



An
Bord
Pleanála

Inspector's Report

ABP-307029-20

Development	Construction of 37 no. housing units and new future pedestrian connections.
Location	Newtown, Rathangan, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19/343
Applicant(s)	Moortrim Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party V. Refusal
Appellant(s)	Moortrim Limited
Observer(s)	Simon Cross Freddie Conlon
Date of Site Inspection	7 th August 2020
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The appeal site is located on New Street (R414) approx. 550m north east of Rathangan town centre. The site is bound by a gravelled access route which serves a row of detached dwellings to the north, by a commercial enterprise 'Cross Agricultural Engineering Limited' to the south, by a detached dwelling and the R414 to the east and by agricultural lands to the west. Rathangan GAA club and Tennis club are located to the east of the site, on the opposite side of the public road (R414).
- 1.2. The site has a stated area of 1.637ha and is generally rectangular in shape. It is currently an open greenfield site. The southern boundary comprises mature trees and vegetation. There are no formal boundaries to the north, east or west of the site.
- 1.3. There is an existing agricultural access gate at the south east corner of the site.
- 1.4. There are 6 no. RMP sites located within 400m of the appeal site. There is a small circle shaped enclosure, approx. 10m in width, located approx. 10m north of the appeal site (KD017-068). The remaining features are a Ringfort (KD017-068), Castle (KD017-011004), Medieval Church (KD017-011003), Architectural Fragment (KD017-011008) and graveyard (KD017-007).

2.0 Proposed Development

- 2.1. It is proposed to construct 37 no. residential units, comprising 3 no. 4-bed houses, 26 no. 3-bed houses, 4 no. 2-bed and 4 no. 1-bed houses. The scheme is arranged around a circuitous access road which results in 3 no. cul-de-sacs. Public open space is proposed along the northern and western site boundaries with 2no. potential pedestrian links provided along the northern boundary.
- 2.2. There are 5 no. houses types 4 no. of which are 2-storey dwellings and 1 no. house type is a dormer bungalow. The houses vary in size from 57.4 sqm to 134.5sqm. The dwellings have a gable ended pitched roofs. The dormer bungalows have a maximum height of 7.9m and the 2-storey units vary in height from 9.1m and 9.3m. The house types are all traditional style with minor variations to the front elevations. The pallet of external finishes include painted render with sections of brick finish on the front

elevations and blue / black concrete roof tiles. Each house has a driveway, with off street car parking for 2 no. cars, and rear private open space.

- 2.3. It is proposed to upgrade the existing vehicular access at the south eastern corner of the site to provide a temporary new access. The proposed access is 5.5m in width with a 2m wide footpath along the southern boundary of the site. The permanent access to the site would be from the northern boundary, following the completion of a proposed link road between R414 and the R401.
- 2.4. The site would be connected to the existing public water mains and public wastewater system.
- 2.5. ***Response to Further Information lodged 30th January 2020.***

In response to 9 no. items of further information the applicant revised the design and layout of the scheme. The revised scheme comprises 32 no. houses, 4 no. 4-bed houses, 20 no. 3-bed houses, 4 no. 2-bed houses and 4 no. 1-bed houses. There is no change to the house types. A 15m wide set back was provided along the northern portion of the site to allow for a future road reservation.

The revised scheme provides 2 no. areas of housing which are separated by an area of public open space in the centre of the site. 19 no. houses located on the eastern (front) portion of the site and there are 13 no. houses located on the western (rear) portion of the site. The scheme was revised to allow for the preservation of archaeological remains in-situ.

The information submitted includes a Planning Design Statement, an Archaeological Assessment Report, a Road Safety Audit, an Outdoor Lighting Report, a Preliminary Construction Management Plan and an Infiltration Test Report.

