



An
Bord
Pleanála

**S. 6(7) of Planning and
Development (Housing)
and Residential
Tenancies Act 2016**

**Inspector's Report on
Recommended Opinion**

ABP-305560-19

Strategic Housing Development	166 no. dwellings (106 no. houses, 60 no. apartments) and associated site works.
Location	Kill Hill and Earls Court, Kill, Co. Kildare
Planning Authority	Kildare County Council
Prospective Applicant	McCourt Investments Limited
Date of Consultation Meeting	15 th November 2019
Date of Site Inspection	8 th November 2019
Inspector	Erika Casey

1.0 Introduction

1.1 Having regard to the consultation that has taken place in relation to the proposed development and also having regard to the submissions from the Planning Authority, the purpose of this report is to form a recommended opinion as to whether the documentation submitted with the consultation request under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016 - (i) constitutes a reasonable basis for an application under section 4, or (ii) requires further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

2.0 Site Location and Description

- 2.1 The subject site with a stated area of 6.3ha is located on the eastern side of Kill Village in County Kildare. To the west, the site is bounded by the existing Earl's Court residential development which comprises a mixture of terraced, semi-detached and detached two storey dwellings. To the north west, the site adjoins a recently completed national school site. To the north, the site fronts onto Kill Lane which is currently unsurfaced.
- 2.2 The site slopes down generally from east to west and the highest part of the site is located in the south east corner. To the east, the site adjoins rising ground in the vicinity of Kill Hill and this area bears the characteristics of a large archaeological monument. The field boundary along the eastern margins of the site is characterised by a distinctive ditch and bank with mature hedgerow.
- 2.3 Overhead 110Kv power lines cross the site running from east to west. Site boundaries particularly along the eastern and southern boundaries of the site are characterised by mature hedgerows and there are a significant number of mature trees located within and bounding the site. The site also includes a former construction compound and contains steel transport containers, scaffolding material and portacabins.

3.0 Proposed Strategic Housing Development

3.1 The proposed development comprises:

- A residential development of 166 no. dwellings comprising 1 no. 2 bed unit, 97 no. 3 bed units, 8 no. 4 bed units, 12 no. 1 bed apartments and 48 no. 2 bed

apartments.

- 1 no. vehicular link at Kill Lane.
- 1 no. vehicular connection to the Avenue, Earls Court.
- Two further pedestrian links to no. 16 The Green and no. 52 The Drive, Earls Court.
- The provision of a new heritage trail.
- All associated and ancillary site development works.

3.4 The housing mix is as follows:

Unit Type	No.	Percentage
4 bedroom house	8	5
3 bedroom house	97	58
2 bedroom house	1	0.5
2 bed apartment	48	29
1 bed apartment	12	7.5
Total	166	100

Key Parameters

Parameter	Site Proposal
Site Area	6.3
Developable Site Area	4.8
Open Space	0.72 ha
Car Parking	291 (including 15 visitor spaces)
Bike Parking (apartments)	36
Houses	106
Apartments	60
Density	34.5

Site coverage	13%
Plot ratio	26.8
Part V	17 on site units

4.0 Planning History

Planning Authority Reference 06/1091

- 4.1 Permission granted in September 2007 for a development comprising 121 dwellings. An extension of duration permission was granted under 12/86 until September 2017.

ABP 300558-18

- 4.2 Permission was refused by the Board in March 2018 for a development comprising 130 no. dwellings. There were three reasons for refusal:

1. Having regard to the existing deficiency in the provision of adequate sewerage infrastructure serving the subject site, it is considered that the proposed development would be premature pending the carrying out and completion of Contract 2B of the Upper Liffey Valley Sewerage Scheme. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the proposed density of development, at a net density of 26 number units per hectare, it is considered that the proposed development would not be developed at a sufficiently high density to provide for an acceptable efficiency in land usage given the proximity of the site to the built-up area of Kill village and in close proximity to educational facilities and to the established social and community services in the immediate vicinity. In addition, the proposed development does not have an adequate mix of dwelling types, being predominantly semi-detached and detached housing. It is considered that the low density proposed would be contrary to the provisions of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), issued to planning authorities under section 28 of the Planning and Development Act, which indicate that net densities less than 30 number dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed development would, therefore, be contrary to these Ministerial Guidelines and contrary to the proper planning and sustainable development of the area.

