



An
Bord
Pleanála

Inspector's Report

ABP-306289-19

Development	Housing Development of 25 houses.
Location	Dangan, Kilmacow, Co. Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	19/731
Applicant(s)	Dunkitt Properties.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party V. Refusal.
Appellant(s)	Dunkitt Properties.
Observer(s)	1.Owen Sheehan 2.Richard and Grace Myslinski & Others.
Date of Site Inspection	25 th March 2020.
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The appeal site is located in the upper village of Kilmacow in Dangan, in south County Kilkenny. It is located within the development boundary of Kilmacow.
- 1.2. The site is centrally located relative to local services and community facilities, all of which are within easy walking distance. It is accessed from the L3403 Dangan Road, the principal road running through the village and is within a 50km/hr maximum speed zone.
- 1.3. The site represents an infill backland site which comprises a large greenfield site and slopes from north to south. There are existing hedgerow boundaries around most of the site, save for timber fence adjoining a residential property to the north east.
- 1.4. There is adjoining residential development along the public roadside adjacent to the site to the east and Shamrock Grove estate to the south-west. St. Semnan's Church and graveyard are located to the south with a number of abandoned buildings to the south east. The site is bounded by undeveloped greenfield lands to the north of the site.
- 1.5. The stated area of the site is 0.74 ha.

2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the 07/10/2019.
 - 2.1.1. The proposed development seeks permission for;
 - Construction of **25** No. dwelling houses, these comprise primarily of two storey 2 and 3 bed units with 4 single storey 1 bed units arranged in 5 terraced blocks.
 - The two storey 2 and 3 bed units (house type A, B, and C) are arranged in a row along the northern boundary of the site.
 - The remaining two storey 2 bed units (house type C) and single storey 1 bed units (house type D) are to the eastern and western boundary facing onto the central area of open space.
 - 2.1.2. The following tables set out some of the key elements of the proposed scheme:

Table 1: Unit Mix

Unit Type	No. of units proposed	As % of units
1 Bed	4	16
2 Bed	15	60
3 Bed	6	24
Total	25	100%

Table 2: Unit Sizes

Houses	No. of units proposed	Floor Area sqm
Type A	6	93.9
Type B	5	79.4
Type C	10	79.4
Type D	4	51

- 2.1.3. The proposed gross density is **34** units/hectare (25 units on 0.74 ha).
- 2.1.4. It is proposed to provide a new access road into the site from the L3403 Dangan Road to the east.
- 2.1.5. It is proposed to set back the existing front eastern boundary and provide a section of footpath, with the potential for the footpath to be extended to connect to a future road crossing point to the south of the entrance.
- 2.2. It is also proposed to provide a potential pedestrian and cycle connection with Shamrock Grove estate to the south west in front of house No. 10. This area is a grassed amenity area and is located at the end of the cul de sac.
- 2.3. There is one central area of open space with a play area located within the site. It has a stated area of 0.13ha approx. 17% of the site area, and is contiguous with the existing area of open space to the south west within Shamrock Grove estate.
- 2.3.1. Proposed boundaries comprise new boundary treatments including boundary walls, timber post and rail or panel fence, in addition to planting.

- 2.3.2. A total of 56 no. car parking spaces area proposed, and two bicycle parking stores to accommodate 36 no. bicycles.
- 2.3.3. In terms of site services, a new water connection to the public mains is proposed, together with a new connection to the public sewer. A 6m wayleave for the existing foul sewer is to be maintained which runs along the southern boundary of the site. A surface water attenuation tank is located within the central area of open space and has a capacity of 150m³.
- 2.3.4. The application was accompanied by the following;
- Planning/Core Strategy Justification Report
 - Design Statement
 - Part V Agreement
 - Letter of Consent – From owners of the site in respect of appointing Agent
 - Irish Water Pre-Connection Enquiry
 - Provisional BER and NZEB Compliance Check

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to **refuse** planning permission for 1 no. reason as follows;

1. 'The proposed residential development is located on Phase 2 zoned lands identified in Figure 3.15 Kilmacow of the Kilkenny County Development Plan 2014-2020. Phase 2 zoning policy of the Plan states:

This land will not be released for development during the lifetime of this plan unless the following criteria are satisfied:

- *At least 75% of phase 1 lands have been fully committed to development (i.e. where planning permission has been granted) and where construction is underway.*
- *The situation will be monitored on an ongoing basis. Expansion of existing land uses within the lands will be considered on a case by case basis*

having regard to the potential impacts on the strategic nature of the phase 2 lands and general planning considerations.

Objective: To prohibit new residential development of phase 2 lands in the settlements of Bennettsbridge, Kilmacow and New Ross Environs during the lifetime of the County Development Plan, unless the criteria above are met.

The proposed development does not comply with Phase 2 zoning objectives as the criteria requirements above have not been met. The proposed development is therefore considered premature and contrary to the zoning objectives of the Kilkenny County Development Plan 2014-2020 and to the proper planning and sustainable development of the area.'

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 28/11/2019)

The Planners Report is the basis for the planning authority decision. It includes;

- *Zoning* – A small section of the site where the access is proposed is on lands zoned 'General Development' in the Kilkenny County Development Plan 2014-2020. Most of the site where residential is proposed is zoned 'Phase 2' in the CDP under Figure 3.15.
- *Section 12.12.8 Phase 2* – Criteria have not been met. Proposed development is therefore premature and at variance with policy objectives in the current plan and must be refused as it materially contravenes the zoning objectives of the area.
- *Proposed Entrance* – Required minimum sightlines at the proposed entrance are achievable in accordance with DMURS, but have not been adequately demonstrated.

3.2.2. Other Technical Reports

Road Design: Report recommends further information in relation to a number of design issues regarding internal road width, footpath layout and design, parking provision and bin storage layout, proposed access connections through the development for pedestrians and cyclists, Stage 1/2 Road Safety Audit, the achievement of minimum sightlines at the vehicular access in accordance with

DMURS, traffic calming measures and pedestrian crossing points both within the development and on the Dangan Road, and public lighting details.

Housing Section: Reference in planners report to provisional Part V agreement in place for the proposed development.

The application was referred to the **Environment Section** and **Parks Department**, but no reports were received.

3.3. Prescribed Bodies

Irish Water: Report recommends no objection.

3.4. Third Party Observations

3.4.1. A number of submissions were lodged with the planning authority from the following parties;

- Shamrock Grove Residents Association, C/o Marcella Ryan, 3 Shamrock Grove.
- Anne Marie Walsh, 6 Shamrock Grove.
- Michael T and Jean Finnegan, 10 Shamrock Grove.
- Bernie Roche, Dangan.
- Sinead and Ciara Doody, Dangan.
- Owen Sheehan, Dun Romain, Dangan.
- Richard and Grace Myslinski, Creamery Hill.

3.4.2. Issues raised can be summarised as follows;

- Pedestrian link to Shamrock Grove
- Residential amenity
- Boundary treatments
- Road safety and traffic
- Proposed access and sightlines
- Design and layout

- Lack of play space
- Stormwater drainage capacity and calculations
- Flooding
- Impact of proposed house no. 16 on adjoining passive designed house
- Construction impact

4.0 Planning History

4.1. There is no record of any planning history relating to the appeal site.

4.2. *Relevant Planning History within the Kilmacow LAP Boundary*

P.A. Reg Ref.19/160: Outline planning permission **granted** 21/08/2019 for a) 3 no houses on proposed serviced sites and b) planning permission for 5 No. detached 2 storey houses and all associated site development works including internal roads, new site entrance, connections to existing sewer and watermains and new storm water attenuation system. This relates to Phase 1 zoned residential lands. (see map attached).

