



An
Bord
Pleanála

Inspector's Report

ABP-307059-20

Development	A revision to a section of a previously approved residential scheme (Planning Reference 08/1679, as extended), for the construction of 90 residential units etc.
Location	Riverside Manor, Kilcullen, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19/1000
Applicant	Alchemy Homes Development Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant of Permission
Appellant	Howard Berney
Observer(s)	None
Date of Site Inspection	21.07.2020
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is a greenfield site in the eastern area of the town, close to the town centre.
- 1.2. The site comprises a grassed area with ground levels sloping downward in a north-south direction. There is a housing development, Riverside Manor, adjacent to the west. The proposed development is to form an additional phase of this development. There is a narrow (disputed) public right-of-way track/laneway cul-de-sac along the northern boundary. The River Liffey is approx. 20 metres south of the site boundary. Land in the applicant's control includes the site subject of this application, adjacent land to the east and land along the bank of the river. The landholding comprises separate fields, but, except along the northern boundary, the existing, mature field boundaries do not form the boundaries of the site subject of the application.
- 1.3. The site has a stated area of 2.19 hectares.

2.0 Proposed Development

- 2.1. The application originally received was for permission for a revision to a section of previously approved P.A. Reg. Ref. 13/1019 for 90 no. residential units as Phase 2 of the Riverside Manor development comprising 8 no. maisonettes, 54 no. houses and 28 no. apartments, car parking, extension of existing internal road network, landscaping etc.
- 2.2. In addition to standard planning application plans and particulars the application was accompanied by a Design Statement and a Building Life Cycle Report.
- 2.3. Further information was submitted in relation to, inter alia, a significantly revised site layout plan including omission of the apartment block, photomontages, a Biodiversity Management Plan and an Ecological Impact Assessment, protection of the riparian corridor, a Social Infrastructure Audit, public lighting detail and landscaping detail. Engineering documents were also submitted including a Transport Assessment Report and a Road Safety Audit Stage 1/2. In addition, the application was re-advertised as significant further information for revisions of the previously approved residential scheme P.A. Reg. Ref. 08/1679, extended under P.A. Reg. Refs. 13/1019 and 18/1475, including revisions to the permitted boundary, to construct 90 no.

residential units comprising 16 no. maisonettes, 24 no. duplex units and 50 no. houses.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 46 no. conditions including external finishes, naming and numbering, landscaping, construction practices, Part V provision, traffic and road-related issues, electric charging points, surface water disposal, street lighting, Irish Water connection, archaeological testing, a bond of €180,000 and development contributions of €439,906. Conditions include:

- Condition 5 requires the provision of a 2 metres high wall along the northern boundary.
- Condition 23 requires provision of a pedestrian crossing and road markings on Main Street at the developer's expense.
- Condition 24 states the developer shall be liable for all costs of the provision of a CCTV monitor for Main Street.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports dated 30.10.2019 and 24.03.2020 form the basis of the planning authority decision. The latter report concludes that revisions made to the scheme and house types result in a more cohesive residential scheme and the density is acceptable given the sites proximity to the town centre. Traffic and transport issues have been addressed by the further information response and the development complies with the specific zoning objective for the site. There would be no impact on the Natura 2000 network.

3.2.2. Other Technical Reports

Water Services – No objection subject to conditions.

Environment Section – No objection subject to conditions.

Housing Section – No objection subject to conditions on foot of the further information response.

Area Engineer – Recommends referral to Road Design report.

Roads, Transportation and Public Safety – No objection subject to conditions on foot of the further information response. Recommended conditions include a Stage 3 Road Safety Assessment prior to occupation, inter-visibility between drivers and pedestrians, surface water discharge, electrical charging points, signage, completion of the existing access roadway, lighting and construction practices, provision of a pedestrian crossing and road markings on the Main Street and installation and commissioning of a CCTV monitor on Main Street.

Chief Fire Officer – No objection subject to conditions.

Heritage Officer – No objection.

3.3. **Prescribed Bodies**

Irish Water – No objection. Observations made.

Inland Fisheries Ireland – Observations made.

Department of Arts, Heritage, Regional, Rural & Gaeltacht Affairs – Further information in relation to pre-development testing was recommended. Other observations were also made. The report received on foot of the further information response noted that this had not been sought as part of the further information request. It remains the Department's view that test excavations should be carried out on site.