3. It is considered that, having regard to the correspondence and the accompanying map dated 1st day of February 2018, received by An Bord Pleanála from the Development Applications Unit of the Department of Culture, Heritage and the Gaeltacht, regarding the re-classification of Recorded Monument KD020-001-003 from enclosure / ring-barrow / tumulus to hillfort and the resultant expanded buffer that corresponds with the area of archaeological potential around the hillfort and the archaeological complex to the south comprising sites and monument numbers KD019-010, KD019-056, KD019-057 and KD019-008004 protected by Preservation Order number 3 of 2007 published by the National Monuments Service, the proposed development would be likely to injure or interfere with a historic monument which stands registered in the Register of Historic Monuments under Section 5 of the National Monuments Acts, or which is situated in an archaeological area so registered. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

ABP 303298-18

4.3 Permission refused in April 2019 for a development comprising 136 dwellings. There were two reasons for refusal:

1. The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009, and Policy MD 1 of the Kildare County Development Plan 2017-2023, seek to ensure that a wide variety of adaptable housing types, sizes and tenures are provided. Criterion number 4 of the Urban Design Manual recognises 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 both apartments and houses of varying sizes. The National Planning Framework 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, which is characterised predominantly by three and four bed, detached and semi-detached housing and provides for a very limited number of one and two bed roomed units, would fail to comply with national and planning authority policy, as outlined above, and would be

contrary to these Ministerial Guidelines, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The “Urban Design Manual – a Best Practice Guide” issued by the Department of the Environment, Heritage and Local Government in 2009, to accompany the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas includes key criteria such as context, connections, inclusivity, variety and distinctiveness. It is considered that the proposed development results in a poor design concept that is substandard in its form and layout; fails to provide high quality usable open spaces; fails to establish a sense of place; would result in a substandard form of development lacking in variety and distinctiveness, all of which would lead to conditions injurious to the residential amenities of future occupants. Furthermore, the layout of the proposed scheme, being dominated by roads, is contrary to the provisions of the Design Manual for Urban Roads and Streets, issued by the Department of the Environment, Community and Local Government and the Department of Transport, Tourism and Sport in 2013, and involves two vehicular accesses into the adjoining Earl’s Court housing estate. It is considered that the proposed development would, therefore, seriously injure the residential amenities of future occupants, would endanger public safety by reason of traffic hazard, particularly to pedestrians within the Earl’s Court estate, and would be contrary to the proper planning and sustainable development of the area.

4.4 The Direction of the Board also noted the following:

Note 1: In arriving at its decision, the Board had regard to the report of the Chief Executive of Kildare County Council, and was not satisfied that the applicant had adequately demonstrated that the proposed development, and in particular houses number 63 to 71, would not have an adverse impact on the setting of the National Monument of Kill Hill. However, as the matter had not been specifically raised by the Department of Culture, Heritage and the Gaeltacht, the Board decided not to include this as a further reason for refusal.

Note 2: In modifying the wording of refusal reason number 2 from that recommended by the Inspector, to include reference to the two vehicular accesses that are proposed between the subject site and the existing Earl’s Court housing estate, the Board had regard to its previous decision on this site, under reference number ABP-300558-18, which specifically referred to the need to provide for

pedestrian and cycle, but not vehicular, access from the lands through the adjoining estate, in the interests of pedestrian and traffic safety. In this context, the Board noted the concerns expressed by the residents of this existing estate, did not concur with the view of the Inspector on the matter, and considered that the issue of traffic hazard, particularly to pedestrians within this long-established estate, was significant. The Board is satisfied that the subject site can be accessed by vehicular traffic through the proposed improved junction at Kill Hill Lane, following the necessary comprehensive re-design of the overall lands that would be available for development following the archaeological constraints, and that national policy on permeability can be complied with through pedestrian and cycle links to the adjoining estate, without the need for vehicular connectivity, in the particular circumstances of this case.

Note 3: The Board noted the significant concerns expressed by the planning authority's Water Services Section, in Appendix B of the Chief Executive's Report, that the proposed engineering design in relation to surface water drainage was inadequate and would require amendments that would have the potential for significant changes to the proposed drainage design and site layout. Furthermore, the Board noted that these matters had been raised by the planning authority's representatives at the pre-application consultation meeting on September 11th 2018, but would appear not to have been fully resolved by the applicant with the planning authority prior to the submission of the present application. While deciding not to include this matter as a further reason for refusal in this Order, the Board noted that any future application for development on this site will need to have these issues clarified and addressed.