P.A.Reg.Ref.17/658 ABP Ref.301975-18: Permission **granted** 14/11/2018 for demolition of 3 existing outbuildings and erection of 11 dwellings.

5.0 Policy Context

5.1. **Kilkenny County Development Plan 2014-2020**

5.1.1. The relevant development plan is the Kilkenny County Development Plan, 2014-2020.

5.1.2. **Chapter 3** refers to the Core Strategy.

Table 3.1 County Settlement Hierarchy identifies Kilmacow under Smaller Towns and Villages.

Section 3.3.5 refers to Smaller Towns and Villages.

Table 3.3 lists Existing and Lapsed Local Area Plans for smaller towns and villages, including Kilmacow with an expiry date of 21st December 2015, with 7.8ha of zoned land and Development Plan response as LAP.

Section 3.3.5.1 refers to Expired LAP's

The expired LAPs are no longer the statutory plans for their areas but the plans do contain a significant amount of information on natural and built heritage and other planning issues. The expired plans will be used as supplementary guidance documents for planning purposes. Housing development within the settlement boundary of these towns will not be subject to the rural housing'.

Section 3.3.5.2 refers to Existing LAP's

Figure 3.15 Kilmacow identifies the plan boundary and zoning with the majority of the appeal site zoned '**Phase 2**' Residential, with the eastern portion of the site zoned '**General Development**'. See map attached.

Section 3.3.5.3 refers to Development Objectives for smaller towns and villages.

Objective 3G : '*To facilitate development of housing, economic development, services and infrastructure in the smaller towns and villages of the county at a scale and character which is appropriate in order to sustain and renew population and services in these areas*'.

Development Management

- *For smaller towns and villages, no one proposal for residential development should increase the existing housing stock by more than 12.5% within the lifetime of the plan.*
- *For villages of under 400 in population, any individual scheme for new housing should not be larger than about 10-12 units.*
- *The Planning Authority may limit the extent of development on any one site within the smaller towns and villages having regard to the overall water services capacity and the availability of land for development within the village.*
- *Have regard to existing framework plans/community action plans including existing Village Design Statements that have been prepared in consultation*

with the local community, and with relevant agencies, as supplementary planning guidance documents.'

5.1.3. **Chapter 12** refers to Requirements for Developments

Section 12.12.3 of the Plan refers to '**General Development**' with the stated objective:

'to provide for the development and improvement of appropriate uses in areas where existing commercial uses have established and allow for the development of the settlement as a focus for local services, sustaining and strengthen its role as a population centre.

The purpose of this zone is mainly to reflect the existing uses that have established in this zone and to allow for their improvement and expansion as necessary to improve retailing, residential, commercial, office, cultural, and other uses appropriate to the further development of the settlement'

Dwellings are a permissible use on lands zoned General Development (Kilmacow and New Ross).

In addition, section 12.12.3 of the Plan states that in order to promote mixed use developments in such areas the following apply:

- (a) Residential use to be limited to a maximum of 80 percent of the site during the lifetime of the plan.*
- (b) Where two separate planning uses are proposed, no one singular use will prevail in terms of >80 percent of the site area.*

Section 12.12.8 of the Plan refers to **Phase 2** and states;

'This land will not be released for development during the lifetime of this plan unless the following criteria are satisfied:

- At least 75% of phase 1 lands have been fully committed to development (i.e. where planning permission has been granted) and where construction is underway.*

The situation will be monitored on an ongoing basis.

Expansion of existing land uses within the lands will be considered on a case by case basis having regard to the potential impacts on the strategic nature of the phase 2 lands and general planning considerations.'

5.1.4. The stated objective for 'Phase 2' as per section 12.12.8 of the Plan is:

'To prohibit new residential development of phase 2 lands in the settlements of Bennettsbridge, Kilmacow and New Ross Environs during the lifetime of the County Development Plan, unless the criteria above are met.'

5.1.5. **Chapter 8** refers to Heritage

Section 8.3.8 of the Plan relates to townscapes and the development management standards under this heading include the following:

To protect, conserve and where necessary restore and manage sustainably the quality, character and distinctiveness of the townscapes of the county, whether or not the townscape has been designated an ACA or forms the setting for protected structures; and to give consideration to its visual amenity and its relationship to its setting.

5.1.6. **Variation No. 3** was adopted by the Elected Members at the March 2018 Council Meeting (effective from March 12th 2018). It relates to Chapter 3 Core strategy, (See attached). It includes the addition of Section 3.3.5.1 Expired LAP's which states;

'The LAPs for Bennettsbridge, Kilmacow and New Ross Environs have also expired and the Development Plan includes a zoning and phasing map for these three settlements, see Figures 3.14-3.16.

Included also is the deletion of Section 3.3.5.2 Existing LAP's and amendments to Table 3.3.

5.2. National Policy

5.2.1. Project Ireland 2040 – National Planning Framework

The National Planning Framework (NPF) includes a specific Chapter, No. 4 entitled Making Stronger Urban Places. In relation to achieving urban infill/brownfield

development Objective 11 seeks to encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

Chapter, No. 6, refers to 'People Homes and Communities'. It includes 12 objectives among which Objective 27 seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages. Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 seeks to increase densities in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.2.2. **National Guidelines**

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions 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') 2009
- Urban Development and Building Heights, Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets

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

Section 2.14 refers to Small Towns: 'Planning authorities shall not consider extensive proposals for new development, including residential development, in smaller towns (in the 2,000 – 5,000 population range) in the absence of an adopted local area plan. An adopted plan is the only effective policy framework within which to consider new development proposals and one that fits within an overall strategic framework at county and regional levels. In addition, where planning permission for residential development is granted on unzoned land, the provisions of Part V of the

Planning and Development Act 2000 cannot operate, thereby militating against the implementation of the Housing Strategy and the effective integration of housing needs.'

Chapter 6 refers to Small Towns and Villages

Section 6.9 recommends density standards for centrally located sites of 30-40+ dwellings per hectare for mainly residential schemes may be appropriate.

5.3. **Natural Heritage Designations**

The appeal site is not located within any European site. The closest such site is the Lower River Suir SAC (site code 002137) which is located c.3.8 km to the south of the appeal site at the closest point.

5.4. **EIA Screening**

- 5.4.1. Having regard to the nature and scale of the proposed development, the separation of the site from European and other designated sites, the proposed connection of the development to public water and foul drainage connections, it is considered that 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 First Party appeal was lodged by Peter Thomson Planning Solutions on behalf of the applicant Dunkitt Properties Limited.

The appeal was accompanied by a revised site layout plan, lighting plan and letter from DBFL consulting engineers setting out the intention to undertake out a Stage 1/2 Road Safety Audit. The grounds of appeal can be summarised as follows;

Background

- Core Strategy report was submitted with the application which justified the release of the land for development in advance of other undeveloped lands.
- Planners report does not detail planning applications reviewed and there is no reference to the Core Strategy submission. Assessment was based on the site being zoned Phase 2 development land.
- The proposed development cannot be a material contravention of the zoning objectives of the Development Plan or LAP as stated in the planner's report as the LAP expired in 2015, a fact confirmed in Variation 3 of the Development Plan.