3.4. **Third Party Observations**

- 3.4.1. Four submissions were received in response to the initial planning application from Howard Berney, Riverside Manor Residents Association, Joseph J. Warren and Kilcullen Community Action. The issues raised are largely covered by the grounds of appeal with the exception of the following:

Traffic

- There should be a commitment that the proposed access road to the eastern site boundary shall be provided in Phase 3.

- The laneway along the northern boundary should not be used as a construction access as previously occurred as it is not suitable.
- With the increased density the access road at Market Square will not be able to cater for the increased traffic flow. The existing access road is used for car parking on a daily basis meaning cars have to drive into traffic to pass them. There is a pinch point on the access road adjacent to the Market Square apartment building.
- The access road at the junction with Main Street is inadequate in width and junction alignment. Additional traffic from this development will cause chaos.
- The existing entrance into Riverside Manor is not fit for purpose and an alternative access should be put in place.
- The proposed carriageway width of the main distribution road should be 7.2 metres.
- No signage proposals submitted e.g. speed limits or children at play signs.

Density

- Unacceptable increase in density from the permitted density.

Design

- The four-storey apartment contravenes the Local Area Plan in terms of height and location, and it would be visually obtrusive and incongruous. The apartment building is aesthetically not in keeping with existing developments.

Miscellaneous

- A condition should be attached to any grant of permission requiring the boundary wall to be 3 metres high where the general public have access to the boundary between the overall site and the lands owned by Howard Berney.
- Outstanding issues relating to roads, lighting, fencing and public services in Phase 1 should be addressed and explicitly included in conditions to ensure the entire estate can be taken in charge.
- The permitted playground should be omitted.
- Concern over ownership of private sewers referenced in the Irish Water report.

- Existing trees on site should be protected. Landscaping or timing of same is not clear.
- No lighting detail.
- No detail for the entrance arrangement to the estate including a requested name change to Riverside Demesne.
- The application should incorporate both Phases 2 and 3 rather than a piecemeal approach.

3.4.2. Three submissions were received on foot of the further information response from Howard Berney, Riverside Manor Residents Association and Kilcullen Community Action. The issues raised are largely covered by both the submissions received in response to the initial planning application and the grounds of appeal with the exception of the following:

- Disappointment expressed by Howard Berney that the further information response did not include for a boundary wall. This wall could have been stepped back from the hedgerow and it is a required boundary wall.
- Kilcullen Community Action were disappointed that their previous concerns were not addressed in any way, in particular in relation to traffic through Market Square.
- Riverside Manor Residents Association note issues raised in their submission were not addressed in the further information response. Inter alia, an alternative to the proposed public car park beside the creche should be explored and the submitted Traffic Assessment Report is not adequate in relation to the junction with Main Street.

4.0 Planning History

The relevant planning history on site is:

P.A. Reg. Ref. 99/1635 – Permission granted in 2000 for a 148 no. unit housing scheme comprising 18 no. apartments and 132 no. houses. It appears the existing

houses/apartments at Riverside Manor were constructed under this parent permission.

P.A. Reg. Ref. 00/2221 – Permission granted in 2001 for revisions to P.A. Reg. Ref. 99/1635 comprising revisions to 55 no. houses and a reduction in the overall number of units to 145 no.

P.A. Reg. Ref. 08/1679 – Permission was granted in 2009 on a 7.98 hectare site for 110 no. units comprising 30 no. apartments, 26 no. duplexes and 54 no. houses, a creche and playground. An extension of duration was permitted in 2014 under P.A. Reg. Ref. 13/1019 (until 23.03.2019). A further extension of duration was permitted in 2019 under P.A. Reg. Ref. 18/1475 until 31.12.2021.

5.0 Policy Context

5.1. Kildare County Development Plan 2017-2023

- 5.1.1. The most relevant chapters of the County Development Plan 2017-2023 are Chapters 4 (Housing), 15 (Urban Design) and 17 (Development Management Standards).
- 5.1.2. Kilcullen was designated as a ‘Moderate Sustainable Growth Town’ in the hinterland area in the settlement hierarchy and typology of the Plan. It is clustered with Naas and Newbridge as part of an economic cluster.
- 5.1.3. Variation No. 1 of the Plan was adopted on 09.06.2020. This outlines amendments to the Written Statement and updates the Plan to take account of, inter alia, the National Planning Framework and the Eastern & Midland Regional Spatial and Economic Strategy. Kilcullen is designated as a ‘town’ in the Variation. Kilcullen has a dwellings target from 2020-2023 of 151 no. units as set out in Table 3.3 (Settlement Hierarchy – Population and Housing Unit Allocation 2020-2023).

