device which is considered necessary as the restricted flow has been adjusted to facilitate the overall development. Notably, both the initial drainage report and the FRA acknowledge that the outfall from the stormwater attenuation system will be periodically below the high water level of the Moneen River, although it has been submitted that this arrangement has the benefit of planning permission.
- 7.6.7. In response to a request for further information, amended surface water drainage arrangements were submitted that included for various SUDS measures (e.g. permeable paving with infiltration pits within private front garden areas and roadside swales to intercept runoff from carriageways where possible) and the provision of 4 No. additional attenuation tanks throughout the site which would be elevated above the level of the existing system so as to provide the necessary storage volume in the event of extreme flooding in the Moneen River. Therefore, the existing attenuation tank and outfall will be the lowest part of the drainage system and in this respect it is envisaged (as has been summarised in the updated FRA provided in response to the request for further information) that in the event of a high river level, such as during a 1% AEP event, the existing tank will surcharge with the 4 No. additional tanks receiving surface water runoff from the site thereby bringing the high water level in the attenuation system above the flood level of the river and causing a pressure head that will force water out through the non-return valve. It has also been stated that the total storage of all the tanks combined has been designed so the total required attenuation volume of 1,349m³ is available in full above the 1% AEP flood level (which is considered to be an extremely unlikely event where the 1% AEP flood peaks at the same time as a 1% AEP 6h rainfall event).
- 7.6.8. Having considered the available information, with particular reference to the updated flood mapping compiled by the Office of Public Works, it would appear that the proposed dwelling houses will be constructed on lands situated within Flood Zone 'C' as defined by the '*Planning System and Flood Risk Management, Guidelines for*

Planning Authorities'. In this regard, I would refer the Board to Table 3.1 of the Guidelines which sets out the classification of various land uses / development types which are either highly vulnerable, less vulnerable, or water-compatible. Within Flood Zone 'C' all forms of development, including highly vulnerable development such as housing, are deemed to be 'appropriate' as per the criteria set out in Box 5.1 of the Guidelines and thus do not have to demonstrate compliance with the 'Justification Test'. Furthermore, I would accept that the surface water drainage / attenuation infrastructure to be sited within Flood Zones 'A' and 'B' of the site constitutes a 'water-compatible' form of development that would similarly be considered 'appropriate' from a flood risk management perspective whilst the nature of its construction is unlikely to give rise to any specific concerns as regards the potential displacement of floodwaters.

7.6.9. Therefore, noting that the Planning Authority itself is seemingly satisfied with the veracity of the surface water drainage design calculations, on balance, it is my opinion that the proposed development satisfies the requirements of the '*Planning System and Flood Risk Management, Guidelines for Planning Authorities*' and is unlikely to have any adverse impact on the flood regime of the area.

7.7. Impact on Residential Amenity:

7.7.1. Having reviewed the available information, and in light of the site context, including its relationship with neighbouring property, in my opinion, the overall scale, design, positioning and orientation of the proposed development, with particular reference to its separation from adjacent dwelling houses, will not give rise to any significant detrimental impact on the residential amenity of neighbouring property such as by way of overlooking, overshadowing, or loss of daylight / sunlight.

7.7.2. With regard to the potential impact of the construction of the proposed development on the residential amenities of surrounding property, whilst I would acknowledge that the proposed development site adjoins an existing housing scheme and that any construction traffic routed through same could give rise to the disturbance / inconvenience of local residents, given the limited scale of the development proposed, and as any constructional impacts will be of an interim nature, I am inclined to conclude that such matters can be satisfactorily mitigated by way of condition.

7.8. Appropriate Assessment:

7.8.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) is located approximately 1.8km southwest of the site. In this respect, it is of relevance to note that it is the strategy of the planning authority, as set out in Chapter 13: '*Natural Heritage & Green Infrastructure*', to contribute towards the protection, conservation and management of natural heritage including sites designated at national and EU level. Furthermore, Policy NH 5 of the Plan aims to prevent development that would adversely affect the integrity of any Natura 2000 site located within or immediately adjacent to the county and to promote the favourable conservation status of habitats and protected species including those listed under the Birds Directive, the Wildlife Acts and the Habitats Directive. By way of further clarity, Policy NH 6 also states that it will be a requirement for an Appropriate Assessment to be undertaken in accordance with Articles 6(3) and Article 6(4) of the Habitats Directive in respect of any plan or project not directly connected with or necessary to the management of a Natura 2000 site to determine the likelihood of the plan or project having a significant effect on a Natura 2000 site, either individually or in combination with other plans or projects and to ensure that projects which may give rise to significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites are not be permitted (either individually or in combination with other plans or projects) unless for reasons of overriding public interest.