Compliance with County Development Plan Policy

- The former zoning objectives, like all other guidance which was contained in the LAP when it was in force, is only to be used as supplementary guidance for planning purposes. This is stated in the CDP.
- Development is permissible within the former LAP Development Boundaries of all of the towns and villages which were previously the subject of LAP's in County Kilkenny, subject to Development Plan Core Strategy justification.
- The strict application of the criteria which previously had a statutory basis for determining the release of Phase 2 Residential and General Development land is no longer binding, and there is no reason why previously lands zoned for Phase 2 development cannot be considered for development if justification can be provided. To apply different standards to Kilmacow (Bennettsbridge and New Ross) would put these settlements at a disadvantage relative to other settlements for no logical reason.
- A case for justification was made which included reference to the fact no multiple housing developments has taken place in Kilmacow since the LAP came into force in 2009. Permissions have been granted, but never implemented. It was also highlighted that the Phase 1 General Development

zoned land to the north of the site, which was further from the village centre and most community facilities and services than the appeal site, had been allowed to develop. Only two houses were built in the entire Phase 1 General Development zoned (0.66 ha).

- PA was incorrect in refusing the application based on non-conformity with zoning objectives and criteria which are now obsolete.
- Request that consideration be given to the conflicting policy of the CDP which, at paragraph 3.3.5.3 (Development Objectives for smaller towns and villages), refers to Objective:3G and Development Management criteria.
- Kilmacow is listed as one of the 'smaller towns and villages' referred to in Objective 3G.

Core Strategy

- Previously advised by PA that there was precedent for releasing Phase 2 lands where a housing need was demonstrated, and housing need would supersede the former zoning in the former LAP.
- Core Strategy Report (CSR) submitted suggests that the appeal site is sequentially superior to the two other sites which had recently received planning permission in the village. These applications were in respect of;
 - 3 serviced sites and 5 detached houses on a 1.8ha landholding further to the north of the appeal site on the opposite side of the road (19/160), and
 - 11 houses on 0.48ha permitted in the lower village (17/658; ABP ref: 301975-18).
- CSR found that the number of houses proposed (25) would not breach the permissible 12.5% increase in the existing number of houses in the village on a single site as provided for in the CDP. The development represented only a 7.5% increase, and within the 10-15% guideline figure provided for under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages), (Department of Environment, Heritage and Local Government, May 2009).

- Proposed 25 houses along with those permitted under the two planning permissions referred to above still keeps the increase in housing stock within 15% figure provided in the Guidelines.
- CSR found that there is capacity in water infrastructure to facilitate the housing, the layout and design reflected the layout and design of other similar existing small estates in the village, the site was within walking distance of a full range of community facilities and services and the local school would welcome the additional housing and assist keeping up the school roll which is predicted to fall without an increase in the village population.
- Proposed development is fully justified and would only have positive impacts on the community.

Parking Layout and Footpaths

- Revised layout submitted addresses concerns raised by Road Design section of the planning authority in respect of parking and the footpath in front of houses 1-16.
- While parking has been provided to CDP standards, a reduction could be justified on the basis of house types as houses 22-25 are 1 bed houses and unlikely to require 2 car parking spaces. Note the local bus service and location of the bus stop outside the community hall opposite and south of the site.
- Any minor adjustments arising from a RSA can be incorporated into the scheme without materially changing the layout.
- Works outside the site will be within the limits of the public road and can be agreed with the P.A. A condition requiring such works to be agreed with the planning authority would be acceptable to the applicant.
- Works in relation to the footpaths and road crossings can be carried out either by or on behalf of the P.A. by the applicant.
- Details of an outdoor public lighting scheme also submitted.

Layout and Design of Housing

- P.A. had no objection to the layout or design

- As the LAP has expired Part V is no longer relevant. Notwithstanding, the applicant is still prepared to offer housing to the planning authority towards social and affordable provision, and a condition would be acceptable.

Residential Development in Kilmacow

- If the site is not considered for development until the adoption of the new CDP, and given the lack of development interest and/or progress developing those sites in the village which have either received permission or are zoned to allow residential development, within the lifetime of the LAP and CDP it is possible that Kilmacow will have failed to expand as planned over a 13 year period.
- Only a few single houses have been added to the housing stock over that time.
- Development of the site with 25 houses will assist in achieving the objective of the Development Plan to expand Kilmacow in a proper and sustained manner.

6.2. Planning Authority Response

The Planning Authority response to the First Party appeal can be summarised as follows;

Roads/Revised Site Layout Plan

- *Parking Layout* - Notes two no. 2 bay car parking spaces to the northwest of House No. 1, area are isolated, not subject to passive surveillance and could give rise to anti-social behaviour. Pedestrians exiting vehicles will be required to use this roadway with no dedicated footway, which is not desirable from a proper planning and road safety perspective. The usability of these spaces is compromised due to complicated turning manoeuvres to exit the spaces, which would be exacerbated if all spaces are occupied. If a driver enters this area and finds that all these spaces are occupied then manoeuvring out will be problematic. KCC does not consider the location for these proposed spaces to be appropriate.

- The curved perpendicular parking (spaces 23/24/24/25/25) located beyond the crossing point near the entrance are not workable given the curved section of road.
- Notes the reorientation of the footpath directly in front of houses 1-16, unclear if the intention is to have one long stream of perpendicular parking or otherwise. Arrangements in respect of bin storage for units 1-16 remain unclear.
- Parking bay widths have not been confirmed while parking layout falls short of required development plan policy standards.
- *Road Widths* - Preference for consistent road widths within the estate. Provision of a road width of 5.5m at the entrance to the estate and a wider width of 6.0m within it is undesirable.
- A revised sweep path analysis for refuse trucks required.
- *Road Safety Audit (RSA)* - Concern that granting planning permission for a development in the absence of a Stage 1/2 RSA would be premature as modifications need to be incorporated into the design and changes to layout.
- *Lighting design submitted* - Scale of the drawings and clarity is not sufficient to enable proper assessment. Notes also the location of the proposed crossing points are not clear.
- *Revised Site Plan* – Omits any reference to the provision of the pedestrian crossing to the south of the proposed entrance. It is unclear if the proposed pedestrian crossing and traffic calming ramp forms part of the proposed development, and works would require a road opening licence permission.
- *Construction Specification details* – Not submitted for the proposed road, footpath and parking areas.
- *Sightlines* - Lack of background data to confirm traffic speeds and traffic volumes on the existing local road as to justify the reduction in an access setback of 2.0m.

- *Public Safety* - P.A. is not satisfied that the road related concerns have been addressed and revised proposal would therefore endanger public safety by reason of traffic hazard.

Phase 2 Lands

- Figure 3.15 Kilmacow map with table attached indicating the locations of Phase 1 Residential zoned lands for Kilmacow.
- Current zoning on this site prohibit new residential development of Phase 2 Lands during the lifetime of the Kilkenny County Development Plan 2014-2020, unless policy criteria set out in the CDP have been met. The criteria for Phase 2 lands has not been met.
- Proposed development is therefore premature and at variance with policy objectives in the CDP and contrary to the proper planning and sustainable development of the area.