5.2. Kilcullen Local Area Plan 2014-2020

- 5.2.1. The site is primarily zoned ‘C; New Residential’ under the Local Area Plan. Dwellings are permitted in principle in this zoning. There is a small portion zoned ‘F: Open Space and Amenity’ which is to be used for underground surface water attenuation. The

existing access road is zoned 'B; Existing Residential & Infill'. There is a 'Roads Objective' immediately east of the applicant's landholding.

5.2.2. Kilcullen is primarily a service centre for east and south Kildare and its population in 2011 was 3,473. The Plan notes a target of 709 units for the plan period. Policies relating to housing are set out in Section 6.1.3 (Housing Location and Density).

5.2.3. Section 6.10.6 (Introduction – Architectural, Archaeological and Natural Heritage – Protection and Development of Green Infrastructure) states the core area of ecological importance in the town is the River Liffey and adjoining areas of semi-natural grassland, semi-natural woodland and linear woodland habitats. Map Ref. 3(a) (Natural and Built Heritage – Town Centre) shows 'trees for protection' along the northern bank of the Liffey immediately south of the site boundary.

5.3. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the Urban Design Manual (2009)**

5.3.1. These guidelines are relevant to the subject application.

5.4. **Natural Heritage Designations**

5.4.1. The closest Natura 2000 site is Pollardstown Fen SAC approx. 7.8km to the north west. The closest heritage area is the Curragh pNHA approx. 3km to the west.

5.5. **EIA Screening**

5.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced 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 have been received from Howard Berney, Hillside, Kilcullen, who is an adjoining landowner/sheep farmer to the east of the Riverside Manor landholding. The main points made can be summarised as follows:

- P.A. Reg. Ref. 99/1635 and P.A. Reg. Ref. 00/2221 required construction of a boundary wall between the development and the appellant's property which was not constructed. On foot of a request by the appellant in 2006 the planning authority issued a warning letter in relation to this non-compliance
- P.A. Reg. Ref. 08/1679 again required construction of a boundary wall prior to the commencement of any works on site (Condition 7(f)). Two subsequent extensions of duration were granted.
- The current grant of permission does not state the permission must be carried out in accordance with the previous permissions save where altered by the current permission. No application was ever made to remove this condition. Condition 7(f) of P.A. Reg. Ref. 08/1679 must be included in the permission.
- The northern part of the development site stretches for the full length of the only access route to the appellant's lands and is wrongly identified as a right-of-way in the application.
- Since the occupation of the initial phase of the development the appellant and his family have endured continuous trespass, damage to infrastructure, vandalism, arson, verbal abuse, threatening behaviour, littering and intimidation of stock from people both living in the estate and elsewhere. The development facilitates and 'encourages' trespass and the vast majority originate through the south/south east boundary of the site. The boundary wall should have been completed prior to the occupation of any of the residential units. Despite many approaches to the developer and the planning authority the situation has not been addressed to date.
- Both the applicant and planning authority categorise the overall site as one entity.

- Condition 5 of P.A. Reg. Ref. 19/1000 further confuses the situation. The interpretation of this condition appears to be that once details of the wall are submitted development of the land can commence with no requirement for it to be completed prior to occupancy of any unit. It appears to be lenient and ambiguous. Also, this boundary wall does not address the trespass and related issues.
- The requirement to construct rear garden walls during Phases 2 and 3 will cater for much of the site boundary. The required wall adjacent to the river will not be obtrusive due to significant ground level differences.
- The appellant's sole motivation is to ensure that his and his family's 'rights' are protected rather than objecting to the development of the site and in the initial submission it was stated that plans for both Phases 2 and 3 should be submitted rather than the piecemeal approach. In the absence of the boundary wall an additional 92 (sic) units in this phase followed by a further phase will multiply the ongoing problems. The sheep enterprise is particularly vulnerable in the circumstances.
- Photographs have been attached to the grounds of appeal highlighting some of the issues.
- The appellant can find no valid reason in the planning file for the omission of the boundary wall. While the developer places an emphasis on maintaining site boundary hedgerows there is little compunction in removing an internal tree line and hedgerow for the development. The appellant considers the boundary hedgerows must be maintained with a step-back in relation to the boundary wall.
- The inclusion of the boundary wall with a related timeline shows that the planning authority on four occasions determined that it was warranted. The permission should be clarified/revised to include for construction of this wall prior to the commencement of any works on site and this is a reasonable request.

