



An
Bord
Pleanála

Inspector's Report

ABP-306537-20

Development	Student Accommodation Development
Location	The Leinster Clinic, Dún Sion, Kilcock Road, Maynooth, Co. Kildare W23 FW77.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19/1225
Applicant	Kerrie Leonard
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant	Kerrie Leonard
Observers	(1) Dr. Paul Mulryan (2) Éamonn O'Muircheartaigh (3) David Kingston (4) Ted & Carmel Farrelly (5) Con Delaney & Bríd Connolly (6) Thomas J. & Marie Murphy

(7) Martin Murphy

Date of Site Inspection

07.05.2020

Inspector

Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located on a short cul-de-sac, adjacent to the junction of the cul-de-sac and the R148/Kilcock Road, in the north western area of Maynooth town approx. 100 metres west of the university campus.
- 1.2. The site is occupied by The Leinster Clinic; a detached single storey building which originally appears to have been a house. There is a substantial area of hardstanding for vehicular circulation and car parking to the front, side and rear and two grassed areas to the front. There are hedgerows and some trees around the site boundary. There are two detached houses between the site and the university campus to the east. There are more houses to the west along the cul-de-sac with fields to the north of the site.
- 1.3. The site has an area of 0.267 hectares.

2.0 Proposed Development

- 2.1. The proposed development is for permission to:
 - Demolish the existing single-storey medical/dental clinic and remove the car park to the rear of the site.
 - Construct a two-storey building to accommodate 4 no. six-bedroom student accommodation apartments.
 - Shared amenity lawn, shared parking area and all associated site works etc.
- 2.2. The stated floor area of the building it is proposed to demolish is 490sqm. The proposed building has a stated floor area of 596sqm and an indicated height of 8.2 metres.
- 2.3. In addition to standard planning application plans and particulars the application was accompanied by a 'Planning Report', an 'Architectural Design Rationale', a 'Flood Risk Assessment', wastewater treatment details and a 'Storm Water Soakaway Design' report.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to refuse permission for 3 no. reasons as follows:

1. Policy HP 6 of the Maynooth Local Area Plan 2013-2019 seeks to restrict apartment developments generally to the University campus and town centre locations or suitably located sites adjoining public transport connections. Table 17 'Land Use Zoning Matrix' of the Maynooth Local Area Plan 2013-2019 stipulates that residential developments are not permitted in areas zoned Community and Education. It is considered the proposed development, by virtue of the nature of tenure and multiple occupants proposed, is akin to an apartment development. As the subject site is zoned Community and Education, and as the site is neither located on the University Campus or on Town Centre Zoned Land, the proposed development would materially contravene policy HP6 and Table 17 of the Maynooth Local Area Plan 2013-2019 which would set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area.
2. It has not been demonstrated to the satisfaction of the Planning Authority that the site is suitable for the on-site disposal of wastewater generated by the proposed development. Having regard to the high water table, concentrated soakage and percolation areas, combined with the potential risk of pluvial flooding, it is considered that the proposed development could give rise to the contamination and pollution of the surface water system where the risk is increased from the risk of pluvial flooding. The proposed development, therefore, could lead to conditions which would be prejudicial to public health and safety, which would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the risk of pollution of surface waters from the wastewater treatment system, and to the hydrological connection between the subject site and the Lyreen River, a tributary of the River Rye Special Area of Conservation (SAC) which is a designated Natura 2000 site, the impact of this development on the qualifying criteria of the SAC is uncertain. It has not been demonstrated

to the satisfaction of the Planning Authority that the development would not have a significant impact on the SAC, its associated habitats and protected species. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. The Planning Report is the basis of the planning authority decision. It concludes that the principle of the proposed development is not accepted, having regard to Council policy as expressed by Policy HP6 of the Local Area Plan. It had also not been demonstrated that the site is suitable for the on-site disposal of wastewater and, given the high water table and probability of flooding on site, the development could give rise to surface water contamination. Having regard to the risk of pollution of surface water and proximity to the Lyreen River, the impact of the development on the qualifying interests of the Rye Water SAC is uncertain.

3.2.2. **Other Technical Reports**

Area Engineer – No objection subject to conditions.

Environment Section – Further information recommended in relation to effluent treatment.

Roads & Transportation Section – No objection subject to conditions.

Water Services – A refusal is recommended due to the high water table, the concentrated soakage and percolation areas combined with the risk of pluvial flooding.

Conservation Officer – No objection.

Chief Fire Officer – Revisions requested to the floor layouts.

3.3. **Prescribed Bodies**

None received.

3.4. **Third Party Observations**

14 no. submissions were received from occupants of the existing clinic, local residents and two local representatives. The main issues raised can be summarised as follows:

Zoning

- The undeveloped areas of the Community & Educational zoned land would appear to be far more suitable for student accommodation than the demolition of an operational medical centre.
- The development is contrary to Policy HP 6 of the Local Area Plan 2013.
- The medical facility is a substantial benefit to local residents.