6.3. Observations

6.3.1. Two no. observations were submitted from the following parties;

- Owen Sheehan, Dun Romain, Dangan, Kilmacow
- Richard and Grace Myslinski and others, Sinclair, Creamery Hill, Kilmacow

6.3.2. Issues raised are summarised briefly as follows;

- Traffic
- Turning movements close to residential properties.
- Sightlines
- No. of existing entrances close by
- Increased hazard for residents
- Visual Amenity
- Drainage
- Flooding
- Part V

- Location of ramp
- Construction traffic
- Core Strategy report flawed

6.4. **Further Responses**

A further response to the P.A. response to the third party appeal was submitted by the observers to the appeal, Richard and Grace Myslinski, which concurs with the analysis outlined by the P.A.

7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Principle of Development and Land Use Zoning
- Density
- Design Layout and Housing Mix
- Access and Permeability
- Parking and Layout
- Other Matters
- Appropriate Assessment

7.2. **Principle of Development and Land Use Zoning**

7.2.1. The Kilkenny County Development Plan 2014-2020 is the statutory development plan for the area.

7.2.2. The entire site was zoned General Development under the provisions of the *Kilmacow Local Area Plan, 2009-2015*, however, with the adoption of the 2014 Kilkenny County Development Plan (CDP), this LAP was superseded with regard to zoning and priority of development.

- 7.2.3. The majority of the site is zoned Phase 2 Residential with a smaller section at the entrance to the east zoned General Development.
- 7.2.4. Section 3.3.5 of the CDP notes that a total of 21 LAP's were prepared for settlements in the county prior to the adoption of the plan and Kilmacow is one of these 21 settlements. The Kilmacow LAP was still operative at the time of the adoption of the 2014 CDP, and in the case of such plans, section 3.3.5.2 states that where a smaller town or village has an extant local area plan with zoning objectives then the core strategy sets out a phasing map for the land within the LAP. These maps supersede the original zoning map within the relevant LAP. Figure 3.15 shows the zoning map now in effect for Kilmacow.
- 7.2.5. From Table 3.3 of the CDP it can be seen that the smaller towns and villages in the county for which LAPs were or previously had been in place at the time of adoption of the CDP have a combined total area of 13.6 ha. of undeveloped residentially zoned lands available. Of this, 7.8 ha is located within Kilmacow (Upper and Lower). It is not clear whether this 7.8 ha. comprises only Phase 1 residential lands as indicated on Figure 3.15 or comprises these lands plus Phase 2 residential lands and General Development lands. In any event, it is clear that there is a significant amount of undeveloped residentially zoned lands available within the development boundary of Kilmacow Upper and Lower.
- 7.2.6. Section 12.12.8 of the Plan refers to Phase 2 residential zoned lands. The stated objective is *'to prohibit new residential development of phase 2 lands in the settlements of Bennettsbridge, Kilmacow and New Ross Environs during the lifetime of the County Development Plan, unless the criteria above are met.'*
- 7.2.7. Under this zoning objective paragraph 12.12.8 of the County Development Plan states that *'This land will not be released for development during the lifetime of this plan unless the following criteria are satisfied:*
- *At least 75% of phase 1 lands have been fully committed to development (i.e. where planning permission has been granted) and where construction is underway.*

It is stated that *'the situation will be monitored on an ongoing basis'* and that *'Expansion of existing land uses within the lands will be considered on a case by*

case basis having regard to the potential impacts on the strategic nature of the phase 2 lands and general planning considerations.'

- 7.2.8. In the case of the proposed development, the residential use is a permissible use on lands zoned Phase 2 Residential and is therefore considered to be acceptable in principle.
- 7.2.9. Section 12.12 of the Plan relates to land use zoning objectives and 12.12.3 to the General Development zoned lands within the settlements of Kilmacow and New Ross. The stated objective is '*to provide for the development and improvement of appropriate uses in areas where existing commercial uses have established and allow for the development of the settlement as a focus for local services, sustaining and strengthening its role as a population centre*'. Dwellings are listed as a Permissible Use on lands zoned General Development in Kilmacow.
- 7.2.10. Reason for refusal no. 1 refers to noncompliance with Phase 2 zoning objectives as the criteria requirements have not been met. The proposed development is considered premature and contrary to the zoning objectives of the Kilkenny County Development Plan 2014-2020.
- 7.2.11. The appellants assert that as the statutory zoning for Kilmacow is no longer in force that the proposed housing development should not have been assessed against the criteria previously applicable to Phase 2 lands in the LAP and incorporated into the CDP while the LAP was still in force.
- 7.2.12. The appellants contend that the proposed development should have been assessed under the Core Strategy criteria of Objective 3G in the Development Plan. It is also submitted that the planning application which was accompanied by a Core Strategy report essentially justified the proposed development, and was not considered by the PA.
- 7.2.13. In support of this assertion the applicant refers to Variation No. 3 to the Kilkenny County Development Plan 2014-2020, and specifically in relation to the Core Strategy under Chapter 3 of the plan.
- 7.2.14. In response to the first party appeal the PA have submitted a copy of Figure 3.15 Kilmacow zoning map with table attached indicating the locations of Phase 1 Residential zoned lands for Kilmacow. The PA contend that on the basis that only one of three sites identified as Phase 1 Residential zoned lands have a current

planning permission, that policy criteria in relation to Phase 2 Residential zoned lands have not been met.

- 7.2.15. I have reviewed the submission by the PA and am satisfied that of the 7.8 ha of zoned land within the boundary of the LAP that only a small proportion has the benefit of planning permission.
- 7.2.16. Variation No. 3 which came into effect in March 2018, includes an addition to Section 3.3.5.1 which refers to the expired LAP for Kilmacow, and that the Development Plan includes a zoning and phasing map under Figure 3.15. My reading of the amendments to Table 3.3 is that the provisions of the zoning in the CDP still apply as it relates to Kilmacow (see copy attached).
- 7.2.17. I note the criteria applicable for the development of Phase 2 lands as set out Section 12.12.8 which states that the expansion of existing land uses within the lands will be considered on a case by case basis having regard to the potential impacts on the strategic nature of the phase 2 lands and general planning considerations.'
- 7.2.18. I also note Objective 3G under Section 3.3.5.3 Development Objectives for smaller towns and villages. Objective 3G seeks *'to facilitate development of housing, economic development, services and infrastructure in the smaller towns and villages of the county at a scale and character which is appropriate in order to sustain and renew population and services in these areas'*.
- 7.2.19. In my opinion the CDP does allow for the development of Phase 2 lands on a case by case basis where there is a reasoned justification in planning terms.
- 7.2.20. A review of the Census of Population for the Electoral Division indicates an increase in population of 5 between 2011 and 2016 from 1,014 to 1,019 which equates to 0.5%.
- 7.2.21. I have considered the contents of the justification report and accept that the subject site is ideally located within the town, which has experienced very limited development in the recent past, and the proposed development would be consistent with Objective 3G the viability and sustainable development of existing economic and community services in the town.
- 7.2.22. On the basis of the very limited development of zoned lands within the development boundary for Kilmacow, and existing capacity in terms waste water treatment

facilities, water supply, and existing services in the village, I do not consider the development of these lands to be premature.