6.2. Applicant's Response

None.

6.3. Planning Authority Response

The main point made can be summarised as follows:

- Condition 5 of the decision to grant permission adequately deals with the boundary between Mr. Berney's land and the subject site. If the Board amends the condition to include the wall is to be in place prior to the occupation of the units, the planning authority has no objection.

6.4. Observations

None.

6.5. Further Responses

None.

7.0 Assessment

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

- Zoning
- Site Layout and Design
- Density
- Residential Amenity for Occupants
- Boundary Wall
- Traffic

- Appropriate Assessment

7.1. Zoning

- 7.1.1. The residential element of the proposed development is located in an area zoned 'C; New Residential' under the Kilcullen Local Area Plan 2014-2020. Residential development is permitted in principle under this zoning. A small area of the site is zoned 'F: Open Space and Amenity' and is to be used for underground surface water attenuation. The principle of development is therefore acceptable, subject to the detailed considerations below.

7.2. Site Layout and Design

- 7.2.1. The site layout originally submitted was considered by the planning authority to be inappropriate. Concern was expressed in relation to the dominance of terraced units, the public open space was deficient in terms of quantity and quality and the scheme lacked a sense of place. In addition, the proposed apartment block was not considered suitable given the location outside the town centre and the site topography.
- 7.2.2. As part of the further information response a significantly altered scheme was submitted in terms of both the layout and mix of residential unit types. The Urban Design Manual (2009), a companion reference on best practice for the implementation of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), provides advice on the practical implementation of policies in the guidelines. 12 criteria and indicators are set out to assess how a development is considered at a neighbourhood, site and home level.
- 7.2.3. The development is a natural extension of the existing Riverside Manor development. No zoned area will be 'leagfrogged' by the development. The height of the buildings is generally consistent with Riverside Manor and are lower than the 3 ½ storey apartment buildings adjacent to the site boundary reflecting the site location slightly further away from the town centre. Finished floor levels of the buildings reduce in a north-south direction reflecting existing ground levels. One of the primary site attractions is proximity to the River Liffey. The development addresses the river while retaining an appropriate setback from the riparian corridor. The areas overlooking the river increase passive surveillance and dual frontage houses have been provided where

appropriate. Open space in the form of private spaces and well-overlooked public spaces have been provided. While the area of open space along the river is outside the site boundary it is located within the overall landholding and it is publicly accessible. This area provides additional amenity value and a recognisable sense of place and it makes the most of the opportunity presented by this natural feature. The site is within easy walking distance of the town centre with its associated commercial and educational facilities etc. The layout of the internal circulation roads generally avoids longer, straight sections and there is reasonable internal circulation within the development. Overall, I consider that the site layout is reasonably consistent with the Urban Design Manual (2009) and it is acceptable.

7.2.4. I do not consider the proposed layout will result in any undue impact on the existing residential amenity of Riverside Manor in terms of overlooking, overshadowing or overbearing impact as the proposed development is relatively limited in height and internal circulation roads separate the existing and proposed developments.

7.2.5. Existing housing in Riverside Manor comprise detached two storey and dormer houses and 2 ½ and 3 ½ storey apartment buildings which are externally finished in render. The maisonettes, houses and duplexes proposed on foot of the further information response are, in terms of design, a departure from the character of the existing development in unit types, design and external finishes. The external finishes proposed comprise primarily render with brick. The provision of dual frontage units to the relevant semi-detached, terraced and duplex units, as requested by the planning authority at further information stage, is a positive design element of the layout. The proposed development will present as a later addition to the Riverside Manor development given the differences in density and character. However, I consider that the proposed development will not be visually incongruous as part of the overall development and will increase the housing mix.