Design

- The proposal is not in keeping with surrounding buildings in appearance or scale and it is not in accordance with appropriate development standards.
- The design is not in keeping with vernacular Irish style.
- The development is not in accordance with building regulations e.g. no lift.
- Overbearing and shadowing impacts/light pollution to adjacent properties.
- The proposed height is almost identical to that refused under P.A. Reg. Ref. 19/864.
- The waste bin area is not conducive to visual amenity and noise pollution.

Student Housing

- The development is not in keeping with the standards outlined in Section 16.10.7 of the Dublin Development Plan.
- No management plan has been submitted. No provisions outlined for security or the control and management of students/The development appears too small in commercial scale to allow a proper management regime to be put in place. The small internal office will likely not be staffed meaning the centre would be left to run itself with little or no control over student residents.
- Occupants will be a transient student population who will not permanently integrate or have a vested interest in the long-term wellbeing of the community.
- Residents of the area and proposed occupants will be highly vulnerable to anti-social behaviour and security issues.

- Recent construction of security fencing has substantially improved the problems of anti-social behaviour experienced by local residents. The proposed development will make life miserable for residents of Kilcock Road.
- The close proximity of the Student Union Building to the site (290 metres on foot) is a significant concern in terms of alternating between both venues and will be a recipe for trespass, anti-social behaviour, noise and harassment of residents.
- It is unclear if the development is for 24, 48 or 72 no students. The increase in occupancy is not compatible with what currently prevails in this community.
- With regard to the statement referring to the need for student accommodation there are currently already four substantial student accommodation buildings in the process of being built.

Public Health

- The development will pose a serious risk to public health and pollution of the Mill Race/Lyreen River from run-off wastewater and overflow foul water during wet and stormy weather which is accentuated by the slope on the site to the road.
- The residential area on Kilcock Road is characterised by poor soakage, flooding and a seasonal high water table. The site is not suitable for the disposal of wastewater of the volume generated.
- 24 no. people using the facility raises environmental concerns regarding safe sewage disposal.
- Contamination of surface water.
- Water from the Mill Race/Lyreen River flows into the Rye Water and into the Liffey upstream of the Leixlip Water Treatment Plant. Two boil water notices recently had to be implemented in respect of water processed at the plant due to contaminated water extracted from the Liffey. The second notice resulted from upstream flooding which is endemic in this cul-de-sac during stormy weather.
- The southern area of the site is susceptible to short-term flooding. The development will contaminate ground/drinking water.

- Flooding from a stream between the first and second house west of the site which feeds the Mill Race. Adequate storm shores in the cul-de-sac and Kilcock Road get blocked by silt, debris and leaves due to topography.
- A drainage scheme installed to the rear of Mount Carmel in 2016 was only partly successful because of poor soakage and a high seasonal water table.
- Reasons for refusal of P.A. Reg. Ref. 19/864 were because of percolation problems and flooding issues.

Traffic/Car Parking

- Only 10 no. car parking spaces are proposed for 24 no. students. If residents were to start parking on the road it would make access to homes difficult if not impossible. Increased traffic volumes pose a safety risk to the community.
- There is an ongoing problem of students parking illegally on Kilcock Road and on the cul-de-sac. Overspill parking will again ignite confrontation with local residents and create havoc for Kilcock Road residents.

Miscellaneous

- There are numerous other locations in Maynooth that could support student housing by connecting into the public sewer rather than proposing an increased capacity on-site system.
- Devaluation of adjacent properties.
- No secure, covered bicycle parking provided.
- The development is purely driven for commercial benefit.
- The documentation was not published online until after the planning fee was paid 11 days after it was lodged which did not enable interested parties sufficient time to view it.

4.0 Planning History

P.A. Reg. Ref. 19/864 – Permission refused in 2019 to demolish the existing medical/dental clinic and construct a two-storey building containing 4 no. six-bedroom

student accommodation apartments etc. for 4 no. reasons: (i) Contrary to Policy HP6 of the Local Area Plan 2013-2019, (ii) Having to regard to its height, scale and siting the development would seriously injure the residential and visual amenities of adjoining properties and be out of character with existing development, (iii) The site is in an area at risk of flooding and, in the absence of a site-specific flood risk assessment, it had not been demonstrated the proposed development would not be at risk of flooding and, (iv) It had not been demonstrated that the site is suitable for on-site disposal of wastewater.