7.2.23. On balance, therefore, it is my opinion that the proposed residential development is consistent with the core strategy set out in the County Development Plan and as varied under Variation No. 3. and with the permissible uses on lands zoned Residential and General Development.

7.2.24. I am satisfied that the proposed development is acceptable and that the grounds of appeal in relation to compliance with development plan policy should be upheld.

7.3. Density

7.3.1. The current proposal for the development of this infill site provides for the construction of 25 no. residential units. I note that under the Core Strategy of the CDP which prescribes an indicative density for smaller towns and villages as 15 units per hectare.

7.3.2. The site has a stated area of 0.74 ha and includes a central area of open space with a stated area of 0.13ha. The gross residential density is 34 units/hectare (25 units on 0.74 ha).

7.3.3. I note section 3.3.5.3 of the County Development Plan which recognises the need for smaller towns and villages to be developed in a manner that strengthens their role as local service centres whilst respecting their existing character. It notes also that the scale and nature of such development is critical, and the importance of design, layout, character and scale which fits well with the town or village and presents a high quality living environment.

7.3.4. I am of the opinion, that the scale and density of the proposed development which is relatively small in scale, is of an appropriate size and is in keeping with the character of the village.

7.3.5. Since the adoption of the County Development Plan 2014-2020 the policy context has changed, in terms of the National Planning Framework to which regard must be had.

7.3.6. I am of the view that the site has the characteristics of a centrally located infill site. In such a location section 6.9 of the Guidelines for Planning Authorities on Sustainable

Residential Development in Urban Areas while recognising that it can be difficult to be prescriptive about the level of density recommend densities of in the range of 30-40+ dwellings per hectare within small towns and villages.

- 7.3.7. Having regard to the developable area of this serviced site which is 0.74 ha whilst cognisant of the need to protect amenities of property in the vicinity, I consider the proposed density of 34 units/hectare to be of an appropriate scale relative to its location and therefore in keeping with the objectives of the National Planning Framework and the Guidelines. On this basis I consider the proposal to be an efficient and sustainable use of scarce serviced land in an area identified for expansion in proximity in the village centre.
- 7.3.8. I am satisfied, therefore, that the residential density proposed is appropriate within its context and is acceptable.

7.4. Design Layout and Housing Mix

- 7.4.1. There are section 28 Ministerial guidelines which should be considered in conjunction with the provisions of the Kilkenny County Development Plan with regard to the overall design and layout of the proposed scheme. The most relevant of these are 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) 2009'. These Ministerial Guidelines advocate high quality sustainable development that are well designed and built so as to integrate with the existing or new communities. The principle of universal design is also advocated so as to ensure that the environment can be accessed, understood and used to the greatest extent possible by all people regardless of their age, size, ability or disability. The Design Manual which accompanies the Sustainable Residential Development Guidelines provide best practice design manual criteria such as context, connections, inclusivity, variety, efficiency, layout etc.
- 7.4.2. A design statement was submitted with the application. It states that the proposed development has been designed and scaled to respect the established residential development in the immediate area. It notes the proposed development provides a layout that allows an adequate provision of surveillance over public spaces within the surrounding application site and connectivity to adjacent developments.

- 7.4.3. I consider the proposed design and layout is such that it does accord with the principles set out in the CDP. Using the 12 indicators in the companion document to the 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas', it is considered that the proposed design is such that it would positively contribute to the character and identity of the neighbourhood. The development will serve to consolidate and connect an underutilised backland area in the centre of this rural settlement.
- 7.4.4. This scheme will serve to enhance and contribute to the vitality and viability of the village centre by helping to enhance critical mass. With regard to the individual houses themselves, which are two storey and single storey, they have been designed to a high standard and all exceed the minimum floor areas.
- 7.4.5. Private open space is provided by way of rear gardens. Public open space is provided within the scheme and meets development plan standards. In general, I am satisfied that adequate public and private open space has been provided within the overall scheme. The centrally located area of open space is contiguous with an existing area of open space within the residential estate of Shamrock Grove to the south west. I consider it reasonable that connectivity proposed between both areas of open space would benefit from this existing amenity.
- 7.4.6. I note that the P.A. considered the design and layout of the scheme acceptable.
- 7.4.7. Having regard to all of the above, I am satisfied that the level of amenity being afforded to future occupiers of the proposed scheme is acceptable and the proposal if permitted would be an attractive place in which to reside.
- 7.4.8. I am also satisfied that the proposed layout takes cognisance of adjoining residential development in terms of layout and separation distances and does not represent overdevelopment of the site.
- 7.4.9. The housing mix as outlined in section 2.1.2 above comprises 76% 1 and 2 bedroom units. The remaining 24% comprise 3 bedroom units.
- 7.4.10. I consider that the proposed mix of units will cater for smaller households and solo-living in the general housing mix. It would lead to a good population mix within the scheme, catering to persons at various stages of the lifecycle, in accordance with the Urban Design Manual.

- 7.4.11. Given the established nature of the area, the proposed development could aid those wishing to downsize but remain in the general area, thereby freeing up some existing housing stock in the locality.
- 7.4.12. I note the reference in the planners report to a provisional Part V agreement with the Housing Section of the PA, and that a number of units are identified on the site layout plan submitted for the purposes of Part V. The applicant asserts that as the site is not zoned there is no requirement for compliance with Part V. It is also stated however that notwithstanding it is open to the developer and the local authority to come to an arrangement for the purchase of units.
- 7.4.13. I am of the view that the provision of Part V social housing within the scheme is appropriate particularly given the location, scale and mix of unit types, and consider it appropriate for an agreement to be reached between the developer and the planning authority.
- 7.4.14. I am of the opinion, that given the overall area of the site, the delivery of residential development on this prime, infill, underutilised site, in a compact form comprising well-designed, medium density units would be consistent with policies and intended outcomes of the National Planning Framework and Rebuilding Ireland – The Government’s Action Plan on Housing and Homelessness. The site is in a central and accessible location, it is within easy walking distance of adjoining amenities, in an existing serviced area. The proposal serves to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community.
- 7.4.15. I am satisfied therefore that the proposed development is acceptable.

7.5. Access and Permeability

- 7.5.1. It is proposed to provide a new access road into the site from Dangan Road to the east.
- 7.5.2. It is also proposed to set back the existing front eastern boundary and provide a section of footpath, with the potential for this footpath to be extended to connect to a future road crossing point to the south of the entrance which is also indicated on drawings lodged with the application.