Revised public notices were displayed on the 12th February 2020.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons: -

1. The proposed development by reason of dwellings siding onto the proposed new link road together with dwelling design and floorplans providing inadequate levels of passive surveillance and overlooking of public areas; an inappropriate over reliance on screen walls throughout the scheme and a lack of appropriately designed dual aspect corner units, results in substandard and poorly designed residential layout. Moreover the proposed positioning of dwellings and private and public open space immediately adjacent to an industrial facility causing nuisance levels of noise, would seriously injure the residential amenity of future residents and therefore would be contrary to the proper planning and sustainable development of the area.
2. The proposed location of the vehicular entrance on the R414 Regional Road adjacent to Cross Agricultural Engineering Ltd (CAEL) would endanger public safety by reason of traffic hazard and obstruct road users, and in particular, vulnerable road users due to the oversized nature of the HGV's accessing and egressing the CAEL site, the abnormal loads and the dangerous blind spots associated with these sites. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. The proposed development arrangement, particularly the proposed substandard temporary access from the R414, is considered premature having regard to Objective RN25 of the Rathangan Small Town Plan, as set out in Volume 2 of the Kildare County Development Plan 2017-2023, which seeks to construct a new link road between the R401 and the R414 north of the site. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
4. The proposed noise barrier along the southern boundary would likely result in a residual noise level on the site of 6dB above background levels due to the proximity of the adjacent Cross Agricultural Engineering facility. The residual noise level would seriously injure the residential amenity of future residents. 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. *Planning Reports*

The initial area planners report raised concerns regarding the proposed development and recommended further information be sought regarding the following: -

- A Design Statement
- A Housing Mix Statement
- An Archaeological Impact Assessment
- Details of the land reserve for the delivery of Objective RN25(ii) to provide a link road from the R401 to the R414.
- Revised calculation of public open space
- A Preliminary Construction Management Plan
- Revised landscape proposals including boundary treatments
- Additional storage space is required for House Types C and E.
- Additional drainage details
- Address potential pluvial and ground water flood risk
- A Noise Impact Assessment

The area planner considered that the concerns were not fully addressed by the response to further information and recommended that permission be refused for the 4 no. reasons outlined above.

3.2.2. *Other Technical Reports*

Transportation Department: Final report considered that the proposed development would represent a traffic safety hazard and an endangerment to public safety or road users, and in particular vulnerable road users

Environment Department: Final report recommended that permission be refused as the noise emissions from the adjoining Cross Agricultural Engineering would have an adverse impact on the proposed development.

Heritage Officer: No objection subject to conditions recommended by the Department of the Arts, Heritage, Regional, Rural and Gaeltacht Affairs.

Parks Department: No objection subject to conditions.

Housing Department: Final report raised no objection subject to conditions.

Municipal Engineer: No objection subject to conditions

Water Services: Final report raised no objection subject to conditions

Chief Fire Officer: No objection subject to conditions

3.3. Prescribed Bodies

Department of the Arts, Heritage, Regional, Rural and Gaeltacht Affairs: The initial report recommended that an Archaeological Impact Assessment be submitted. Final report raised no objection to the submitted Archaeological Impact Assessment and recommended that conditions be attached to any grant of permission.

Irish Water: No objection in principle.

3.4. Third Party Observations

7 no. third party submissions were received to the original application lodged and 4 no. additional submissions were received to the revised scheme submitted by way of further information. The concerns raised are similar to those in the observations on file.

4.0 Planning History

Reg. Ref. 07/635: Permission was granted in 2009 for the construction of 28 no. houses. In 2014, an extension of duration for a period of 5 years was granted to this permission under Reg. Ref. 13/953.

Surrounding Sites

PL09.305503, Reg.Ref.19/782: Outline permission was refused in 2020 for the construction of 35 no. houses on a site located approx. 1.2km south east of the appeal

site. Permission was refused as the proposed development was not in accordance with the C9 land-use zoning objective.

PL09.300991 Permission was refused in 2018 for the construction of 9 no. dwellings on a site located approx. 1.2km south west of the appeal site. The reasons for refusal related to (1) the negative impact on existing residential and visual amenities and (2) the proposed scheme, which is described as an extension to a previously permitted scheme does not integrate with the previously permitted development due to the layout and lack of direct frontage onto the street.

5.0 Policy Context

5.1. Rathangan Small Town Plan

The Rathangan Small Town Plan comprises Section 1.7 of Volume 2 of the Kildare County Development Plan 2017-2023.