7.8.2. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.

7.8.3. *Stage 1 Appropriate Assessment: Screening:*

In screening the subject proposal for the purposes of appropriate assessment, I would refer the Board at the outset to the '*Screening Report for Appropriate Assessment and Natura Impact Statement*' which accompanied the initial

application. By way of summation, this states that the only Natura 2000 site considered to be within the zone of influence of the proposed development (i.e. within a 2km radius of the project) is the River Barrow and River Nore Special Area of Conservation which is located approximately 1.7km to the southwest. More specifically, following consideration of the 'source-pathway-receptor' model, it is acknowledged that there is a potential hydrological connection between the application site and the SAC by way of ground and surface water flows via the River Moneen which forms a tributary of the River Barrow and borders the project site. The screening exercise then considers the significance of possible effects on the SAC in view of its conservation objectives as follows:

7.8.4. Habitat Loss:

Given the separation distance between the project and the SAC, it is not considered that there is any pathway for the direct loss or disturbance of habitats or species listed as qualifying interests or any other semi-natural habitats that may act as ecological corridors for important species associated with them.

However, in light of the hydrological connection via the River Moneen, it is acknowledged that the potential for indirect effects arises with the need to maintain good water quality forming a key element of the conservation objectives for the white-clawed crayfish, twaite shad, Atlantic salmon, freshwater pearl mussel, Nore freshwater pearl mussel, floating river vegetation, and petrifying springs (although the highest water quality is demanded for the freshwater pearl mussel & the Nore freshwater pearl mussel, it is stated that the project site is outside the catchment for these species). It is subsequently considered that the relevant water quality standard is that required for the Atlantic salmon (i.e. Q4 (unpolluted) status), which is currently being met upstream of Athy and downstream of its confluence with the Moneen River, as poor water quality can affect this species by reducing the available dissolved oxygen levels in the water as well as impacting on the quality of spawning habitats due to nutrient and sediment impacts.

7.8.5. Pollution during construction:

It is accepted that there may be some release of sediment to surface waters during the construction stage and that whilst any such impact will be of a temporary nature, the potential for significant negative effects on fish habitats cannot be ruled out.

7.8.6. *Pollution arising from surface water:*

There will be no change to the quality or quantity of surface water leaving the site due to the proposed implementation of SUDS measures and, therefore, no significant impacts are expected to arise in this regard.

7.8.7. *Pollution from wastewater discharge:*

It is the applicants understanding that the municipal wastewater treatment plant serving Athy is not presently having a negative impact on the receiving waters. On the basis that this WWTP has sufficient capacity to accommodate the additional loadings consequent on the proposed development, no significant impacts are anticipated.

7.8.8. *Abstraction:*

A water supply is available from the public mains system and there is no evidence that abstraction is resulting in any negative impacts on species or habitats along the River Barrow.

7.8.9. *Light and noise:*

It is acknowledged that the proposed development will result in some additional noise and artificial lighting, however the impact of same is not considered to be significant as it cannot affect the conservation objectives of the SAC.

7.8.10. *In-combination / cumulative effects:*

It is not envisaged that the proposed development will give rise to any in-combination / cumulative effects on the SAC.

7.8.11. Accordingly, the applicant's initial screening exercise determined that the proposed development could potentially impact on the River Barrow and River Nore Special Area of Conservation, with specific reference to the conservation objective set for Atlantic Salmon, by reason of a deterioration in water quality and spawning habitats attributable to the release of sediment / silt to surface waters (i.e. the Moneen River) during construction works.