4.0 National and Local Planning Policy

5.1 National Policy

5.1.1 Chapter 4 of the Framework addresses the topic of 'making stronger urban places' and sets out a range of objectives which it is considered will assist in achieving same. National Policy Objective 13 provides that in urban areas, planning and related standards, including in particular building height and car parking, will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a

range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

Section 28 Ministerial Guidelines

5.1.2 Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submission from the Planning Authority, I am of the opinion that the directly relevant S.28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' (including the associated 'Urban Design Manual').
- Design Manual for Urban Roads and Streets.
- Sustainable Urban Housing: Design Standards for New Apartments (2018).
- 'Urban Development and Building Heights – Guidelines for Planning Authorities', 2018.
- The Planning System and Flood Risk Management (including associated Technical Appendices).
- Childcare Facilities – Guidelines for Planning Authorities.
- Framework and Principles for the Protection of the Archaeological Heritage Department of Arts, Heritage, Gaeltacht and the Islands 1999.

5.2 Local Policy

County Development Plan

5.2.1 The **Kildare County Development Plan 2017-2023** is the operative plan for the area. The site is within the area of the Kill Small Town Plan which is included within the Development Plan. The majority of the site is zoned 'Objective C, New Residential' under the provisions of this plan. A small portion that provides pedestrian and private driveway access from The Green is zoned 'Objective B, Existing Residential/Infill'. There are no specific local objectives for the site identified on the zoning or objective maps included with the Kill plan.

5.2.2 Map ref. V2-1.5B also includes Objectives for Kill and details listed monuments at Kill Hill, KD020-001 and KD020-002.

- 5.2.3 Section 12.8 Archaeological Heritage identifies policies and objectives as they relate to archaeological heritage and protection. Table 12.5 outlines National Monuments which are subject to Preservation Order in County Kildare, and includes an Archaeological Complex at Kill Hill, comprising the following listed monuments: KD019-010, KD019-056, KD019-057 and KD019-008004, these are mapped and located to the south of subject site. A Zone of Archaeological Potential also extends around these sites and others towards the centre of Kill Village.
- 5.2.4 Paragraph 1.5.7 of the Kill Small Town Plan sets out the principles governing the future development of the town. These include consolidating development within the town centre followed by the sequential development of land / sites in a logical progression from the town centre to the edge of the development boundary.
- 5.2.5 Paragraph 1.5.8.1 notes that the settlement strategy for County Kildare allocates a housing target for Kill of 422 units between 2011 and 2023. Residential development is identified as being accommodated on four sites, one of which is the site the subject of this opinion. It is considered that having regard to the recommended 50% over zoning and to the extant permissions for residential development that the level of zoned lands is consistent with the Core Strategy.
- 5.2.6 Paragraph 1.5.8.5 of the Plan for Kill relates to water and wastewater and notes that future development may be impacted by limitations on the existing sewerage system and specifically the connection to the Osberstown WWTP.
- 5.2.7 Paragraph 1.5.8.8 relates to archaeology and notes the significant archaeological heritage in Kill. A zone of archaeological heritage has been identified and the subject site lies outside of this area. There are a number of other identified sites in close proximity to the site of the proposed development.
- 5.2.8 Chapter 17 of the plan sets out the relevant development management standards, there are guidelines in relation to housing, public open space and transport.

6.0 Forming of the Opinion

6.1 Introduction

- 6.1.1 Pursuant to section 6(7) of the Act of 2016, regard is had in the forming of the opinion to the documentation submitted by the prospective applicant, the Planning

Authority submission and the discussions which took place during the tripartite consultation meeting. I shall provide a brief detail on each of these elements hereunder.

6.2 Documentation Submitted

6.2.1 The prospective applicant has submitted information pursuant to section 5(5)(a) of the Planning & Development (Housing) and Residential Tenancies Act 2016 and Article 285 of the Planning and Development (Strategic Housing Development) Regulations 2017. This information included, inter alia, Cover Letter, Application Form, Design Statement, Statement on Housing Mix, Schedule of Documentation, Part V details, Section 247 Meeting Notes, Schedule of Consultations, Correspondence to DCHG, Schedule of Accommodation, Letters of Consent, Architectural Drawings, Statement of Consistency, Potential Significant Effects on the Environment, Engineering Planning Report, Traffic and Transportation Statement, Engineering Drawings, Archaeology Report and Heritage Trail Report.