The subject site is identified as being within the settlement boundary for Rathangan. The appeal site is located in an area zoned C - New Residential with the associated land use objective '*to provide for new residential development*'. This zoning provides for new residential development and associated ancillary services.

The following objectives are considered relevant: -

RN 1 Encourage the development of residential schemes over the lifetime of this Plan largely within the Town Centre (A), and New Residential Zones (C1-C9) in accordance with the principles of proper planning and sustainable development.

RN 19 (ii) Provide a high quality footpath network throughout the town by improving pedestrian facilities through the refurbishment of footpaths, construction of new footpaths and the provision of appropriate crossing facilities as necessary on the following routes: (ii) Along the R414 Regional Road from Market Square to the development boundary.

RN 25 (ii) Seek the construction and/or completion of the following transport link/ and to preserve these routes free from development: (ii) From the R414 Regional Road at

the end of New Street to the R401 Regional Road including new crossings of the Slate River and the Grand Canal.

5.2. **Kildare County Development Plan 2017 - 2023**

The settlement hierarchy identifies Rathangan as a small town. The function of a small town is to develop as key local centres for services with levels of growth to cater for local need at an appropriate scale and to support local enterprise to cater for local demand. The rate of growth will be controlled to limit pressure on services, the environment and unsustainable commuting patterns. Table 4.2 permits a density of 20-35 units at edge of centre sites within a small town / village.

Chapter 2 – Core Strategy, Chapter 3 – Settlement Strategy, Chapter 4 – Housing and Chapter 17 – Development Management Standards are considered relevant. In addition, the relevant policies of the Plan are set out below: -

HD 1 Ensure that all new residential development within the county is of high quality design and complies with Government guidance on the design of sustainable residential development and urban streets.

HC 1 Support the development of sustainable communities and to ensure that new housing development is carried out in accordance with Government policy in relation to the development of housing and residential communities.

LD 1 Promote residential densities appropriate to its location and surrounding context.

DL 1 Promote a high quality of design and layout in new residential developments and to ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development.

MD 1 Ensure that a wide variety of adaptable housing types, sizes and tenures are provided in the county in accordance with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual to support a variety of household types.

5.3. ***Regional Spatial and Economic Strategy for the Eastern and Midland Region, 2019 - 2031***

It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in. Chapter 4 – People and Place notes that the zoning of land and planning permission alone, do not necessarily guarantee delivery and population growth in accordance with projected, targeted timeframes and that attention needs to be paid to the actual delivery to implement strategic aims and housing delivery.

5.4. ***National Planning Framework (2018)***

The relevant policies of the National Planning Framework which relate to creating high quality urban places and increasing residential densities in appropriate locations are set out below.

- Policy Objective 4
- Policy Objective 6
- Policy Objective 11
- Policy Objective 33
- Policy Objective 35

5.5. **Natural Heritage Designations**

There are no designated areas in the vicinity of the site.

5.6. **EIA Screening**

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the Planning Authority's decision to refuse permission. The submission included a design statement and addressed the 4 no. reasons for refusal issued by the Planning Authority. Reports from NRB Consulting Engineers addressing reasons no. 2 and 3 and a report from Golder Environmental Consultants addressing reason no. 4 are included in the appendices of the appeal. The appeal is summarised below: -

Principle of Development

- The site is zoned for residential development. The scheme has been designed in accordance with best practice urban planning principles. The layout organises the housing on either side of a central public open space.
- Permission was previously granted on the site for 28 no. houses (reg. ref. 07/635 and reg. ref. 13/953). Permission expired in January 2019. Access to the site was previously proposed via the adjoining landholding to the east of the site. No agreement could be reached with the current landowner to provide access through their site.
- The proposed site entrance from the R414 is a temporary access. It would provide access to the site until the construction of the link road along the northern boundary of the site.