7.8.12. At this point, the '*Screening Report for Appropriate Assessment and Natura Impact Statement*' provides a further brief appraisal of the potential impact on the SAC and states that site-specific mitigation measures designed to prevent silt-laden waters

from entering the River Moneen (which will include the protection of the drainage ditch by the construction of a silt fence or clay berm and the use of a suitably sized silt trap / settlement pond) are to be incorporated into a Construction Management Plan prepared in accordance with the guidelines for the protection of fish habitats issued by the IFI. The report subsequently concludes with a paragraph titled '*The Assessment of Significance of Effects – Conclusion of Stage 2*' which states that significant effects on the integrity of the SAC can be avoided, subject to the implementation of the specified mitigation measures.

- 7.8.13. It is unclear whether or not these later sections of the applicant's '*Screening Report for Appropriate Assessment and Natura Impact Statement*' are intended to comprise a Natura Impact Statement for the purposes of Stage 2: Appropriate Assessment, however, it is apparent from the report of the Local Authority Heritage Officer that the document in question was only considered to amount to a screening analysis and thus it was inappropriate to take account of the mitigation measures proposed (as established by case law). Notably, this interpretation was accepted by the case planner in their '*Appropriate Assessment Screening Statement*' which culminated in the applicant being required by way of a request for further information to submit a Natura Impact Statement for the proposed development.
- 7.8.14. On 17th May, 2019 the applicant submitted an updated report titled '*Appropriate Assessment Screening & Natura Impact Statement – Information for Stage 1 (AA Screening) and Stage 2 (Natura Impact Statement) AA*' in response to a request for further information. This document elaborates on the initial screening exercise and similarly identifies the hydrological link between the proposed works and the River Barrow and River Nore Special Area of Conservation via the Athy Stream / Moneen Roiver. It acknowledges that the works will involve excavations in the vicinity of the watercourse as well as the connection of the existing & proposed surface water drainage / attenuation arrangements to the river and that mitigation measures will be required to prevent downstream impacts on the SAC thereby necessitating the preparation of a Natura Impact Statement.
- 7.8.15. Having considered the screening exercises undertaken by both the applicant and the Planning Authority, in accordance with the advice contained in the '*Appropriate Assessment of Plans and Projects in Ireland, Guidance for Planning Authorities*' published by the Department of Environment, Heritage and Local Government, it can

be established that the following 2 No. European Sites are within a 15km radius of the proposed works:

- The Ballyprior Grassland Special Area of Conservation (Site Code: 002256)
- The River Barrow and River Nore Special Area of Conservation (Site Code: 002162)

7.8.16. In addition to the foregoing, using the precautionary principle, I would also advise the Board that I have given consideration to Natura 2000 sites located outside of the defined 15km radius, however, as no potential pathways for any significant impacts can be established, it can be concluded that there is no potential for any impacts on those Natura 2000 sites located outside the 15km radius.

7.8.17. In terms of assessing the potential direct, indirect or secondary impacts of the proposed development on the conservation objectives of the aforementioned Natura 2000 sites, it should be noted at the outset that due to the location of the proposed works outside of any Natura 2000 designation, and the separation distances involved, it is clear that the subject proposal will not directly impact on the integrity of any European Site (such as by way of habitat loss or reduction). However, having reviewed the available information, in light of the nature and scale of the proposed development, the specifics of the site location relative to certain Natura 2000 sites, and having regard to the prevailing site topography, in my opinion, by employing the source / pathway / receptor model of risk assessment, it can be determined that specific consideration needs to be given to the likelihood of the proposed development to have an adverse effect on the conservation objectives of the River Barrow and River Nore Special Area of Conservation on the basis that the proposed development site is situated up-gradient of these Natura 2000 sites with surface and ground water flows draining towards same via the Moneen River i.e. it will be necessary to consider the potential implications for down-gradient protected habitats & species within the aforementioned site arising from any potential deterioration in water quality attributable to the proposed works given the hydrological connectivity between the application site and the European site.