6.2.2 Section 5(5)(b) of the Act of 2016 requires the submission of a statement that, in the prospective applicant's opinion, the proposal is consistent with both the relevant objectives of the Development Plan or Local Area Plan concerned, and the relevant guidelines issued by the Minister under section 28 of the Act of 2000. These statements have been submitted, as required. The applicant's case is summarised as follows:

- The subject site is located on lands zoned for residential development within the footprint of Kill. The proposal provides a residential development with a sustainable density of 34.5 units per ha.
- The development provides a mixed tenure with semi-detached and terraced houses and duplexes ranging from 1, 2, 3 and 4 bedrooms. Under ABP Ref. 303298, the development comprised 94% houses and 6% apartments. 76% were 3 and 4 bed units and 24% were 1 and 2 bed units. The development now proposed provides 64% houses and 35% apartments. 63% are 3 and 4 bed houses and 37% are 1 and 2 bed dwellings.
- The development includes a hierarchy of public open spaces. A total of 1.9ha of public open space has been provided equating to 31% of the site area. The development includes proposals for a heritage trail. Public open spaces have

been located adjacent to the local amenity of Kill Hill to the east and open space zoned lands to the south to maximise potential green connections. The open spaces are overlooked by adjacent residences.

- The roads and parking within the development have been designed in accordance with DMURS Guidance.
- The layout of streets and landscape has been organised such that dwellings are now orientated to overlook Kill Hill. The area of open space interacts with the hill and the proposed heritage trail runs along the open space at the foot of the hill.
- The apartments in the scheme have been designed to comply with the Sustainable Urban Housing, Design Standards for New Apartments Guidelines 2018.
- The development provides for a buffer zone between the development and Kill Hill. A Heritage Trail is also proposed as part of the application.

6.2.3 Having regard to the planning history of the site and the two previous refusals, the applicant sets out in the Planning Context Report how the previous reasons for refusal have been overcome. The key points can be summarised as follows:

- Irish Water have confirmed that Contract 2B is within their current investment plan and is scheduled to be completed by 2021. The design team has proposed a phasing arrangement to Irish Water where the first 35 housing units can be delivered prior to the completion of Contract 2B, with the balance to be delivered after the completion of Contract 2B. This will allow the entire development to be completed within the lifetime of a planning permission.
- The development proposed a net density of 34.5 units per ha which provides an efficient use of residentially zoned land.
- All houses adjacent to Kill Hill face the hill and provide an attractive aspect as well as passive surveillance. The parking strategy is sensitive with most cars tucked between houses rather than dominating the street. The application will deliver a new Heritage Trail. This strategy and buffer zone have been agreed with the Department of Culture, Heritage and the Gaeltacht.
- The proposal contains a greater range of unit types. The units proposed consist

of semi-detached and terraced dwellings along with duplexes adjacent to the entrance to the site.

- The design of the proposed development has been improved. Areas of higher/lower density allows character areas and a sense of place to be created. The entrance of the development from Kill Lane has been moved ensuring good activity on both sides of this road. Roads facing Kill Hill National Monument have been removed with houses facing the Kill Hill being accessed via a footpath. Semi-detached houses remain a critical part of the parking strategy on the site, where cars are tucked between the houses. Terrace housing with perpendicular car parking to the front leads to streets that are dominated by cars with little or no scope for verges and planting.
- Following a meeting with KCC a vehicular link is provided between the proposed scheme and the Avenue, Earl's Court in order to avoid traffic and safety issues. Traffic calming measures to the Avenue are proposed. Additional pedestrian/cycle access to the site is provided from the Avenue, Earl's Court and from The Green, Earl's Court.

6.3 Planning Authority Submission

Planning Opinion

- There are concerns that the proposed development is premature. Note that if two sites identified for strategic housing were developed as currently proposed, the total number of units would exceed the current core strategy for Kill for the period 2016-2023 by 84 units.
- Note that legislative provisions have been made under the Planning and Development (Amendment) Act 2018 including the provision for the initiation of a review of the County Development Plan to be rendered consistent with the RSES, either through (a) a variation of the Development Plan or (b) if considered more appropriate, a full review, to commence within a maximum period of 6 months after the making of the relevant RSES. The County Development Plan was adopted on February 2017 and a decision has been taken to vary the plan.
- A revised Core Strategy will be developed. Without prejudice to the variation process, the Small Town of Kill is likely to maintain its current growth allocation

of 1.3% of the overall county growth. In this context, the town of Kill should in the short term plan for an additional 146 housing units. It is, therefore, considered that the proposed development of 166 residential units is premature.