Layout, Design and Noise Disturbance

- The layout has been designed to ensure passive overlooking of public area. There are 10 no. dwellings located adjacent to the proposed new link road route, along the northern boundary of the site. Of these 3 no. do not directly overlook the road, as the gable end of the houses are adjacent to the proposed road. The opening on the gable end of these 3 no. dwelling has been limited to prevent noise disturbance for future occupants.
- The development includes 110m of grey/blue screen walls to enclose private amenity space. This accounts for 23% of the overall visible boundaries. The

remaining 77% is a combination of open driveways and a 1m high steel railing. This does not represent an over reliance on screen walls throughout the scheme.

- The fenestration on the gable walls of dwellings addressing the public realm has been designed to allow for visually attractive elevation to all the corner units.
- A noise barrier has been provided along the southern boundary, adjacent to Cross Agricultural Engineering Ltd, in accordance with mitigation measures outlined in the ITP Energised sound report. The scheme has been designed to mitigate against sound disturbance.

Traffic Safety

- The visibility splays available for the proposed access onto the R414 are in accordance with DMURS.
- The layout has been subject to an independent Road Safety Audit and all recommendations have been incorporated into the detailed design.
- Auto-track drawings for HGV vehicles accessing and egressing the adjoining commercial premises have been submitted. These indicated that the HGV's would not encroach on the proposed tactile paving or dropped kerbs proposed. It is noted that there may be some encroachment on the grass verges, however, this was not raised as a concern in the Road Safety Audit and is permissible under best practice guidance.
- There is an existing public footpath located on the western side of the R414, adjacent to the site entrance and Cross Agricultural Engineering Limited. There is no footpath on the opposite side of the road. Therefore, this existing footpath provides a pedestrian link from Rathangan town centre to multiple dwellings and the GAA grounds.
- It is acknowledged that the adjoining site can be accessed by vehicles up to 27m in length. However, having regard to the abnormal loads it is not unreasonable to assume that these movements would occur off peak and would be managed by a flag man.

- The Planning Authority's concerns of a potential traffic hazard relate to existing practices at an adjoining site which are outside of the applicant's control. Due to the size of the vehicles associated with the adjoining property they regularly cross the applicant's site to gain access. It is unfair to prejudice the applicant proposal due to the practices of an adjoining property.

Access

- The development provides a setback to allow for the delivery of Objective RN25(ii) of the Rathangan Small Town Plan. The development does not prejudice the delivery of this objective and includes for the permanent future access from the new link road.
- The development has been designed in accordance with DMURS, it is an appropriate and safe junction in a developing urban environment. An independent RSA has been carried out which confirms that the access reaches the highest standards in terms of road safety.

Noise

- A Noise Assessment was undertaken in 2019 and was included in the application. It concluded that for noise from the adjoining site to have a 'low impact' on the proposed development, it should not exceed the background noise level by 5dB or greater.
- Noise from the adjoining site was found during the survey to be frequently audible within the appeal site. No commercial / industrial noise was audible during the night-time period. The measured day time background level during the period of inactivity was 39dBLa90. The target level for 'low impact' is 4.9 dB above this level.
- The appeal includes a Noise Technical Memorandum. It found that the noise impacts without mitigation are considered to be 'low, adverse'. Therefore, a 2.6m high acoustic barrier is proposed along the southern boundary to screen any possible noise from Cross Agricultural Engineering industrial site.
- With the mitigation measures, noise effects have been determined to exceed the measured background levels by a maximum of 4 dB and, therefore, result in a 'low adverse' impact during the daytime period, for properties located along

the southern boundary. The specific mitigation measures will be confirmed through supplementary assessment at a later date to ensure that target levels are met across the development site.

6.2. Planning Authority Response

The Planning Authority submitted a detailed response which is summarised below: -

- The proposed layout would seriously injure the residential amenity of any future residents residing in the units, particularly adjacent to the southern boundary. The noise mitigation measure do not account for future residents opening a first-floor rear window.
- There is a public safety concern regarding the proposed access due to the interaction between residents and the adjoining Cross Agricultural Engineering facility.
- There are currently no plans, funding or timeline for the construction of the proposed link road to the north of the appeal site. The proposed access would not be temporary and would be in operation for a considerable period of time.
- It is noted that additional information has been provided regarding mitigation of noise, however, it is considered that there are inconsistencies and issues with the reporting methodology presented. It is considered that the remaining noise emanating from the adjoining facility would likely be such a level, tone and duration to cause nuisance complaints and significantly impact on residential amenity.
- The planning authority have serious concerns regarding the layout and design of the development, access arrangements, noise levels and the implementation of the future road's objective. It is considered that there is a serious risk to residential amenity as a result of the poor layout and noise levels, while the proposed access is considered a traffic hazard with serious risk to road users, particularly pedestrians and cyclists.
- The planning authority maintains its position that the proposed development should be reused planning permission for the 4 no. reasons as outlined in its decision.