5.0 Policy Context

5.1. Project Ireland 2040 National Planning Framework

- 5.1.1. Section 6.6. (Housing) of Chapter 6 (People, Homes and Communities) contains reference to student accommodation. It states that demand for student accommodation exacerbates the demand pressures on the available supply of rental accommodation in the urban areas in particular and this is expected to increase. Purpose built student accommodation needs to be as proximate as possible to the centre of education and connected to accessible infrastructure.
- 5.1.2. National Strategic Outcome 5 includes reference to investment in student accommodation within our universities.

5.2. Rebuilding Ireland – Action Plan for Housing and Homelessness (2016)

- 5.2.1. Pillar 4 (Improve the Rental Sector) of the Plan includes, as a key action, supporting greater provision of student accommodation.

5.3. National Student Accommodation Strategy

- 5.3.1. This document is part of Rebuilding Ireland. It acknowledges that it is not possible to rely solely on publicly funded higher education institutes to increase the supply of purpose-built student accommodation and that there is a requirement for investment from both higher education institutes and private developers.

5.4. Kildare County Development Plan 2017-2023

- 5.4.1. Section 4.7 (Specific Needs Housing) of the Plan includes reference to student accommodation. It states the provision of appropriate student housing will enable Maynooth University to continue to develop as a national and international centre for education and research. It also states student accommodation should be located convenient to the University by foot, bicycle or public transport and generally, either within the college campus or appropriately zoned and located lands within Maynooth town.
- 5.4.2. Objective SNO 6 states that it is an objective of the Council to facilitate appropriately located and designed student accommodation.
- 5.4.3. Chapter 17 (Development Management Standards) contains both Section 17.4.13 (Student Accommodation) which acknowledges the growing demand for student accommodation and states that applications for purpose-built student housing will require a statement that outlines, inter alia, the proposed terms of occupation and the proposed management structure, and Section 17.6 (Student Accommodation) which sets out matters to be considered in proposals.

5.5. Maynooth Local Area Plan 2013-2019

- 5.5.1. The site is in an area zoned 'Objective E; Community and Educational'. The zoning objective is to protect and provide for the development of community and educational facilities. The zoning objective, in relation to the university, includes associated student accommodation. A residential development is indicated as not permitted on Objective E zoned land according to Table 17 (Land Use Zoning Matrix).
- 5.5.2. The site is within the boundary on Map Ref. 2 (Strategic Flood Risk Assessment Map) which requires development proposals to be the subject of a site-specific Flood Risk assessment appropriate to the type and scale of the development being proposed.
- 5.5.3. Policy HP 6 states, inter alia, that it is the policy of the Council to restrict apartment developments generally to the University campus and town centre locations or suitably located sites adjoining public transport connections.

5.6. Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018)

- 5.6.1. The guidelines note that certain Specific Planning Policy Requirements (SPPRs) set out e.g. bedroom mix parameters (SPPR 1) and minimum floor areas (SPPR 3), are not applicable to student accommodation. Section 5.21 states that student accommodation projects will not normally be subject to Part V requirements.

5.7. Natural Heritage Designations

- 5.7.1. The closest Natura 2000 site is Rye Water Valley/Carton SAC approx. 2km to the north east. The closest heritage area is Royal Canal pNHA approx. 400 metres to the south.

5.8. EIA Screening

- 5.8.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, on the outskirts of an urban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- While seeking permission for the development as originally submitted in the first instance an alternative design has been proposed involving adding fire protection lobbies to the floor plans and relocating the soakaway to the rear of the site.
- The site is within walking distance of the university, approx. 750 metres from Dunnes Stores and within 1.15km of the town centre. It would accommodate registered third-level students and would be suitably managed.

- Responses to the reasons for refusal for P.A. Reg. Ref. 19/864 are provided.
- The grounds of appeal reference national and local policy documents such as:
 - National Planning Framework – At least 40% of all new housing is to be delivered within built-up areas on infill/brownfield sites.
 - National Development Plan 2018-2027 – The proposed infill development is considered to reflect the type of compact sustainable development sought.
 - Rebuilding Ireland – Action Plan for Housing and Homelessness (2016) – The provision of 24 no. student bedrooms is considered to accord with Pillar 4.
 - National Student Accommodation Strategy (2017) – Increasing the amount of purpose-built student accommodation will contribute to addressing the rental crisis.
 - Circular Letter PL 8/2016, APH 2/2016 – The letter identifies a need for additional student accommodation and states local authorities should assist through their planning and development functions and take a flexible approach in respect of any planning conditions related to use and occupancy.
 - Urban Development and Building Height Guidelines (2018) – The proposed development is considered to be compliant and in an applicable location to be redeveloped at higher density and greater height.
 - Maynooth Local Area Plan 2013-2019 – Notwithstanding the proposal's non-compliance with the zoning objective the site is adjoined by residential development and is directly compliant with the vision for the 'E' zoning objective in that it provides student accommodation close to the university. Its proximity to a larger student accommodation permission (P.A. Reg. Ref. 10/906), also on 'E' zoned land, is referenced. Housing policies and objectives are set out. The sites location in relation to facilities and services is also referenced.