7.3. **Density**

7.3.1. The proposed development comprises 90 no. units on a site area of 2.19 hectares, a density of approx. 41 units per hectare. I consider this density to be appropriate. Kilcullen is designated as a 'town' under the County Development Plan 2017-2023 but, given its population of less than 5,000, it is considered a smaller town in the

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009). Section 6.9 (Small Towns and Villages – Layout and design considerations – Density standards (a) Centrally located sites) of the Guidelines state that within centrally located sites, densities of 30-40+ dwellings per hectare for mainly residential schemes may be appropriate (Table 4.2 – Indicative Density Levels) of the Kildare County Development Plan 2017-2023 gives a general density parameter of 30-40 units per hectare for a centrally located site within a small town. The planning authority adopted Variation No. 1 of the County Development Plan 2017-2023 in June 2020. This variation updates the Plan to include the National Planning Framework and the Eastern & Midland Regional Spatial and Economic Strategy which aim to, inter alia, strengthen the urban fabric of the county. Table 11 (Indicative Residential Densities) of the Kilcullen Local Area Plan 2014-2020 gives general density parameters of ‘site specific’ for inner suburban sites or 30-50 units per hectare for residential development in outer suburban/greenfield areas (generally new residential zoning areas).

- 7.3.2. As the site is located approx. 100 metres from the town centre zoning in the Local Area Plan 2014-2020, is within easy walking distance of the town centre, is adjacent to existing residential development and complies with the sequential approach to development I consider the proposed density to be appropriate.

7.4. Residential Amenity for Occupants

- 7.4.1. The 16 no. one-bed maisonette units have floor areas of either 54.73sqm or 55.46sqm which is more than the 45sqm cited in the Quality Housing for Sustainable Communities Guidelines (2007). Individual room floor areas, plus storage space, achieve the required areas. In terms of allocation of private open space there is a discrepancy between the site layout plan (Drawing No. Kilcul-CCH-00-ST-DR-A-P102) and the curtilage drawing (Drawing No. Kilcul-CCH-02-ZZ-DR-A-P301). Notwithstanding, it appears the site layout drawing is the accurate drawing. This shows the area to the rear of each maisonette building divided into two separate areas so both ground and first floor units have access to private open spaces of between 18.1sqm and 51.9sqm (generally around 20sqm) according to the submitted Housing Quality Matrix. These private open space areas are generous in comparison with the 5sqm required for a one bedroom apartment in the Sustainable Urban Housing Design

Standards for New Apartments (2018). The curtilage drawing shows a retaining wall built inside the existing site boundary hedgerow along the boundary with the laneway to the north.

- 7.4.2. The 8 no. four bed semi-detached houses have floor areas of either 151.9sqm or 153.5sqm which is more than the 120sqm floor area cited in the guidelines. Aggregate living room and bedroom floor areas achieve the required floor areas. The guidelines require storage areas of 6sqm and 7sqm per house have been provided. I note 5sqm sheds are provided to the private open space areas to meet the 10sqm storage space requirement for a four bedroom house set out in Table 17.4 (Minimum Floor Area and Storage Requirements for Dwelling Houses) of the County Development Plan 2017-2020. Notwithstanding, I consider that, as the storage requirements for Quality Housing Guidelines have been achieved, this is sufficient. The County Development Plan 2017-2023 requires 75sqm private open space for a four-bed house. The private open spaces provided range from a minimum of 79.7sqm to a maximum of 125.3sqm.
- 7.4.3. The 42 no. three-bed terraced houses are the most numerous unit type proposed. Each terraced unit has a floor area of 113sqm which is more than the 92sqm required in the guidelines. Aggregate living room and bedroom floor areas are achieved. A similar issue arises in relation to storage. The 5.4sqm provided exceeds the 5sqm required in the guidelines but is less than the 9sqm cited in Table 17.4 and 5sqm sheds are proposed to make up the shortfall. However, I consider the internal storage to be appropriate as provided. The County Development Plan 2017-2023 requires a 60sqm private open space area for a three-bed house. The private open spaces provided range from a minimum of 64.4sqm to a maximum of 121.3sqm.
- 7.4.4. Each of the 24 no. two-bed duplex units have a floor area of either 78.27sqm or 83.88sqm. These are more than the 63sqm/73sqm floor areas in the guidelines. Aggregate living and bedroom areas are provided and 6sqm storage provision is acceptable. The ground floor duplexes have direct access to private open space areas to the rear of each unit, ranging in area from 28sqm to 83.2sqm (generally approx. 30sqm) whereas the first floor duplex apartments have 7sqm balconies to the front. 7sqm is the minimum private open space requirement for a two bedroom unit in the Sustainable Urban Housing Design Standards for New Apartments (2018).

7.4.5. Having regard to the foregoing, I consider that the residential amenity of future occupants in terms of floor areas and private open space areas is acceptable.