6.3. Observations

2 no. observations were received from Freddie Conlon and Simon Cross. The concerns raised are summarised below: -

- Cross Agricultural Engineering Limited, is located to the south of the appeal site on lands zoned for industrial use. The site accommodates the movement of large specialist vehicles transporting oversized heavy plant. They specialise in design and manufacture of agricultural machinery for farms engaged in large scale agricultural production. The proposed development would result in a traffic hazard.
- The proposed entrance is extremely dangerous and does not constitute a valid alternative to that approved under reg. ref. 07/635. The access would not be temporary.
- There are lands zoned town centre and residential that would be accessed from the proposed link road. These lands are currently inaccessible. The proposed access could prejudice the development of the link road and impact on the future development of these zoned lands.
- It is standard practice that the applicant should contribute towards the construction of the section of the new road that benefits the site. Significant parts of the road have already been constructed at the Yellow Lough end.
- The applicants design statement does not take account of the adjoining facility and does not recognise it as a constraint for the design and layout of the proposed development. The proposed design and layout could have lasting adverse consequences for the business and could jeopardize the future growth and viability of a major local employer.
- The proposed layout would have a negative impact on the residential amenities of future occupants. The layout should be redesigned to ensure greater separation distances between the houses and the southern boundary or that single storey units be provided.
- The proposed design and layout would result in complaints and conflict with future residents and the existing facility.

- There are inconsistencies in the height and specification of the acoustic barrier to be provided along the southern boundary.

7.0 **Assessment**

7.1. As indicated, the appeal refers to this revised scheme as submitted by way of further information on the 30th January 2020. The main issues in this appeal relate to the reasons for refusal. Archaeology and Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Design and Layout
- Traffic and Access
- Noise
- Archaeology
- Appropriate Assessment

7.2. ***Design and Layout***

- 7.2.1. Permission was refused on the basis that the scheme would result in a substandard and poorly designed residential layout, due to dwellings siding onto the proposed new link road together with inadequate levels of passive surveillance and overlooking of public areas.
- 7.2.2. Concerns were raised in the observation by Simon Cross that the proposed design and layout did not acknowledge the existing Cross Agricultural Engineering facility which adjoins the site to the south. The observation considered that the design should be revised to take account of the existing activities on the adjoining site and to provide further separation distances between the proposed houses and the southern boundary of the site.
- 7.2.3. The applicant has stated that the scheme has been designed in accordance with best practice urban planning principles and ensures passive overlooking of all public areas. The fenestration on the gable walls of dwellings addressing the public realm has been designed to allow for visually attractive elevation to all the corner units.