- Kildare County Development Plan 2017-2023 – The proposed development is assessed in the context of a number of general development standards: height, site coverage, plot ratio, overlooking, overshadowing, density, housing mix and student accommodation as set out in Section 17.6.
 - Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2018) – SPPR 9 refers to shared accommodation and provides for no restriction on dwelling mix, specific shared accommodation bedroom and common floor areas apply, flexibility shall be applied to the provision of storage and amenity space and minimal car parking shall apply on the basis of shared accommodation development being more suitable for central locations and/or proximity to public transport. The development (24 no. single-bedrooms) will provide a high standard of amenity for occupants.
 - Urban Design Manual – A Best Practice Guide – Outlines how the proposed development is consistent with the twelve design consideration questions e.g. context, connections, inclusivity etc.
- With regard to the first reason for refusal the planning authority did not assess the proposed development as a student accommodation scheme, which the zoning objective facilitates, but as an apartment scheme. Any concerns about the permanent use of the units as a residence can be resolved by way of condition as suggested in Circular Letter PL8/2016 which would ensure the development is solely used during the academic year to provide student accommodation. The concern of the planning authority and observers about the lack of a management plan can be addressed by way of a condition. The site satisfies relevant criteria in relation to accessible locations proximate to third level institutes. Though the zoning matrix excludes residential development on 'Objective E' land, Table 16 states that, in relation to the university, this zoning is intended to facilitate its existing and evolving requirements including the university campus, associated student accommodation, recreational and cultural facilities etc. associated with the university.

- In relation to the second reason for refusal the water table was 1250mm below ground level which is not considered to be high. All required buffer setbacks have been provided as per the 2009 EPA Code of Practice for Wastewater Treatment Systems. The proposal provides for a sand polishing filter with a reduced rate of 40l/sqm. Secondary and tertiary treatments have been provided for which further reduces the risk of contamination and pollution. The proposed treatment package has a 30-population equivalent (PE), in excess of the 25PE calculated load within the development. The wastewater treatment system is above the required standard to accommodate the development.

In relation to pluvial flooding, the proposed stormwater design has followed the BRE 365 Digest Guidance. An extra 14.5m³ and rainwater harvesting equipment have been proposed which results in the soakaway system acting as a buffer and overflow system in the event of a malfunction. A cover letter from the company which prepared the relevant documentation in the original application has been submitted with the grounds of appeal. It is also stated that it is clear the planning authority did not have regard to the proposed rainwater harvesting system in their assessment. Notwithstanding, an amended design option for consideration of the Board relocates the surface water soakaway area to the rear of the site.

The Flood Risk Assessment submitted with the application concluded that the site is not subject to flooding and will not impact on the surrounding lands. An addendum in support of the appeal has been submitted from the company which prepared the Assessment.

- An Appropriate Assessment Screening Report has been prepared and submitted in relation to the planning authority's third reason for refusal which concludes that there is no potential for significant effects arising from the proposed development.

6.2. Planning Authority Response

- 6.2.1. The planning authority's Water Services Section states that an OS map, attached to the response, shows a series of drains in the vicinity of the site which feed the River Lyreen which is prone to flooding. Due to these water features the ground water level

is high and very near the surface when water bodies are in flood. The site cannot therefore dispose to either the surface water (substantial area to be catered for) or the percolation area (with substantial loading) in an adequate manner and there is the danger that both will mix and overflow from the site to the roadway and adjoining water filled ditches resulting in the possible discharge of effluent to the Lyreen River through the entrance position and on toward the river network. Water Services references Sections 2.1.5 and 2.1.12 etc. of the 'Addendum to Flood Risk Assessment' submitted with the grounds of appeal.

6.3. Observations

7 no. observations have been received from: Dr. Paul Mulryan, Éamonn O'Muircheartaigh, David Kingston, Ted and Carmel Farrelly, Con Delaney and Bríd Connolly, Thomas J. and Marie Murphy and Martin Murphy who are all occupants of The Leinster Clinic or are local residents. The issues raised are generally similar to those referenced in the submissions received by the planning authority but also include:

Flooding

- The site is not located in flood risk Zone C as claimed and it is at risk of flooding. The drainage stream to the west, the only drainage outlet for the 65 acres of agricultural land to the rear, overflows in severe rainfall events. A water escape hatch had to be inserted into the wall immediately over where it flows underground to allow flooding escape onto the cul-de-sac and avoid flooding the houses to each side. When the agricultural land to the rear floods, water escapes under the rear perimeter wall onto the site and down the driveway to the cul-de-sac. Flooding occurs in a number of properties along Kilcock Road. The impact of flooding is evident on the walls on both sides of the entrance gate. The design of the Kilcock Road prevents flooding flowing across the road. Overflow from blocked gullies enters the Mill Race further east along the hard shoulder. The cul-de-sac is lower than Kilcock Road.
- The 'Addendum to Flood Risk Assessment' contains material inaccuracies, errors and inconsistencies. It ignores flooding from the agricultural land to the rear. It also misrepresents the hydrological system in the vicinity of the

residential area. The Addendum should be set aside in the determination of the appeal.