7.5. **Boundary Wall**

7.5.1. This is the principle issue set out in the grounds of appeal. The appellant is looking for a boundary wall to be constructed along the common boundary of the Riverside Manor landholding with his property to stop the encroachment of third parties onto the property and associated anti-social issues.

7.5.2. The appellant has made submissions on most applications on site since the first application was received under P.A. Reg. Ref. 99/1635, including files that were subsequently withdrawn or deemed withdrawn and which are not included in Section 4.0 (Planning History) of this Assessment. Condition 5(c) of P.A. Reg. Ref. 99/1635 stated that the overall site boundaries shall be marked in 2 metres high capped and plastered block walls. Condition 2 of P.A. Reg. Ref. 00/2221 stated that the conditions attached to P.A. Reg. Ref. 99/1635 shall be complied with in full. Under P.A. Reg. Ref. 08/1679 Condition 7(f) stated that prior to commencement of works on site a minimum 2 metres high boundary wall shall be erected along the boundary of the site with the lands of Mr. Howard Berney, as required under P.A. Reg. Refs. 99/1635 and 00/2221. No boundary wall has been constructed. However, no works appear to have taken place on foot of P.A. Reg. Ref. 08/1679. The Board has no powers in relation to enforcement so any issue in relation to any non-compliance of conditions for P.A. Reg. Refs. 99/1635 or 00/2221 under which the existing 34 no. units on site were constructed is a matter for the planning authority.

7.5.3. The planning authority included, as Condition 5 in its decision to grant permission, a requirement for the construction of a 2 metres high wall along the northern boundary to the rear of the maisonettes. No trespassing is stated to occur from the laneway to the north and I consider the retention of the hedgerow and construction of a retaining wall, as set out in Drawing No. Kilcul-CCH-02-ZZ-DR-A-P301 received as part of the further information response, to be acceptable.

7.5.4. It appears the appellant is seeking a wall to be constructed along the entire length of the common boundary of the two landholdings and for this wall to be 3 metres high everywhere apart from the rear of Phase 3 houses (which have not been permitted).

The 3 metres high section would be approx. 250-300 metres long according to the submission received on foot of the further information response. The extent of the appellant's landholding, and the specific location(s) where the boundary wall is requested, has not been identified on any map or layout plan and it does not appear to have been shown in any submission made on any previous application. This makes it somewhat unclear as to what the appellant is specifically seeking to have constructed. The grounds of appeal state that the vast majority of the ongoing trespass originates through the boundary on the south/south east of the site with the appellant's land, extending from the river and running north-east. It would appear the area adjacent to the river is the primary area of concern implying a boundary wall is requested from the river's edge.

- 7.5.5. This planning application is for the construction of 90 no. units within a portion of the larger landholding. There is a length of approx. 60 metres of the site subject of the current application which shares a boundary with the appellant's landholding. This is the area adjacent to the proposed footpath south of House Nos. 60-64. The Site Boundary Treatments drawing (Drawing No. Kilcul-CCH-02-ZZ-DR-A-P310) does not show any specific boundary type along this boundary. It appears the parent permission for this application (P.A. Reg. Ref. 08/1679) required a 2 metres high boundary wall. I consider it reasonable for a physical boundary to be provided at this location and this physical boundary could be extended to the south east and east under Phase 3. I consider a 3 metres high wall would be visually obtrusive, incongruous and oppressive.
- 7.5.6. The red line site boundary for this planning application does not extend to the river or to the eastern boundary of the landholding. I do not consider that it is reasonable to condition the construction of a wall outside the red line site boundary and such a wall along the eastern boundary would comprise an obtrusive and incongruous hard landscape feature unrelated to any associated built feature(s). A boundary wall extending to the edge of the River Liffey would likely significantly interfere with the open nature of the river and ecological corridors and would not be consistent with the provisions of the County Development Plan 2017-2023.
- 7.5.7. In conclusion, I consider it reasonable that a 2 metres high wall is constructed along the common boundary of the site subject of this application and the appellant's landholding. I consider that it is outside the scope of this specific planning application

and red line site boundary to require construction of a wall of the extent set out in the grounds of appeal.