- 7.2.4. The development site is constrained by the presence of archaeological features within the site and by Objective RN25(ii) of the Rathangan Small Town Plan, which seeks to construct a link road from the R414 to the R401. To safeguard this route a 15m set back is required along the northern boundary of the site. In my view the proximity of the site to an existing industrial facility, Cross Agricultural Engineering Limited, is also a constraint to the development of the site.
- 7.2.5. The proposed development as submitted by way of further information comprises 32 no. houses, 4 no. 4-bed houses, 20 no. 3-bed houses, 4 no. 2-bed houses and 4 no. 1-bed houses. I have no objection to the housing mix provided and consider that it is consistent with Policy MD 1 of the development plan to provide a wide variety of adaptable housing types, sizes and tenures.
- 7.2.6. The houses are provided 2 no. areas and are separated by an area of public open space in the centre of the site. There are 19 no. houses located on the eastern (front) portion of the site and 13 no. houses located on the western (rear) portion of the site. On the eastern portion of the site it is proposed to provide 4 no. houses along the eastern boundary of the site with an existing detached dwelling. The rear building line of the house no. 1 and 2 is approx. 7m from the eastern boundary and approx. 9m from the rear boundary of the existing house. These house types (D) are one and a half storeys. It is noted that the rear first-floor windows do not serve habitable rooms. 8 no. houses run perpendicular to the southern boundary. The gable end of 2 no. dwellings (house no. 5 and 19) are located approx. 2m from the southern boundary. It is noted that first-floor windows on the sides of the houses do not serve habitable rooms. On the western (rear) portion of the site are located in 2 no. rows which run perpendicular to the northern boundary and the proposed new link road. The gable end of house no. 37 is located a minimum of 3m from the proposed link road. The gable end of house no. 25 is located a minimum of 1.5m from the proposed link road. It is noted that the windows on the side of these houses do not serve habitable rooms.
- 7.2.7. The proposed development has a density of approx. 20 units per hectare. Table 4.2 of the development plan sets out indicative densities. It is noted that the planning authority considered the site to be an edge of small town or village site which allow for a density of 15 - 20 units per ha. However, having regard to the site's location approx. 550m from the centre of Rathangan, it is my view that the site is an edge of centre

within a small town or village, which allows for a density of 20 – 35 units per hectare. It is also noted that it is an objective of the National Planning Framework to increase residential densities in appropriate locations to avoid the trend towards predominantly low-density commuter-driven developments. Having regard to the provision of a significant portion of public open space on the site and the existing pattern of low-density housing in the immediate vicinity of the site, I have no objection in principle to the proposed density. However, having regard to relatively low density of the site and the siting of dwellings in close proximity to the north, south and eastern boundaries of the site, I would have concerns regarding the overall layout and design of the scheme.

7.2.8. The reason for refusal also considered that there was an inappropriate over reliance on screen walls throughout the scheme and a lack of appropriately designed dual aspect corner units. The applicant has stated that the development includes 110m of grey/blue screen walls to enclose private amenity spaces, which does not represent an over reliance on screen walls throughout the scheme.

7.2.9. The rear boundary walls are approx. 2m in height and provide privacy to rear open space. House numbers 1, 4, 9, 15, 30 and 31 are corner units within the scheme. Each of these units is provided with a 2m high side and rear boundary wall. Having regard to the prominent location of these units within the scheme it is my view that the proposed design and layout would result in a predominance of high walls. It is, therefore, considered that the orientation and design of the corner units, and the overall layout of the scheme would result in a poor-quality public realm which would detract from the visual and residential amenities. It is also my opinion the location of the 2m boundary walls and the orientation of the dwelling units would negatively impact on passive surveillance and natural overlooking of public areas. It is therefore, considered that the proposed siting and design of the dwellings and the associated screen walls would not enhance the character of the emerging suburban area.

7.2.10. The appeal site is zoned for residential development and in my opinion is capable of supporting housing. While the constraints of the site are acknowledged, it is my view that sufficient consideration was not given to the proposed layout and design of the scheme. I consider the overall layout and design would not support the achievement of a successful urban space and would, therefore, be contrary to Policy HD 1 of the Kildare County Development Plan which requires new residential development to be

of a high quality design and Policy DL 1 which aims to promote a high quality of design and layout in new residential developments and ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development. It is recommended that permission should be refused on this basis.