Public Health

- The seasonal high water table, poor soakage, lack of mains sewage and pluvial flooding renders the site unsuitable for the storage and disposal of the volumes of wastewater generated. Use of a percolation area and soakpit on a 0.267 hectare site exacerbates the situation and enhances the risk of groundwater and surface water pollution.
- Putting the percolation facility to the rear would exacerbate the risk of surface water pollution.
- Overflow wastewater would pose a risk to waterfowl and the ecology of the Mill Race, Lyreen and Rye Rivers.

Appropriate Assessment

- The 'Screening for Appropriate Assessment' contains material inaccuracies, errors and inconsistencies. It states that there could be a hydrological pathway if pollutants from the site could travel 20 metres overland (across the Kilcock Road) into the Lyreen River and then 2.5km downstream. An observation states that it is physically impossible for polluted water to travel 20 metres overland because the design of Kilcock Road has a camber from the centre falling north to prevent surface water flowing across the road and, in any event, it would discharge to the Mill Race. However, there is an incontrovertible hydrological link between the site and SAC via a storm shore outside the site which empties into the Mill Race opposite the site. The Mill Race merges with the Lyreen River which in turn merges with the Rye Water. Overflow flooding flows east along the hard shoulder to the roundabout and enters the Mill Race via numerous storm shores on the northern side of Kilcock Road.
- There is a risk to the habitats and protected species in the SAC from pollutants.

Miscellaneous

- The development is not aligned to the Maynooth University Strategic Plan 2018-2022 or supported or endorsed by the university.

- A number of statements made in the grounds of appeal are disputed.
- Permitting the application would set an undesirable precedent for similar projects on the outskirts of Maynooth.
- Reference is made to a Hydrologically Sensitive Area, a Critical Management Zone and a Pollutant Loading Area.
- The grounds of appeal show no evidence that a property management company would be employed to manage the development.
- A Risk Matrix is included in one of the observations.

6.4. Further Responses

None.

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions and observations received in relation to the appeal, having inspected the site, and having regard to relevant local and national policies and guidance, I consider that the main issues in this appeal are as follows:

- Zoning
- Design/Impact on Adjacent Residential Amenity
- Wastewater Treatment
- Flooding
- Appropriate Assessment

7.1. Zoning

- 7.1.1. I consider the development to comprise student accommodation apartments as referred to in the application. The first reason for refusal in the planning authority decision was that apartment developments are generally restricted to the University campus, town centre or suitably located sites adjoining public transport connections

as per Policy HP 6 of the Local Area Plan 2013-2019. The submissions and observations received do not consider student accommodation an appropriate land use for this site.

- 7.1.2. National policy relating to student accommodation generally relates more to acknowledging the requirement for increased provision of such accommodation, and encouraging its provision, rather than addressing appropriate locations for it on an institute by institute basis.
- 7.1.3. The County Development Plan 2017-2023 states student accommodation in Maynooth should be located convenient to the university and it is acknowledged that the site is near the campus, albeit further away from the town centre. Notwithstanding, the Plan also states that student accommodation generally should be within the college campus or appropriately zoned and located land within the town.
- 7.1.4. Under the Local Area Plan 2013-2019, Policy HP 6 states apartment developments, which is what the proposed development is, are generally restricted to the University campus, town centre locations or suitably located sites adjoining public transport connections. The 'E' zoning has an objective in relation to the university to, inter alia, facilitate the existing and evolving requirements of the university including associated student accommodation. The grounds of appeal refer to P.A. Reg. Ref. 10/906, situated within 500 metres of the site on 'Objective E' zoned land. However, that development is within the grounds of the university campus.
- 7.1.5. Having regard to the foregoing I do not consider that the County Development Plan 2017-2023 or the Maynooth Local Area Plan 2013-2019 supports the provision of student accommodation apartments at this edge of town site which is not within the university campus, on appropriately zoned or located land within Maynooth town or adjoining public transport connections. Therefore, I consider the proposed student accommodation development would not be appropriate at this location and there is no compelling reason to set aside the general provisions of the County Development Plan or Local Area Plan.