- 7.5.3. A potential pedestrian and cycle connection with Shamrock Grove estate to the south west is also indicated. This would traverse an area which is currently a grassed amenity space located at the end of the cul de sac and opposite house No. 10 Shamrock Grove.
- 7.5.4. The Road Design section of the planning authority raised a number of concerns in their initial report and recommended further information. Given the substantive planning related issues however, the PA decided not to follow the recommendation to seek further information on road design issues.
- 7.5.5. The appellants assert that the deficiencies in the layout plan as highlighted by the Roads Design section of the planning authority have been addressed in the revised site layout plans submitted with the appeal. The appellants assert that any alterations required would not be material and could be dealt with by way of condition.
- 7.5.6. The Road Design section have commented further and in some detail on the revised site layout plan Drawing No. RFI-01 submitted but are not satisfied that concerns raised have been adequately addressed.
- 7.5.7. I would state from the outset that in my opinion the sum of the changes identified in the revised site layout plan are in my view material. I would also suggest to the Board that the original site layout plan submitted is superior to that submitted on appeal, and with some modifications by way of condition on items to be agreed with the P.A. would be acceptable. I will now deal with the various issues raised in turn.
- 7.5.8. The Road Design section of the planning authority initially had concerns in relation to sightlines indicated at the proposed vehicular entrance. It noted that while minimum sightlines in accordance with DMURS were achievable, but that these had not been adequately justified based on traffic speeds and traffic volumes.
- 7.5.9. In this regard I note DBFL Consulting Engineers drawing submitted indicates visibility sightlines from a 2m set back of 46m and 49m, and from a 2.4m set back of 45m along the Dangan Road along which a road speed on 50km/hr applies.
- 7.5.10. Drawings submitted indicated an internal road width of 6m with 2m wide footpaths on either side of the entrance to the estate. These footpaths also extend either side of the entrance connecting to a potential flat top traffic calming ramp to function as a

pedestrian crossing with details of this and the extent of new footpath to be agreed with the PA.

- 7.5.11. The Road Design section suggest that a reduction in the road width for the development access road to 5.5m wide, and provision of Slow Zone signage at the entrance to the estate would encourage reduced traffic speeds and accord with the principles of DMURS.
- 7.5.12. The revised site layout plan Drawing No. RFI-01 submitted by the applicant on appeal indicates a revised entrance road width of 5.5m, but with no further details in relation to visibility sightlines from the proposed entrance.
- 7.5.13. The Roads Design section note the lack of background data to confirm traffic speeds and traffic volumes on the existing local road to justify the reduction in an access setback for visibility splays of 2.0m. They also express a preference for consistent road widths within the estate and consider a road width of 5.5m at the entrance to the estate and a wider width of 6.0m undesirable and note that a revised sweep path analysis for refuse trucks is required.
- 7.5.14. I can confirm from my site inspection that sightlines to the right and left of the proposed entrance are achievable from a setback of 2m. I also note that there is no footpath on this side of the road so a crossing point to the footpath on the opposite side is essential. At the time of my site inspection mid-morning on a weekday in March, I noted that traffic volumes were light and traffic speeds within the village were low.
- 7.5.15. It is noted by the Road Design section that the provision of a ramped controlled pedestrian crossing point at an appropriate location south of the new access would also provide sufficient traffic calming to accommodate proposed traffic movements at the proposed access. It is noted that that this would enhance pedestrian linkage to the schools and other services, especially if a pedestrian link to Shamrock Grove or Chapel Gate is delivered in the future. Specifically, the Road Design section sought to confirm that the applicant would provide a combined traffic calming ramp and controlled pedestrian crossing point which it considered an essential and necessary piece of infrastructure to facilitate the development and would benefit the area generally.

- 7.5.16. The Road Design section also note that it is unclear if the proposed pedestrian crossing and traffic calming ramp forms part of the proposed development, and that works would require a road opening licence permission. In conclusion, they are not satisfied that the road related concerns have been addressed and revised proposals would therefore endanger public safety by reason of traffic hazard.
- 7.5.17. The applicant has indicated in the grounds of appeal that works outside the site will be within the limits of the public road but can be agreed with the P.A. The applicant also notes that a condition requiring such works to be agreed with the planning authority would be acceptable. They also state that works in relation to the footpaths and road crossings can be carried out either by or on behalf of the P.A.
- 7.5.18. In my opinion the provision of a pedestrian crossing to the south of the proposed entrance is required and can be a requirement of any grant of permission.
- 7.5.19. The Road Design section also note the traffic calming table/crossing in the vicinity of houses no's.16/22 is not considered appropriate given the parking proposed in the area and suggest relocating this closer to the public road to avoid conflict with parking areas.
- 7.5.20. The revised site layout plan submitted indicates the relocation of the traffic calming table/crossing inside the entrance and will in my opinion reduce traffic speeds at the entrance, without the necessity to reduce the entrance road width to 5.5m.
- 7.5.21. The Road Design section initially recommended a Sage 1/2 Road Safety Audit in accordance with TII GE-STY-01024 to include internal roads within the development and its junction with the public road be submitted. They note that modifications on foot of this audit should be included in amended proposals and incorporated into a revised layout or detail drawings.
- 7.5.22. The applicant in their appeal state that it was not possible to prepare a Stage 1/2 RSA in the time allowed, and that any minor adjustments arising from a RSA can be incorporated into the scheme without materially changing the layout.
- 7.5.23. However, the Road Design section have expressed concern that granting planning permission for a development in the absence of a Stage 1/2 RSA would be premature as modifications need to be incorporated into the design with potential changes to layout.

- 7.5.24. I am satisfied that any changes to the layout would be relatively minor and that a RSA could be subject to a condition of any grant of permission. I also note that the development which is modest in scale and with no through road to any other development would typically result in low traffic speeds.
- 7.5.25. I note that the revised site layout drawing does not include the pedestrian/cycle link across the open space in Shamrock Grove. I consider the inclusion of an appropriately worded condition in any grant of permission which allows for the future delivery of this link would represent a long term planning gain in terms of permeability and is in the interests of the proper planning and sustainable development of the area.
- 7.5.26. I am satisfied, therefore, that the proposed vehicular access to the development, internal road layout, along with traffic calming measures and pedestrian crossings are acceptable in terms of traffic safety, and that subject to conditions the proposed development would not give rise to a traffic hazard.

7.6. Parking Layout and Footpaths

- 7.6.1. It is proposed to provide a total of 56 no. surface car parking spaces and two bicycle parking stores within the scheme.
- 7.6.2. The parking layout comprises parallel parking to the front of the three terraces to the north. Grouped parking to serve the two terraces to the east and west is located to the north of the amenity space. Other incidental parking spaces are indicated either side of the entrance to the estate, and in the vicinity of the hammerhead at the western part of the site.
- 7.6.3. The Road Design section of the planning authority notes on the basis of the County Development Plan standards a requirement of 2 spaces per residential unit plus 1 visitor space per 4 units, a total car parking requirement of 52 spaces applies.
- 7.6.4. Concern is raised in relation to the usability of specific car parking spaces fronting house no. 2/3, near house no. 16, and adjacent to house no. 22 given the inadequate length and practicality of access to these spaces. The width and length of the car parking spaces proposed is also noted and considered unacceptable as

they will encroach onto pedestrian footpath areas. It is concluded that the scheme only provides for 48 usable car parking spaces.