7.3. Access and Traffic

- 7.3.1. Permission was refused on the basis that the proposed vehicular entrance would endanger public safety by reason of traffic hazard and obstruct road users due to the oversized nature of the HGV's accessing and egressing the Cross Agricultural Engineering site, the abnormal loads and the dangerous blind spots associated with these sites. It is noted that concerns were also raised in the objections that the proposed development would result in a traffic hazard.
- 7.3.2. Permission was also refused on the basis that the proposed substandard temporary access from the R414 was premature having regard to Objective RN25 of the Rathangan Small Town Plan. Objective RN 25(ii) seeks the construction of the R414 Regional Road at the end of New Street to the R401 Regional Road.
- 7.3.3. The applicant stated that the temporary access is not substandard and that the proposed development has been designed in accordance with DMURS and has been subject to an independent Road Safety Audit. The applicant acknowledged that vehicles accessing the adjoining site regularly cross the appeal site to gain entry, however, this practice is outside of the applicant's control and is unfair to prejudice the proposed development due to the practices of an adjoining property. It is also noted that a 15m wide land reserve has been provided along the northern boundary of the site to facilitate a future link road as required under Objective RN25(ii).
- 7.3.4. The previously permitted scheme on the site (reg. ref. 07/635 and reg. ref. 13/953). was accessed from the north east portion of the site, via a parcel of land, which is outside of the control of the applicant. The applicant has stated that due to a change in ownership it is not possible to provide access through this landholding.
- 7.3.5. It is noted that the site is bound to the north by a gravelled access road which provides access to a row of detached dwellings. This carriageway varies in width from 5.5m to

10m. From the information submitted it would appear that no consideration has been given to a potential temporary access from the northern boundary of the site or the construction of a section of the link road to facilitate the development.

- 7.3.6. Access is proposed at the south east corner of the site, at the location of an existing agricultural entrance which adjoins the access to Cross Agricultural Engineering facility. The width of the access would be increased to provide a new 5.5m wide carriageway with an additional 2m wide footpath along the southern boundary of the site. It is proposed that this access on to the R414 would be temporary until such time as the new link road along the northern boundary of the site was constructed, in accordance with Objective RN25(ii) of the Rathangan Small Town Plan. The planning authority have stated in their response to the appeal that there are currently no plans, funding or timeline for the construction of the proposed link road to the north of the appeal site. Therefore, the proposed access would not be temporary and would be in operation for a considerable period of time.
- 7.3.7. The observation from Simon Cross notes that the Cross Agricultural Engineering site generates movements by large vehicles varying in length from 23.1m to 27m. However, no information has been submitted regarding the number and frequency of these trips. No auto-track drawings have been submitted for these larger vehicles. Drawing no. NRB-RFI-007 indicates that the access to adjoining facility is approx. 7m in width. Having regard to the size of the vehicles and the limited width of the access, it is my opinion that these movements would be managed in accordance with health and safety guidelines.
- 7.3.8. It is noted that the proposed access onto the R414 has been designed in accordance with DMURS and that adequate sightlines are available for the access. While the vehicular movements generated by the adjoining site are noted, it is my view that the onus is on the owners and operators of the adjoining site and their contractors, to ensure that the vehicular movements generated by the facility are undertaken in a safe manner, in accordance with their obligations under separate codes.
- 7.3.9. There is an existing footpath on the western side of the R414, adjacent to the proposed development. There is no footpath located on the eastern side of the road. Therefore, the footpath adjacent to the appeal site currently provides pedestrian access to the

GAA club and tennis grounds located on the eastern side of the R414 and to a number of existing residential properties located to the north of the town centre. The vehicular movements generated by the adjoining site are acknowledged. However, having regard to the limited number of additional vehicular movements that could potentially be generated by the proposed development and the dropped kerbs provided at the proposed entrance, it is my view that the proposed development would not impact on pedestrian safety. It is also considered that the proposed development would not generate significant additional pedestrian movements on the footpath, that could potentially result in a traffic hazard.

7.3.10. Having regard to the information set out above, it is my view that the proposed vehicular access located at the south eastern corner of the site is not substandard and would not endanger public safety by reason of a traffic hazard. Therefore, the proposed development is not considered premature depending the construction of the link road.

7.4. **Noise**

7.4.1. Permission was refused on the basis that the residual noise level from the adjoining Cross Agricultural Engineering facility would seriously injure the residential amenity of future residents. Concerns were also raised in the submission from Simon Cross regarding the potential negative impact that noise would have on the residential amenity of future occupants and the potential complaints that would have a negative impact on the existing business.

7.4.2. The gable end of 2 no. dwellings (house no. 5 and 19) are located approx. 2m from the southern site boundary. It is noted that the windows on the gable end of these dwellings do not serve any habitable rooms. It is my view that these properties are mostly like to be impacted from noise disturbance.