7.2. Design/Impact on Adjacent Residential Amenity

- 7.2.1. The submissions refer to the design of the proposed structure and its impact on adjacent residential amenity as well as the general impact on amenity as a result of student apartments.
- 7.2.2. A previous planning application for a similar development was refused under P.A. Reg. Ref. 19/864. The second reason for refusal referenced the height, scale and siting of the structure and stated that it would seriously injure the residential and visual amenities of property in the vicinity and be out of character with existing development. This reason for refusal was not included in the planning authority decision for the current application. The Planning Report notes minor alterations have been made to the proposed structure and it considers a two-storey building would not be unreasonable at this location.
- 7.2.3. In terms of scale, I do not consider the proposed structure to be excessive. I note the provisions of the 'Urban Development and Building Heights' Guidelines (2018) and the general move towards increased height to reduce urban sprawl. I also note that the contiguous elevation drawing submitted with the planning application (Drg. No. KL/PLN/P/02) indicates that the detached two-storey house between the site and university campus is higher than the proposed apartment building, notwithstanding the differences in overall scale. I do not consider the proposed structure to comprise a visually obtrusive or incongruous feature along the roadway as set out on the contiguous elevation drawing. The elevation designs are relatively basic, with straight lines, consistent window proportions and a render finish with blue/black slate. The site layout does not indicate overdevelopment of the site. There are setbacks to both site boundaries, adequate car parking provision on site and open space areas to both the front and rear.
- 7.2.4. Overlooking is not a concern. The only above ground floor level windows to the sides serve hallways and these are cited as having opaque glazing. There is a separation distance of over 22 metres from the first-floor living/dining areas to the rear of the site. Despite its scale, the height of the proposed structure is relatively limited at 8.2 metres. The apartment building maintains a consistent building line with adjacent properties, has a relatively similar footprint and maintains a setback of 3-4 metres from both side boundaries. I do not consider that shadowing impact to properties on either side will

be significant. I also do not consider that the proposed structure would be unduly overbearing in terms of overall size or scale.

7.2.5. Submissions reference the potential for general disruption to existing residential amenity as a result of student accommodation. Further to Section 7.1, I consider that student accommodation apartments are not consistent with the land use zoning objective for this area. Notwithstanding, the management of the development would be an issue of concern. Chapter 17 of the County Development Plan 2017-2023 indicates that documentary evidence, inter alia, outlining the proposed terms of occupation and a proposed management structure is required with a planning application for student accommodation. This has not been addressed in the planning application or the grounds of appeal and is a significant omission. However, I do not consider that it should be included as a reason for refusal having regard to the non-compliance with the zoning objective in the first instance.

7.2.6. In conclusion, I consider that the proposed development would not have any undue impact on the amenity of adjacent property in terms of its height, scale or design.

7.3. Wastewater Treatment

7.3.1. This area of Maynooth is not served by a public foul sewer. The second reason for refusal in the planning authority's decision stated that it had not been satisfactorily demonstrated that the site is suitable for the safe disposal of wastewater. The issue is also referenced in submissions and observations.

7.3.2. The fourth reason for refusal of P.A. Reg. Ref. 19/864 was that it had not been demonstrated that the site was suitable for the on-site disposal of wastewater. A Site Characterisation Report had been submitted with the application, but the planning authority had raised some issues in terms of the filling-in of the trial hole, vulnerability rating of the subsoil and the treatment system proposed. The existing septic tank serving the property, which is to be removed, is in a similar location to the proposed system to the front of the building. The submitted Proposed Site Plan drawing shows the septic tanks to the properties to both sides to be in their respective rear gardens.

7.3.3. As set out in the submitted 'Site Characterisation Form', the site is at a locally important aquifer of moderate vulnerability. Groundwater was encountered at a depth of 1.25 metres. No bedrock was encountered in the 2.1 metres deep trial hole. Soil conditions

were sand, silt and clay with cobbles and gravel throughout. The response matrix as per the Code of Practice indicates that the site falls within the R1 response category where an on-site system is acceptable subject to normal good practice. The T-test result was 32.64. P-tests were also carried out. These gave a result of 25.97. The P-test result indicates the site is suitable for a secondary treatment system with polishing filter at ground surface or overground. Separation distances as per Table 6.1 (Minimum Separation Distances in Metres) are achieved as is the recommended 28 metres from existing development as set out in the 'Wastewater Treatment Manual; Treatment Systems for Small Communities, Business, Leisure Centres and Hotels' published by the EPA.