- The density continues to be a concern to the Planning Authority having regard to the peripheral nature of the site on the edge of a small town.
- The proposed housing mix is generally acceptable, however, there are still concerns regarding the suitability of the apartments/duplex units at this peripheral location.
- The proposed design of the dwellings are quiet generic of suburban housing. For a comprehensive assessment of the visual impact of the development, it is considered that 3D imagery would be beneficial especially given the proximity to Kill Hill, the transitional nature of the site and the proposed heights of the units.
- It is acknowledged that the revisions to the overall development improve the relationship with the site and Kill Hill. Full details of the proposed heritage trail would be required in any subsequent planning application. It is also imperative that the applicant engages with the Department of Culture, Heritage and the Gaeltacht in relation to buffers with Kill Hill and potential impacts on the national monument. The PA would remain of the view that a wider buffer should be considered.
- The usability of the public open space adjacent to Kill Hill is questionable and it is noted that there is no access to Kill Hill, which is privately owned. Full details of landscaping, incorporating all the requirements of the KCC Parks Department, would be required at application stage.
- The PA has general concerns regarding the lack of social infrastructure in Kill, particularly in relation to crèche facilities. There are concerns that the level of existing services in Kill necessary to support the population of the town is limited. A full audit would need to be included in any subsequent application and provision should be made for a childcare facility on the subject site if places are found to be lacking in Kill.

- Transportation Department consider it imperative to have a vehicular link with Earl's Court. This is to prevent greater traffic loading at the junction with the L-2014 local road. The second access point is considered beneficial from a health and safety perspective of residents for both Earl's Court and the proposed development.
- Consider that the scale of development is premature pending the adoption of a variation of the Kildare County Development Plan 2017-2023, would materially contravene the residential density objectives for edge of town sites in small towns in Kildare, would materially contravene the provisions of the Core Strategy as set out for Kill in the Kildare County Development Plan 2017-2023, would materially contravene the settlement strategy objectives, would set an undesirable precedent for similar development of the scale proposed on similarly zoned lands in the county, and would, therefore, be contrary to the proper planning and sustainable development of the area.

Parks Section (18.10.2019)

- An Arboricultural Assessment of trees and hedgerows located on the site should be prepared.
- The proposals shall provide comprehensive details of the boundary treatment proposed and its location and construction in relation to the existing boundary hedgerow and particularly trees, and how the existing boundary hedgerow and trees are to be effectively retained and protected, and or details of any proposed remedial or improvement works to the existing boundary hedgerow and trees.
- Proposals contain insufficient details regarding how the existing boundary hedgerows adjacent to Kill Hill are to be effectively retained and protected during construction.
- A comprehensive Landscape Design Rational and Landscape Proposal shall be prepared. The inclusion of planting that benefits biodiversity is required.
- The proposed dust paths along the Kill Hill Heritage Trail should be omitted and re-designed to provide a bound surface designed so as not to impact potential sub surface archaeology.

- Landscape proposals that provide details of play areas in open space areas of the development should be provided.

Environment Section (18.10.2019)

- No objection subject to conditions.

Housing Section (18.10.2019)

- 14 of the 17 proposed part V units are apartment or duplex type units with 6 no. 1 bed ground floor units in the same block. The proposed units should be better pepper potted throughout the site. Consideration should be given to the breaking up of the cluster of Type F dwellings.

Roads, Transportation and Public Safety Department (10.10.2019)

- Support the development of a vehicular link with the Earls Court residential development.
- Public lighting design required.
- A number of specific details requested to demonstrate compliance with DMURS and other technical matters.
- Clarification regarding car parking surface finishes and cycle parking arrangements for proposed apartments.
- Mobility Management Plan required.

Water Services (15.10.2019)

- Note that hydraulic assessment of the available network capacity may be required prior to commencing the proposed development to assess the quantum of development that can be connected to the network prior to completion of the C2B.
- Number of technical issues raised regarding surface water attenuation, pollution prevention and flow restriction.
- It would be expected that a flood risk assessment commensurate with the level of identified flood risk from the recommended sources including OPW PFRA and CFRAMS flood mapping, OPW flood history website and the flood policies and objectives contained in the Kill Small Town Plan shall be submitted with

any planning application.