7.8.18. Accordingly, the screening exercise for the purposes of appropriate assessment should be focused on the following:

European Site: The River Barrow and River Nore Special Area of Conservation (Site Code: 002162)

Distance & Direction: c. 1.7km southwest

Qualifying Interests: Estuaries [1130]

Mudflats and sandflats not covered by seawater at low tide [1140]

Salicornia and other annuals colonising mud and sand [1310]

Atlantic salt meadows (*Glauco-Puccinellietalia maritimae*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]

European dry heaths [4030]

Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]

Petrifying springs with tufa formation (*Cratoneurion*) [7220]

Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]

Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]

Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]

Austropotamobius pallipes (White-clawed Crayfish) [1092]

Petromyzon marinus (Sea Lamprey) [1095]

Lampetra planeri (Brook Lamprey) [1096]

Lampetra fluviatilis (River Lamprey) [1099]

Alosa fallax fallax (Twaite Shad) [1103]

Salmo salar (Salmon) [1106]

Lutra lutra (Otter) [1355]

Trichomanes speciosum (Killarney Fern) [1421]

Margaritifera durrovensis (Nore Pearl Mussel) [1990]

Conservation Objectives: To maintain / restore the favourable conservation condition of the species and habitats for which the SAC has been selected.

(*N.B.* The status of the freshwater pearl mussel (*Margaritifera margaritifera*) as a qualifying Annex II species for the River Barrow and River Nore SAC is currently under review. The outcome of this review will determine whether a site-specific conservation objective is set for this species. Please note that the Nore freshwater pearl mussel (*Margaritifera durrovensis*) remains a qualifying species for this SAC).

7.8.19. Following consideration of the 'source-pathway-receptor' model, with particular reference to the potential for negative impacts on down-gradient water quality as a result of the release of sediment / silt or other contaminants during the construction stage of the proposed development and the discharge of surface water runoff from the completed scheme to the Moneen River, it is my opinion that, in accordance with the precautionary principle, it is not possible to rule out the likelihood of the proposed development adversely impacting on a Natura 2000 site and that particular consideration needs to be given to the likelihood of the proposal to have an adverse effect on the conservation objectives of the River Barrow and River Nore Special Area of Conservation. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the likelihood of the proposed development adversely affecting

the aforementioned Natura 2000 site cannot be objectively ruled out and therefore it is necessary to proceed to 'Appropriate Assessment (Stage 2)'.

(The Board may also wish to consider if the proposed surface water drainage and attenuation arrangements, including the implementation of the SUDS measures and the installation of silt traps & interceptors, have reasonably been included in order to comply with the requirements of the Development Plan as regards the minimisation of surface water discharges through the use of Sustainable Urban Drainage Systems in order to separate foul and surface waters and in response to the need for improved flood risk management and the prevention of a deterioration in water quality sought by the Water Framework Directive (and associated regulations). In effect, it could be held that the inclusion of the surface water attenuation and treatment measures in the subject application is not intended to avoid or reduce harmful effects on any Natura 2000 site and instead derives directly from the requirements of Development Plan (Section 7.5.5: '*Policies: Surface Water and Flooding*' of the Kildare County Development Plan) for the implementation of Sustainable Urban Drainage Systems in light of the wider obligations arising from the Water Framework Directive in terms of pollution control and the need for flood risk management i.e. they comprise an inherent part of the design which may be considered in screening the proposal for the purposes of appropriate assessment).

7.8.20. *Stage 2: Appropriate Assessment:*

With regard to the Stage 2 Appropriate Assessment set out in the Natura Impact Statement submitted in response to the request for further information, I am satisfied that it has adequately identified the key characteristics of the potential impacts arising as a result of the proposed development which would be likely to undermine the stated conservation objectives of the designated sites i.e. the indirect impact on down-gradient water quality and certain protected species & habitats arising from the potential release of pollutants / contaminants to ground & surface waters during the construction stage of the development and the discharge of surface water runoff from the completed scheme (please refer to Tables 4 & 5 of the document).

7.8.21. The NIS subsequently recommends the implementation of a variety of mitigation measures to be put in place during the project construction phase (Table 5), including adherence to IFI guidelines on the protection of fisheries during

construction works in and adjacent to waters, the use of Best Available Technology mitigation designed by a project ecologist, the establishment of a 10m riparian buffer / biodiversity corridor alongside the river (to be maintained post-construction), the installation of silt traps and interceptors etc., the use of dust control measures, and the suitable locating and bunding of fuel, oil & chemical storage. Adherence to best construction practice as regards pollution control etc. to prevent the release of sediment / silt or other contaminants to the River Moneen may also be ensured by way of an agreed Construction and Environmental Management Plan (CEMP).