- 7.3.4. The 'Site Characterization Report' submitted is very similar to that submitted under P.A. Reg. Ref. 19/864. A photograph of the new trial hole that was excavated on 28.10.2019 is included. Groundwater was encountered in this trial hole at 1.25 metres as opposed to a depth of 1.6 metres as encountered in the trial hole excavated on 28.06.2019. The T and P-tests submitted were those carried out on 29.06.2019 and submitted under P.A. Reg. Ref. 19/864. The invert level of the proposed filter system has been revised to -700.00 as opposed to the invert level of -1,000.00 set out in the previous application. The 'On-Site Waste Water Disposal Design' drawing submitted as Appendix B (WWTS & SPF cross section) shows levels of the topsoil cover, the pebble pee gravel area etc. increased by 300mm from that originally proposed. The difference in the depth of groundwater encountered indicates changeable groundwater levels, which is natural. I also note that Section 3.1 (Visual Assessment) of the 'Site Characterisation Form' states that there are no watercourses or streams within 350 metres of the site despite there being a stream approx. 30 metres to the west in addition to both the Mill Race and Lyreen River south of the site at distances of approx. 35 metres and 80 metres.
- 7.3.5. On a site inspection on 07.05.2020 the trial hole was open but was fenced off. There was standing water in the bottom of the trial hole. It was noted that the soil in the trial hole was much darker in colour close to the top of the hole, at a depth of approx. 0.5 metres, despite an extended period of dry weather, indicating the groundwater level had reduced relatively recently.
- 7.3.6. Notwithstanding the depth of groundwater encountered (1.25 metres) as per the Site Characterisation Form, the planning authority's Environment Section report stated a

water table at a depth of 0.9 metres was in evidence on inspection and that the Form did not reflect the findings of their site inspection. Further information was recommended by the Environment Section. The planning authority's Water Services Section recommended a refusal and referenced the high water table and expected pluvial flooding. The planning authority's second reason for refusal referenced the high water table, concentrated soakage and percolation areas, and the risk of pluvial flooding in concluding that it had not been demonstrated that the site is suitable for on-site disposal of wastewater.

7.3.7. In the grounds of appeal, the higher groundwater level encountered by the planning authority is not referenced. It is submitted in the grounds of appeal that the system proposed is above the required standard to accommodate the proposed development and detail of the proposed system has been submitted. In response to the grounds of appeal the planning authority states that when the drains and water bodies in the vicinity are in flood the ground water level is high and the site therefore cannot adequately dispose to the percolation area.

7.3.8. Having regard to the foregoing, in particular the groundwater level which was noted by the planning authority at a depth of 0.9 metres and the flood risk potential in the vicinity of the site, as addressed in Section 7.4, I do not consider that the Board can be confident that the site is suitable for the on-site disposal of wastewater generated by the proposed development.

7.4. Flood Risk

7.4.1. Existing flooding on site and on the cul-de-sac is referenced throughout the submissions and observations and was referenced in the second reason for refusal of the planning authority's decision. Flood risk was also cited as the third reason for refusal under P.A. Reg. Ref. 19/864.

7.4.2. The site is located within the boundary of an area which requires development proposals to be subject of a site-specific Flood Risk Assessment. This 'flooding' boundary affects substantial areas of Maynooth. The third reason for refusal by the planning authority under the previous application was due to the absence of a site-specific Flood Risk Assessment where one was required. Floodmaps.ie, developed by

the Office of Public Works, provides information about places that may be at risk from flooding. This website does show the cul-de-sac within a flood risk area.

7.4.3. A 'Flood Risk Assessment' was submitted with the current application. This report notes that an apartment building is considered a highly vulnerable development as per Table 3.1 of 'The Planning System and Flood Risk Management Guidelines'. This table also lists essential infrastructure such as sewage treatment and potential significant sources of pollution in the event of flooding as a highly vulnerable development and 'waste treatment (except landfill and hazardous waste)' as a less vulnerable development. Table 2.1 (Flood Risk Identification) identifies the possible risks to the development as fluvial from the Lyreen River and pluvial from urban drainage and overland flows. In relation to groundwater risk, the table states that the site is located within an area of medium vulnerability which indicates the ground water at a minimum 2-3 metres below ground level; this is not consistent with the detail submitted in the Site Characterisation Form and as observed by the planning authority. The Assessment notes that no mapped data for pluvial flood risk is available. Pluvial flood risk would relate to runoff from the agricultural land to the rear/north and blockage of the surface water sewer system in the cul-de-sac. It is stated that the Catchment Flood Risk Assessment and Management (CFRAMS) identifies the site is within Flood Zone C, but that a portion of the cul-de-sac suffers from flooding. Flooding of the cul-de-sac is attributed to an inadequate drainage network in the locality and discharge of surface water onto the road from the site and adjacent sites. It was stated in Section 3.1.1 of the submitted Assessment that anecdotal local knowledge of the site is also considered in the examination of historical flooding in the vicinity. There is no further mention of anecdotal local knowledge in the Assessment. In conclusion, the submitted 'Flood Risk Assessment' makes no reference to the proposed wastewater treatment system element of the development, makes no reference to potential fluvial flood impact of the watercourse 30 metres to the west or pluvial risk from the agricultural lands to the rear and references a poor surface water drainage network on the cul-de-sac. The proposed surface water soakaway is also located in very close proximity to the flood zone area though the grounds of appeal suggest a possible revised location for this to the rear of the site.