6.4 Prescribed Bodies

Irish Water (31.10.2019)

- Irish Water must carry out capital works to the wastewater network. This project (Upper Liffey Valley Sewerage Scheme (Contract 2B) is on Irish Water's Capital Investment Plan and is scheduled to be completed in 2021. IW confirms that subject to a compliant water and wastewater layout and a valid connection agreement being put in place between IW and the developer, the proposed connection(s) to the Irish Water network(s) can be facilitated.

Department of Culture, Heritage and the Gaeltacht (31.10.2019)

- It is noted that the documents forwarded include a report and recommendations arising from the archaeological assessment carried out at the proposed development site, including archaeological test excavation. It is considered that the material available in that regard is sufficient to enable the archaeological implications of the proposed development to be considered should an application be made to An Bord Pleanála.
- Recommend that the following conditions should be attached to any permission.
 - The agreed buffer area adjacent to monument number KD020-001---- (Hillfort) and to the Preservation Order area to the south of the proposed development site, should be clearly marked on site and should not be used as a site compound or for storage.
 - Heavy machinery should not be allowed to track across the buffer areas.
 - It should be clearly provided for as a condition of any grant of planning permission that all archaeological deposits/features, within the area where groundworks will occur, which were recorded during test excavation at the site in December 2005, will be fully archaeologically planned, photographed and excavated by a suitably qualified archaeologist, all necessary licences or consents under the National Monuments Acts 1930 to 2014 having been obtained.
 - It should be clearly provided for as a condition of any grant of planning permission that all removal of topsoil associated with this development will

be monitored by a suitably qualified archaeologist, all necessary licences or consents under the National Monuments Acts 1930 to 2014 having been obtained. Such condition should also ensure that, should archaeological material be found during the course of archaeological monitoring, all work which might affect that material will cease pending agreement with the National Monuments Service as to how it is to be dealt with.

- Conditions of planning permission should also provide clearly that all costs of archaeological work necessitated by, or arising from, the development shall be borne by the developer.

HSE (17.10.2019)

- Recommends that the development complies with a number of National policy documents.
- Recreational, green spaces should be a fundamental part of the design of the strategic housing development as they promote the health and wellbeing of residences who will occupy the accommodation and indeed the wider community. It is recommend that appropriate levels of open space should be provided as required and that consultation is carried out with children and young people regarding the development of any proposed play areas, recreational facilities or public spaces.
- Specific pedestrian and cycle paths should be provided throughout the housing development. To promote and encourage the use of these routes, it is recommended that measures are taken to enhance their recreational value. The design, landscaping and 'greening' of these routes is of the utmost importance. Landscaping measures may also facilitate the movement of fauna, thus increasing biodiversity on the site.
- The proposed strategic housing development should consider other forms of travel that encourages residents to take alternatives to the car. The needs of the cyclists should be considered throughout the scheme.
- The development should be designed so as to reduce its carbon footprint and minimise requirements for energy and water. Specific environmentally friendly objectives should be incorporated into the proposal.

- All waste facilities must be pest proof and secure and located in an area that does not cause nuisance.
- An outline Construction Management Plan should be developed for the construction phase of the housing development to manage and control any environmental impacts.

6.5 Consultation Meeting

6.5.1 A Section 5 Consultation meeting took place at the offices of An Bord Pleanála on the 14th of November 2019, commencing at 11.30 PM. Representatives of the prospective applicant, the Planning Authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting.

6.5.2 The main topics raised for discussion at the tripartite meeting were based on the Agenda that issued in advance and contained the following issues:

1. **Principle of Development:** Having particular regard to the core strategy set out in the Kildare County Development Plan 2017 and 2023 and comments from Kildare Co. Co. that the subject development is premature pending the adoption of a variation of the Kildare Co. Development Plan in compliance with the RSES County Population target's and future population allocation for Kill.
2. **Development Strategy** for the site including:

Overall site layout, urban design and architectural approach particularly with regard to car parking layout, disposition of open space and landscaping, treatment of urban edges and public realm, housing mix/typology, finishes and materials.
3. **Traffic and Access:** Having particular regard to the proposed access from the Avenue and compliance with DMURS.
4. **Archaeology**
5. **Drainage**
6. **Any Other Matters**

6.5.3 In relation to Principle of Development An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Compliance with the current core strategy of the Kildare County Plan.
- The need to fully demonstrate that the development of the lands is not premature pending the publication of a variation to the Kildare County Development Plan 2017-2023 to accord with the population projections and targets set out in the Regional Spatial and Economic Strategy for the Eastern and Midlands Region.