- 7.8.22. With regard to the surface water drainage arrangements on completion and occupation of the proposed development, it should be noted that the attenuation proposals and the use of Sustainable Urban Drainage Systems will ensure that the rate of surface water runoff discharging to the river is maintained at pre-development levels whilst the installation of silt traps and petrol interceptors (in combination with the continued maintenance of the system) will ensure that contaminants are not released to the river (*N.B.* Foul water will be disposed of via connection to the public mains sewer).
- 7.8.23. The NIS has thus concluded that, subject to adherence to the mitigation measures specified, the proposed development is not likely to result in any adverse effects, either on its own or in combination with other projects and plans, on the River Barrow and River Nore Special Area of Conservation.
- 7.8.24. On balance, I would generally concur with the findings of the NIS and would accept that the implementation of best practice and adherence to the mitigation measures set out in the NIS will serve to avoid any impacts on ground and surface water quality thereby ensuring no significant adverse effects on the conservation objectives of the River Barrow and River Nore Special Area of Conservation as a result of the proposed development.
- 7.8.25. With regard to the potential for in-combination / cumulative impacts with other plans or projects, I am also satisfied that the proposed development, subject to suitable mitigation, would not be likely to give rise to any in-combination / cumulative impacts with other plans or projects which would adversely affect the integrity of any Natura 2000 site and would not undermine or conflict with the Conservation Objectives applicable to same.

7.8.26. Therefore, I consider it reasonable to conclude, on the basis of the information available, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, that the proposed development, when taken individually and in combination with other plans or projects, will not adversely affect the integrity of the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) or any other European site, in view of the sites' conservation objectives.

8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

9.0 Reasons and Considerations

1. The "Sustainable Residential Development In Urban Areas - Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in May, 2009, recommend a sequential and co-ordinated approach to residential development, whereby zoned lands should be developed so as to avoid a haphazard and costly approach to the provision of social and physical infrastructure and where undeveloped lands closest to the core and public transport routes should be given preference. Notwithstanding the residential zoning objective for the area, as set out in the development plan for the area, it is considered that the site is located in an area which is remote and isolated from other areas of consolidated residential development and not in line with the orderly expansion of the settlement. Having regard to the scale and density proposed, the excessive walking distance to the town centre of Athy, the absence of public transport to the town centre, and the lack of social and community facilities in the vicinity, it is considered that the proposed development would result in an unplanned and disorderly approach to the expansion of the town of Athy, would be excessively car dependent and would, therefore, be contrary to the Guidelines and to the proper planning and sustainable development of the area.

2. The proposed development, which includes for sixty-nine residential units on a site of some 3.87 hectares, would be contrary to the “Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in May, 2009 as they relate to cities and towns, which indicate that net densities less than 30 dwellings per hectare should generally be discouraged in the interest of land efficiency. It is considered that the proposed development would not be developed at a sufficient density, would not constitute a sustainable use of lands within the designated ‘Moderate Sustainable Growth Town’ of Athy, would set an undesirable precedent for similar developments in the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development, which includes for a predominance of three-bedroom, two-storey housing, would be contrary to the “Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities”, and the accompanying Urban Design Manual, issued by the Department of the Environment, Heritage and Local Government in May, 2009, which encourage a range of housing types, and would contravene Policy MD 1 & Objective MDO 1 of the Kildare County Development Plan, 2017-2023 which seek to ensure that a wide variety of adaptable housing types, sizes and tenures are provided in order to support a variety of household types. Criterion number 4 of the Urban Design Manual recognises that a successful neighbourhood will be one that houses a wide range of people from different social and income groups and recognises that a neighbourhood with a good mix of unit types will feature houses of varying sizes. The National Planning Framework published in February, 2018 by the Department of Housing, Planning and Local Government, also recognises the increasing demand to cater for one and two-person households and that a wide range of different housing needs will be required in the future. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

6th June, 2020