- 7.6.5. I would concur with the P.A. in terms of the excessive car parking provision and that a requirement of 52 no. spaces is in accordance with CDP standards. I also share their concerns in relation to the haphazard layout of the incidental parking spaces particularly.
- 7.6.6. In this regard I note that the revised site layout plan indicates a total of 56 car parking spaces with 2 car parking spaces per unit plus 6 visitor spaces, which is still in excess of CDP requirements.
- 7.6.7. The applicant has stated in their grounds of appeal that while parking has been provided to CDP standards, a reduction could be justified on the basis of the 4 no. 1 bed houses which are unlikely to require 2 car parking spaces. The applicant also notes the local bus service and proximity of the bus stop outside the community hall opposite and to the south of the site.
- 7.6.8. I am of the view that the maximum no. of car parking spaces within the scheme should be 52 and therefore the omission of 4 no. spaces is appropriate, particularly given the central location of the site.
- 7.6.9. Concern is raised by the Road Design section in relation to connectivity between the footpath and entrance doorways for house no's 1-16, and in relation to 3 car parking spaces set behind the kerb line located adjacent to house no. 16.
- 7.6.10. A potential conflict is identified in relation to the location of bin storage proposed either fronting units 1 to 16 or in specially created space between the parking of units 1-16, and associated parking. It is recommended that parking arrangements fronting 1-16 with parking directly off the roadway with footpaths adjacent to the front of units and layout of bin storage should be reconsidered and suggests the potential for a reduction in rear garden depths, if space is at a premium. Reference is made to the acceptable minimum parking bay width of 2.4m.
- 7.6.11. The applicant submits that the revised layout plan submitted addresses the concerns raised by the Road Design section of the planning authority in respect of parking and the footpath in front of houses 1-16.

- 7.6.12. I would note that the principle difference between the original site layout plan as lodged and that submitted with the appeal is the relocation of the footpath along the northern part of the site from the road edge to the front of units 1-16. This applies also to the relocation of a section of footpath to the south of the proposed access road to the north east of house no.22, from the roadside edge to behind the 5 no. curved perpendicular car parking spaces no's 23-25.
- 7.6.13. The Road Design section has made further detailed comments on the revised parking layout submitted. Comments focus primarily on the 4 no. car parking spaces to the northwest of House No. 1, and the 5 no. curved perpendicular car parking spaces near the entrance.
- 7.6.14. Concern is raised in relation to the 4 no. car parking spaces arranged in two bays to the northwest of House No. 1, which are not subject to passive surveillance. The absence of a footpath for pedestrians exiting vehicles is also not desirable from a road safety perspective.
- 7.6.15. I concur with the PA that the location of these spaces is unsatisfactory and inappropriate on the basis of their usability in practice and which could give rise to anti-social behaviour.
- 7.6.16. In my opinion these four spaces should be omitted and this area should be partly incorporated into the side garden of house no. 1, and two spaces provided to the gable as originally indicated on the site layout plan submitted.
- 7.6.17. The Road Design section also note that the curved perpendicular parking indicated just beyond the crossing point near the entrance are not workable given the curved section of road. This refers to 5 no. parking spaces (no. 23/24/24/25/25).
- 7.6.18. In this regard I suggest that 2 of these 5 car parking spaces be omitted and the remaining 3 reoriented to run parallel with the footpath, thereby reducing the quantum of overall car parking within the development to 52.
- 7.6.19. In relation to the revised site layout plan submitted the Road Design section notes the reorientation of the footpath to be directly in front of houses 1-16 but are not clear if the intention is to have one long stream of perpendicular parking or otherwise. Arrangements in respect of bin storage for units 1-16 remain unclear. It is noted that

parking bay widths have not been confirmed and that parking layout falls short of required development plan policy standards.

- 7.6.20. In my opinion the original location of the footpath along the roadside edge is far preferable to that indicated on the revised site layout plan which is located directly in front of houses 1-16.
- 7.6.21. In my opinion, modifications required including details in relation to dimensions of parking bay widths and bin storage details can be agreed by way of compliance with the PA.
- 7.6.22. Similarly, details in relation to tactile paving to be installed at the pedestrian crossings can also be agreed by way of condition.
- 7.6.23. In relation to public lighting I note that lighting design report and drawing submitted with the appeal indicates Luminaire A and B lighting columns with 28w LED lamps. The Road Design section note that the scale of the drawings and clarity is not sufficient to enable proper assessment. Notes also the location of the proposed crossing points are not clear. In my opinion these details can be agreed by way of compliance with the PA.
- 7.6.24. In summary, I have reviewed the original proposals as lodged, the report of the Road Design section of the P.A. the revised layout plans submitted with the appeal, and further comments from the Road Design section. I accept that there are a number of modifications required namely with the omission of 4 no. car parking spaces, but on balance, I do not consider these changes to be material such as to warrant a refusal of permission in this instance.
- 7.6.25. I am satisfied, therefore, that subject to modifications to the number of car parking spaces and layout, and bin storage arrangements that the proposed development is acceptable.

7.7. Other Matters

- 7.7.1. *Water and Drainage* – It is proposed to provide new connections to the public water and drainage system in Kilmacow Lower. The existing Kilmacow wastewater treatment system and network was completed in 2011 and provides secondary treatment. I note the correspondence from Irish Water dated September 2018 in

respect to the applicants Pre-Connection Enquiry submitted with the application. I also note the report from Irish Water dated October 2019 stating no objection to the proposal.

- 7.7.2. *Surface Water Drainage and Flooding* – Concern has been raised in observations to the appeal in relation to issues with the existing storm water drainage system and flooding problems for existing low lying homes in Kilmacow. It is suggested that storm water drainage from the proposal should not drain to the existing storm water drainage system and instead be diverted to the River Blackwater downstream of the Upper Village.
- 7.7.3. In this regard I note that the proposed development provides for on-site surface water storage in the form of an attenuation tank, which is located within the central area of open space. This underground tank has a storage capacity of 150m³.
- 7.7.4. Proposed Surface Water Sewer Layout Drawing No. 2018-26-P03 submitted with the application indicates a separate surface water drainage system comprising new 225mm surface water pipes which drain to a new 300mm surface water pipe to the east of the development. This pipe is fitted with a hydro brake to limit surface water discharge of 4l/s, before entering a new 300mm surface water pipe in the public road. This will connect to the existing surface water system to the south of the site.
- 7.7.5. In relation to Sustainable Drainage Systems (SuDS) measures on site I note from the drawing and surface water design calculations that no permeable or semi-permeable materials are to be used on hard surface areas (footpaths, public roads or car parks, etc.) which accounts for an effective impermeable area of 3,606m².
- 7.7.6. I note the Environment section of the planning authority did not comment on the proposed development, despite the issue of drainage being raised in third party submissions to the P.A.
- 7.7.7. I have reviewed the proposed surface water drainage proposals and calculations provided, and which are separate to the foul sewer. I am reasonably satisfied that with the incorporation of appropriate SUDs measures, which should include the use of permeable and semi-permeable materials to hard surfaces that the proposed development can deal adequately with surface water, and thereby limit the risk of flooding problems in the village. Any proposals should also satisfy the requirements of the Environment section of the PA.

- 7.7.8. The site is located outside any area identified in the OPW Draft Flood Mapping. The catchments.ie website containing water framework directive flood risk data does not identify Kilmacow as being at risk of river flooding from the River Blackwater. There are no recorded flood events on the site or in the immediate vicinity and the planning application form does not identify any flood history relating to the site. On the basis of the available information it is not considered that there is any substantive flood risk on the site.
- 7.7.9. *Landscaping* – I note Landscape Drawing No. PL-06 submitted indicates proposed boundary treatments and planting, and that no report from the Parks section of the PA was available at the time of writing.
- 7.7.10. I note that no detailed planting specifications were submitted and that there is scope to introduce additional planting particularly to the front of house no's 1-16 and in the vicinity of parking areas bin storage and bicycle parking areas generally within the scheme. I therefore recommend in the event of planning permission being granted and a condition be attached in respect of a revised landscaping plan with landscaping details to be agreed with the P.A.