6.5.4 In relation to the **Development Strategy**, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- The appropriateness of the overall layout, urban design and architectural approach. The need to create strong urban edges and appropriate public realm and high quality housing design.
- The appropriateness of the density, housing mix and house design.
- The need to provide for more appropriate double fronted corner units along road frontages and adjacent to public open space to ensure appropriate passive surveillance.
- The extent of incidental open spaces.
- The car parking layout including functionality of car parking spaces.
- The design of the open spaces which are surrounded by roads and car parking; the lack of enclosure and surveillance at the southernmost open space.
- Compliance with DMURS.
- Materials and finishes, particularly the use of coloured panels on the duplex units.
- The landscape strategy, provision of children's play, protection of trees and hedgerows.

6.5.5 In relation to **Traffic and Access**, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Access to the development from the Avenue having regard to the Boards previous comments regarding the suitability of same. Delivery of traffic calming measures.
- Technical requirements of Kildare Co. Co.

6.5.6 In relation to **Archaeology**, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Design of the Heritage Trail.
- Extent of buffer zone.

6.5.7 In relation to **Drainage**, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Technical comments raised by Kildare Co. Co.
- Previous concerns raised by KCC in relation to drainage matters raised in the Boards Direction under ABP 303298-18.

6.5.8 In relation to **Any Other Matters**, An Bord Pleanála sought further elaboration/discussion/consideration of the following:

- Part V allocation.
- Social Infrastructure Audit – particularly for crèche facility.

7.0 Conclusion and Recommendation

7.1 Based on the entirety of the information before me, it would appear that the proposed development falls within the definition of Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

7.2 I have examined all of the information and submissions before me including the documentation submitted by the prospective applicant, the submissions of the Planning Authority and the discussions which took place at the tripartite meeting. I have had regard to both national policy, via the s.28 Ministerial Guidelines, and local policy, via the statutory plan for the area.

7.3 Having regard to all of the above, I recommend that **further consideration and/or possible amendment** of the documents submitted are required at application stage in respect of the following elements:

- Principle of Development
- Development Strategy.

which are set out in the Recommended Opinion below.

7.4 Having regard to the above, I recommend that the Board serve a notice on the prospective applicant, pursuant to Section 6(7)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016, stating that it is of the opinion that the documentation submitted with the consultation request under section 5(5) of the Act **requires further consideration and amendment in order to constitute a reasonable basis for an application** under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016.

7.5 I would also recommend that the prospective applicant be notified, pursuant to article 285(5)(b) of the 2017 Regulations, that specified information (as outlined hereunder) be submitted with any application for permission that may follow. I believe the specified information will assist the Board at application stage in its decision making process. I am also recommending that a number of prescribed bodies (as listed hereunder) be notified by the prospective applicant of the making of the application.

8.0 Recommended Opinion

8.1 An Bord Pleanála refers to your request pursuant to section 5 of the Planning and Development (Housing) and Residential Tenancies Act 2016. Section 6(7)(a) of the Act provides that the Board shall form an opinion as to whether the documents submitted with the consultation request (i) constitute a reasonable basis for an application under section 4 of the Act, or (ii) require further consideration and amendment in order to constitute a reasonable basis for an application under section 4.

8.2 Following consideration of the issues raised during the consultation process, and having regard to the opinion of the planning authority, An Bord Pleanála is of the opinion that the documentation submitted requires **further consideration and amendment** to constitute a reasonable basis for an application for strategic housing development to An Bord Pleanála.

8.3 In the opinion of An Bord Pleanála, the following issues need to be addressed in the documents submitted to which section 5(5) of the Act of 2016 relates that could

result in them constituting a reasonable basis for an application for strategic housing development:

1. Principle of Development

- Assessment of the development with reference to the Core Strategy set out in the Kildare County Development Plan 2017-2023 and a full rationale for the development of these lands having regard to inter alia, the RSES County Population targets and future population allocation for the settlement of Kill and the suitability of the site for development having regard to its location and zoning history.