7.6. Traffic

- 7.6.1. The generation of additional traffic and its impact on the access road and junction with the Regional Road (R448) at Market Square was raised in the submissions received on file. An extensive further information request was sought in relation to this issue.
- 7.6.2. A Traffic Impact Assessment concluded that the expected increase in traffic, including Phase 3, was below the Transport Infrastructure Ireland threshold for impact on both the junction with the R448 and at the junction of Main Street and Athgarvan Road south west of Market Square. Impact of the proposed development on local traffic levels would be negligible and would be easily accommodated. Notwithstanding, suggested road markings were proposed at the access road/Market Square junction were accepted by the Roads, Transportation and Public Safety Section and included in the grant of permission. I consider that condition and the condition requiring the developer to install and commission a CCTV monitor on Main Street, which was also part of the further information response, should be contained within any grant of permission as well as a condition requiring a Stage 3 Road Safety Audit.
- 7.6.3. Having regard to the further information response and the report from the planning authority's Roads, Transportation and Public Safety Section I do not consider that the proposed development would have any undue adverse impact on the road network within the town.

7.7. Appropriate Assessment

- 7.7.1. The closest Natura 2000 site to the site subject of the planning application is Pollardstown Fen SAC approx. 7.8km to the north west. While the River Liffey does flow in a north westerly direction through Newbridge it does not flow through either Pollardstown Fen SAC or Mouds Bog SAC, which is located in relatively close proximity to Pollardstown Fen SAC. The Liffey does discharge into Dublin Bay where there are a number of Natura 2000 sites such as South Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, North Dublin Bay SAC, North Bull Island SPA and Rockabill to Dalkey Island SAC. Notwithstanding, given the fact that the site is a zoned

site in a fully serviced urban area, there is a setback between the development site boundary and the River Liffey, general mitigation measures would be carried out as with any residential development and the substantial hydrological distance between the site and discharge to Dublin Bay of approx. 70km, I am satisfied that the potential for impacts on any Natura 2000 sites can be excluded at the preliminary stage due to the separation distance from these sites and the absence of an ecological and hydrological pathway. I consider that 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

- 8.1. I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Kildare County Development Plan 2017-2023, the Kilcullen Local Area Plan 2014-2020 and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), and the nature and scale of the proposed development on a residentially zoned site in Kilcullen, it is considered that, subject to compliance with the conditions as set out below, the proposed development would be acceptable in terms of zoning, layout and design, would have an appropriate density and would not result in any undue additional traffic congestion. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further

plans and particulars submitted on 21.02.2020 and 02.03.2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development on site a 2.0 metres high block wall, capped and plastered/dashed on both sides, shall be constructed along the southern boundary of the site subject of this planning application where it adjoins land in third party ownership.

Reason: In the interest of the proper planning and sustainable development of the area.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Prior to commencement of development, the applicant or developer shall enter into a water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

6. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and

(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

(i) the nature and location of archaeological material on the site, and

(ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

7. The internal road network serving the proposed development including junctions, parking areas, footpaths, kerbs and signage shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

8. (a) A Stage 3 Road Safety Audit shall be carried out by an independent approver and certified auditor. Any necessary improvements shall be made prior to occupation of the residential units.

(b) The developer shall agree with the planning authority the exact location for a pedestrian crossing and road markings as generally indicated on Drawing No. KILCUL-DOB-00-SI-DR-C-0065 received by the planning authority on 21.02.2020. These works shall be completed, at the developer's expense and to the satisfaction of the planning authority, prior to first occupancy of the proposed development.

(c) Prior to first occupancy of the proposed development the developer shall install and commission a CCTV monitor for the Main Street, at the developer's expense, in agreement with the planning authority.

Reason: In the interest of road safety.

9. Ducting shall be provided at all proposed residential units to facilitate the installation of electric vehicle charging points.

Reason: In the interest of sustainable transport.

10. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

11. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

12.(a) Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

(b) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (i) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (ii) Location of areas for construction site offices and staff facilities;
- (iii) Details of site security fencing and hoardings;
- (iv) Details of on-site car parking facilities for site workers during the course of construction;
- (v) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of any abnormal loads to the site;
- (vi) Measures to obviate queuing of construction traffic on the adjoining road network;

- (vii) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (viii) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (ix) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (x) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (xi) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (xii) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

15. The landscaping scheme as submitted to the planning authority on 21.02.2020 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

16.(a) Prior to commencement of development, all trees and hedging which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.

(b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work is shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

17. Mitigation measures contained within the Ecological Impact Assessment submitted to the planning authority on 21.02.2020 shall be implemented in full.

Reason: In the interest of the protection of the ecology of the area.

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

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

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

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

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

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

Anthony Kelly

Planning Inspector

11.08.2020