7.8. **Appropriate Assessment**

- 7.8.1. The appeal site is not located within any European site. The closest such site is the Lower River Suir SAC (site code 002137) which is located c.3.8 km to the south of the appeal site at the closest point. The development is proposed to be connected to the public water supply and drainage system. Having regard to these factors, to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

- 8.1. I recommend the permission be **granted** for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the provisions of the Kilkenny County Development Plan 2014-2020, to the pattern of development in the area, to the nature, scale, design, mix of tenure and density, to the location of the site within the settlement boundary and proximity to the village centre of Kilmacow, it is considered that subject to compliance with conditions as set out below, the proposed development would be acceptable in terms of pedestrian and traffic safety (being within the 50km/h speed zone), would not seriously injure the residential or visual amenities of the area or property in the vicinity, or the character or distinctiveness of the village. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.
Reason: In the interest of clarity.
2. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the adjoining residential area.
Reason: In the interest of visual amenity.
3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping and boundary treatment, details of which shall be submitted

to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species,

(ii) Details of screen planting which shall not include cupressocyparis x leylandii,

(iii) Details of roadside/street planting which shall not include prunus species,

(iv) Hard landscaping works, specifying surfacing materials, furniture, play equipment and finished levels.

(b) Details of additional planting to the front of each dwelling, in the vicinity of carparking spaces, and bin storage areas.

(c) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

(d) A timescale for implementation including details of phasing.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

4. All rear gardens of houses shall be bounded with brick or concrete block walls, which shall be a minimum of 1.8 metres high, except where bounding public open spaces or roads, when the walls shall be 2 metres in height, or by concrete post and concrete panel fences, 1.8 metres high.

The proposed boundary treatment, using concrete post and timber panel fences, or any other form of timber fencing, shall not be used for any rear garden boundaries.

Reason: To ensure the provision of durable boundary treatment in the interest of the residential amenity of future occupiers of the development.

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

Reason: In the interest of public health.

6. The permitted development provides for 52 no. surface car parking spaces only.

Reason: in the interest of clarity.

7. Prior to commencement of development, a revised site layout plan indicating the following shall be submitted to, and agreed in writing with, the planning authority:

- (a) Provision of 2 no. parallel car parking spaces only to the south east of house no. 16, with associated amendments to access and footpath layout.

- (b) Reconfiguration of perpendicular car parking spaces located inside the entrance to the development, to provide a total of 2 no. spaces only.

- (c) Relocation of proposed traffic calming ramp to inside proposed entrance.

- (d) Details of dished pavement and access to 2 no. car parking spaces to house no. 1.

Reason: In the interest of clarity.

8. The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of future charging points and in the case of all visitor spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, including details of design of, and

signage for, the electrical charging points shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: in the interest of sustainable transportation.

9. (a) The internal road network serving the proposed development, including turning bays, junctions, sight distances, footpaths and kerbs shall be in accordance with the detailed requirements of the planning authority for such works, and shall comply in all respects with the provisions of the Design Manual for Urban Roads and Streets.
- (b) To facilitate connectivity and permeability, the finished surface of all roads and footpaths that are shown as future possible access shall meet up to site boundaries without the provision of a grass verge or ransom strip.

Reason: In the interests of pedestrian and traffic safety.

10. (a) No tree or shrub planting is permitted within the visibility splays at the proposed entrance. The developer shall ensure that visibility splays remain unobstructed. Details of the location and setting out of the front road boundary wall shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (b) The developer shall ensure that the proposed footpath along the entrance road to the development is set-back sufficiently to ensure a carriageway width of six metres along the roadside boundary of the entrance to the proposed development.
- (c) Footpath and road construction specifications shall be submitted to and agreed in writing with the planning authority prior to commencement of development.
- (d) Tactile paving at pedestrian crossing points shall be in accordance with the Pedestrian Crossing Specification and Guidance, issued by the National Roads Authority in April, 2011.
- (e) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a revised surface water

drainage proposal, which caters for surface water discharge along L3403 in front of the new footpath.

(f) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority details of SLOW road markings to be erected at two agreed locations along the L3403 road on the approach to the site.

(g) All road markings and signage associated with the development shall be in accordance with the Traffic Signs Manual, issued by the Department of Transport in 2010.

(h) Prior to commencement of development, the developer shall submit to and agree in writing with the planning authority a Roads Maintenance Plan that includes for street sweeping/cleaning in order to prevent muck/debris or any other materials interfering with the safe operation of the public road.

(i) The developer shall ensure that adequate staff parking and service delivery areas are provided within the confines of the site during the construction phase of the project so as to eliminate the risk of works associated parking along the public road network.

(j) All works associated with the provision of the proposed entrance and footpaths shall be completed in full to the satisfaction of the planning authority prior to the commencement of works on site.

(k) All works on the public road will be subject to a Road Opening licence.

Reason: In the interests of traffic safety and visual amenity.

11. Prior to commencement of development, the following shall be submitted to, and agreed in writing with, the planning authority:

(a) A detailed design for the proposed traffic calming ramp across Dangan Road as detailed on Drawing No.2018-26-P01 dated 7th October 2019. The design shall include a new pedestrian crossing.

(b) Details of the design, implementation, costing and phasing of these works. The cost of the design and implementation of these works shall be at the applicants' expense, and

(c) The agreed new area of footpath either side of the proposed new entrance and connecting to the pedestrian crossing shall be constructed and implemented prior to the occupation of the development.

Reason: In the interest of pedestrian and traffic safety.

12. The developer shall carry out a detailed stage 1/2 and 3 Road Safety Audit (RSA) by an independent approved and certified auditor, for the proposed development and surrounding area. The RSA shall include the proposed new routes from the development to the public road. The Developer shall submit to the planning authority a copy of the RSA stage 3 report and shall complete all of the remedial measures identified in the RSA Stage 3, prior to occupancy of the residential units. The Developer shall be liable for all costs associated with these works.

Reason: In the interest of traffic safety.

13. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and

disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

15. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling.

Reason: In the interests of amenity and public safety.

16. Proposals for an estate name, house/apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

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

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

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

18. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

19. (1) The development, including all roads, footpaths, verges, public lighting, open spaces, surface water drains and attenuation provisions, and all other services, as permitted under this order, shall be carried out and completed in accordance with the “taking-in-charge” standards of the planning authority.
- (2) The areas of open space shown on submitted drawings shall be reserved for such use and shall be levelled, contoured, soiled, seeded and landscaped in accordance with the detailed requirements of the planning authority. The open space areas shall be laid out and landscaped prior to the making available by the developer for occupation of any of the houses in the development.
- (3) All of the areas of public open space, as shown on the submitted drawings, shall be maintained by the developer until such time as the development is taken in charge by the local authority. When the estate is taken in charge, the open spaces shall be vested in the planning authority, at no cost to the authority, as public open space.

Reason: In the interest of order development, the timely provision of open spaces and in order to comply with national policy in relation to the maintenance and management of residential estates.

20. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000,

as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

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

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

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

planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Susan McHugh
Senior Planning Inspector

28th April 2020