7.4.4. The 'Addendum to Flood Risk Assessment' document submitted with the grounds of appeal states that an assessment of the site has been carried out to assess the risk

of the site to pluvial flooding. It had originally been noted that it may be susceptible to pluvial flooding from overland flows and failure of the existing drainage network. Surface water generated by or flowing onto the site not collected in the on-site system will exit the site through the entrance gate. Excess surface water ponding will disperse onto the public road and not flood the site. This is disputed in the observations received. The Addendum briefly references the treatment system. In this regard it states that as the cover level of the proposed system is 500mm above the level of the adjoining access road any surface water ponding in the vicinity will not occur in the area of the proposed treatment system and percolation area and there is no risk of contamination and pollution of the surface water from the proposed treatment system. The Addendum states that the maximum level of ponding will be 200mm on the cul-de-sac because anything higher than that level will cross the Regional Road. Therefore, even the event of total failure of the drainage system will not be sufficient to flood the area which contains the proposed treatment system and percolation area. The planning authority response to the grounds of appeal reiterates a recommendation for refusal as set out in Section 6.2.

7.4.5. Having regard to the foregoing, while I consider that the student accommodation apartment structure itself and associated open space areas and car parking are outside of the flood zone area I do not consider that it has been adequately demonstrated that the proposed wastewater treatment system and percolation area would not be affected by the flood risk potential in the immediate vicinity. In Section 7.3 I considered that the Board could not confidently conclude that the proposed wastewater treatment system and percolation area was suitable at this location. Having regard to the flooding issues in the immediate vicinity of the site, and partially within the site adjacent to the proposed wastewater treatment system and percolation area footprint, I consider that flood risk in the immediate vicinity would exacerbate issues experienced by the wastewater treatment system and percolation area. Therefore, I conclude that the second reason for refusal in the planning authority decision is reasonable and should again form a reason for refusal.

7.5. Appropriate Assessment

- 7.5.1. The planning authority's third reason for refusal related to the risk of pollution of surface waters and its potential impact on the qualifying interests of the Rye River SAC. This issue did not form a reason for refusal under P.A. Reg. Ref. 19/864.
- 7.5.2. The grounds of appeal include a 'Screening for Appropriate Assessment' document. The Rye Water Valley/Carton SAC (Site Code 001398) is the only Natura 2000 site of relevance, located 2.5km downstream. Its qualifying interests are petrifying spring with tufa formation and two types of snail. The submitted Assessment considers that the only potential pathway between the site and receptor is if pollutants could cross the Regional Road into the Lyreen River and then to the SAC which would be a tenuous hydrological connection. Notwithstanding, I consider that a pathway exists from the surface water sewer in the cul-de-sac, under the road and into the Mill Race which itself discharges to the Lyreen River. In the event this gets blocked it is stated in the submissions and observations that flood water flows along the hard shoulder discharging to the Mill Race via storm sewers located in the vicinity of the roundabout. These are a more realistic hydrological link than that set out in the submitted Assessment.
- 7.5.3. I do not consider that the proposed development would have any significant impact on the SAC. The distance from the site to the SAC boundary, hydrologically, is approx. 2.5km through the centre of Maynooth to the boundary of Carton Estate via the surface water drainage system, the Mill Race, the Lyreen River and the Rye Water River. In the event of a failure of the wastewater treatment system and a flooding issue that gave rise to the pollution of surface waters, I consider that, while this would clearly be a public health issue in the surrounding area, pollutants would be diluted to negligible concentrations by the point of entry to the SAC.
- 7.5.4. In conclusion, I do not consider that the proposed development would be likely to have any significant impact on any Natura 2000 site or its qualifying interests and the third reason for refusal of the planning authority decision should not be used as a reason for refusal.

8.0 Recommendation

- 8.1. I recommend that planning permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the zoning of the site, the objective of which is to protect and provide for the development of community and educational facilities, and where apartment/residential development is not generally permitted outside of the university campus, town centre or suitably located sites adjoining public transport connections as set out in Table 17 (Land Use Zoning Matrix) and Policy HP 6 of the Maynooth Local Area Plan 2013-2019, and to the peripheral location of the site on the edge of the town, it is considered that the proposed development would contravene materially the said zoning objective and would be contrary to the proper planning and sustainable development of the area.
2. It has not been satisfactorily demonstrated that the site is suitable for the on-site disposal of wastewater generated by the proposed development. Having regard to the high water table and concentrated soakage and percolation areas, combined with the potential risk of flooding, it is considered that the proposed development could give rise to the contamination and pollution of the surface water system. The proposed development would, therefore, be prejudicial to public health and the proper planning and sustainable development of the area.

Anthony Kelly

Planning Inspector

05.06.2020