2. Development Strategy

Further consideration of documents as they relate to the development strategy for the site, in particular the architectural approach and overall layout of the proposed development in relation to:

- The layout of the proposed development in relation to unit mix and particularly the limited number of 2 bed housing units.
- The need to provide appropriate double fronted corner units particularly along road frontages and adjacent to public open spaces to ensure appropriate passive surveillance.
- The overall design approach to the site to ensure the creation of an appropriate hierarchy of streets and full compliance with the principles of DMURS.
- The layout and design of car parking to ensure that all spaces are functional and do not impinge on public open space or unnecessarily conflict with pedestrian routes.
- The provision of an appropriate landscape strategy to include active play.
- The layout and disposition of open spaces to ensure the reduction in the number of incidental ancillary areas; better passive surveillance, particularly the large open space proposed to the south of the site.
- The documentation at application stage should clearly indicate how the 12 criteria set out in the Urban Design Manual which accompanies the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and the Design Manual for Urban Roads and Streets have been complied with.

Further consideration of these issues may require an amendment to the documents and/or design proposals submitted.

8.4 Pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations 2017, the following specific information should be submitted with any application for permission:

1. A plan of the areas excluded for the calculation of net density in addition to a plan of the open space within the site clearly delineating public and private spaces.
2. A report that specifically addresses the proposed materials and finishes to the scheme including specific detailing of finishes, the treatment of balconies in the duplex units, landscaped areas, pathways, entrances and boundary treatment/s. Particular regard should be had to the requirement to provide high quality and sustainable finishes and details which seek to create a distinctive character for the development. The documents should also have regard to the long term management and maintenance of the proposed development.
3. A detailed schedule of accommodation which shall indicate compliance with relevant standards in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' 2018.
4. A Traffic and Transport Assessment (to include Road Safety Audit and Quality Audit) for the proposed development including likely impact of development on existing junction 7 on the N7. The report should also include a full assessment setting out a detailed rationale for the proposed vehicular access from The Avenue, Earls Court including detail of any road upgrades and traffic calming measures proposed to facilitate same. It should also be detailed who is going to undertake the works required and the timelines involved relative to the construction and completion of the proposed development.
5. A report prepared by a suitably qualified and competent person demonstrating specific compliance with the requirements set out in the Design Manual for Urban Roads and Streets.

6. Landscaping proposals including an overall landscaping masterplan for the development site. Details pertaining to the quantity, type and location of all proposed hard and soft landscaping including details of play equipment, street furniture including public lighting and boundary treatments (including external boundaries) should be submitted. Landscaping proposals should include a full method statement for the construction of the heritage trail including detail of construction methodology, proposed finishes and materials and public lighting strategy. Details of tree and hedgerow protection should also be provided.
 7. A Building Life Cycle Report in respect of the proposed apartments as per section 6.13 of Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities (2018).
 8. A phasing plan for the proposed development which includes the phasing arrangements for the delivery of the public open spaces, surface water management proposals and Part V provision.
 9. Detailed design of proposed surface water management system proposed including attenuation proposals of all SuDS features proposed on site in the context of surface water management on the site.
 10. A site layout plan clearly indicating what areas are to be taken in charge by the Local Authority.
 11. Ecological assessment to include site survey, assessment of hedgerows and other vegetation proposed for removal.
 12. A Construction Management Plan that would address, inter alia, the following: the protection of existing boundary and landscape features during the construction, protection of amenity of the existing school and of adjacent residential properties and measures to protect identified buffer zones to archaeological sites.
 13. Childcare demand analysis and the likely demand for childcare places resulting from the proposed development.
- 8.5 Pursuant to article 285(5)(a) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant is informed that the following authorities should be notified in the event of the making of an application

arising from this notification in accordance with section 8(1)(b) of the Planning and Development (Housing) and Residential Tenancies Act 2016:

1. Irish Water
2. Transport Infrastructure Ireland
3. Inland Fisheries Ireland
4. Minister for Culture, Heritage, and the Gaeltacht
5. Heritage Council
6. An Taisce – the National trust for Ireland
7. Kildare County Childcare Committee

PLEASE NOTE:

- 8.6 Under section 6(9) of the Planning and Development (Housing) and Residential Tenancies Act 2016, neither the holding of a consultation under section 6, nor the forming of an opinion under that section, shall prejudice the performance by the Board, or the planning authority or authorities in whose area the proposed strategic housing development would be situated, of any other of their respective functions under the Planning and Development Acts 2000 to 2016 or any other enactment and cannot be relied upon in the formal planning process or in legal proceedings.

Erika Casey

Senior Planning Inspector

21st November 2019