7.4.3. A Noise Assessment was submitted by way of further information on the 30th January 2020. This document is not on the file. However, an updated Noise Technical Memorandum was submitted with the appeal. This assessment has been carried out in accordance with best practice guidelines and practices. As this document provides additional information to the Noise Assessment. It is my view that it is sufficient to assess the potential noise impact.

- 7.4.4. The Noise Assessment evaluated the noise levels from the adjoining Cross Agricultural Engineering Facility at 3 no. proposed noise sensitive locations. Noise from the adjoining facility consists of banging, clattering, use of power tools and vehicular movements. There is no elevated noise sources, such as fixed plant mounted on buildings. The measured day time background level during the period of inactivity was 39dB. The target for a low level impact is 4.9dB above the background level.
- 7.4.5. As part of the appeal, a 2.6m high acoustic barrier was proposed along the southern boundary to mitigate against any possible noise from Cross Agricultural Engineering industrial site. The Noise Technical Memorandum concluded that with the screen barrier in place, noise would exceed the measured background levels by a maximum of 4 dB and, therefore, result in a 'low adverse' impact during the daytime period.
- 7.4.6. The planning authority's response to the appeal noted the additional information submitted within the Noise Technical Memorandum. However, it considered that the noise emanating from the adjoining facility would likely be at such a level, tone and duration to cause noise nuisance complaints and significantly impact residential amenity.
- 7.4.7. It is acknowledged that the proposed 2.6m high barrier would mitigate against the potential noise impact from the adjoining site. However, in my view having regard to the proximity of the dwellings, in particular house no. 5 and 19 and to the nature of the activities on the adjoining site, I would have concerns that the proposed development would negatively impact on the residential amenity of the future occupants in terms of noise disturbance. As outlined in Section 7.2 above, it is my view that sufficient consideration was not given to the proposed layout and design of the scheme.

7.5. ***Archaeology***

- 7.5.1. There are 6 no. RMP sites located within 400m of the appeal site. There is a small circle shaped enclosure, approx. 10m in width, located approx. 10m north of the appeal site (KD017-068). The remaining features are a Ringfort (KD017-068), Castle (KD017-011004), Medieval Church (KD017-011003), Architectural Fragment (KD017-011008) and graveyard (KD017-007).

- 7.5.2. An Archaeology Impact Assessment was submitted by way of further information. It is noted that 14 no. test trenches were opened across the site which unearthed a single circular enclosure, approx. 40m in width with a ditch measuring 2.7m wide and 1.3m deep. The general appearance of the feature is suggestive of a possible ringfort. To the north west of this feature a corn-drying kiln and 3 no. pits were identified.
- 7.5.3. As a result of the archaeological findings the layout of the scheme was revised. The revised layout result in the omission of 5 no. residential units and an alteration to the location of the internal access road and public open space to allow for the feature to be preserved in-situ under the area of open space.
- 7.5.4. The submission by the Department of the Arts, Heritage, Regional, Rural and Gaeltacht Affairs raised no objection to the submitted Archaeological Impact Assessment and recommended that conditions be attached to any grant of permission.
- 7.5.5. If permission is being contemplated it is considered that a condition be attached that the site be subject to a full archaeological excavation.

7.6. ***Appropriate Assessment***

Having regard to the nature and scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

I recommend that permission be refused for the reasons stated in the attached schedule.

9.0 **Reasons and Considerations**

1. Having regard to the proximity of the proposed houses to the site boundaries, the over-reliance on 2m high boundary walls throughout the scheme and a lack of appropriately designed dual aspect corner units, which results in a lack of natural surveillance / passive supervision of public areas, it is considered that the proposed design and layout would constitute an inappropriate housing scheme

which would not contribute positively to the public realm and would therefore, be contrary to Policy HD 1 of the Kildare County Development Plan which requires new residential development to be of a high quality design and Policy DL 1 which aims to promote a high quality of design and layout in new residential developments and ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development. The proposed development would, therefore, seriously injure the amenities of the area and of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

Elaine Power

Planning Inspector

4th September 2020