



An
Bord
Pleanála

Inspector's Report

ABP 307542-20

Development	Construction of 25 housing units and associated site development works.
Location	Lady's Well/Newtown, Thomastown. Co Kilkenny.
Planning Authority	Kilkenny Co. Council.
Type of Application	Application for approval under Section 177AE of the Planning and Development Act, 2001 as amended.
Observer(s)	Paddy Ryan.
Date of Site Inspection	September 8 th , 2020.
Inspector	Breda Gannon

1.0 Introduction

Kilkenny Co. Council is seeking approval from An Bord Pleanála for the construction of a 25 no. unit housing scheme and ancillary infrastructure at Thomastown. Co. Kilkenny. The site is hydrologically connected to the River Barrow and River Nore SAC and the River Nore SPA via an existing field drain on the site which flows into the River Nore downstream of the site. A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effects on a European site.

Section 177AE of the Planning and Development Act, 2000, as amended requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000, as amended, requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Site Location and Description

The site is situated in the townland of Newtown to the northwest of Thomastown. Co. Kilkenny. The greenfield site incorporates sections of larger agricultural fields and is bounded to the east by the Lady's Well Street (R700), to the north by Newtown Road, to the south by Grennan Post Primary College/private dwelling house and to the west by the school's playing pitches/agricultural land. Ground levels on the site fall generally from west to east and from north to south. Field boundaries are formed by fencing and hedgerows. The site is traversed by low voltage power lines.

There are a number of detached dwellings to the east fronting onto the R700, including one which is derelict and which will be demolished to facilitate the development. Close to the junction there is a petrol filling station and a shop.

To the north of the local road, the lands that will be acquired for road widening are associated with Glebe House (Protected Structure) and are part of a large agricultural field that contains a small tree copse, a well and a small pond in the south east corner. The lands are enclosed by a stone wall on its eastern and southern sides.

3.0 Proposed Development

The proposal is to build a housing scheme on the site which has a stated area of 0.9254 ha. The scheme would include 17 no. houses and 8 no. apartments. An existing derelict house and shed adjacent to Lady's Well Street would be demolished. The main vehicular access to the site would be off the local road to the north with access to Units 22-25 provided off Lady's Well Street.

It is also proposed to carry out road realignment/widening works on Newtown Road on the opposite side of the road. This will involve the removal of c 72 meters of the existing roadside boundary extending from opposite the proposed site entrance to the junction with Lady's Well Street. The new wall would be set back by c 3m from its existing position. The new road would be c 6m wide with a 2m wide footpath. The works would also require the re-location of an existing open drain at the rear of the existing wall.

Parts of the lands are not in the ownership of the Co. Council but are in the process of being transferred. Letters of consent to the making of the application have been submitted by the landowners (Kilkenny and Carlow Education and Training Board and Seamus Farrell).

The application is accompanied by the following reports:

- Natura Impact Statement
- Archaeological Impact Assessment
- Planning Design Statement
- Landscape Treatment Assessment
- Conservation Assessment
- Transport Assessment

- Outline Construction Environmental Management Plan
- Outline Construction Waste Management Plan

4.0 Prescribed Bodies

Irish Water confirmed that a connection can be facilitated subject to a valid connection agreement.

The **HSE** noted that there is a spring/spout, known locally as the 'Newtown Fountain' located to the north of the site and some locals possibly use the water for domestic purposes. The supply is monitored as a small private drinking water supply. There is a boil notice on the supply possibly due to microbial contamination. Figure 4 of the NIS shows the source of this spout/fountain as wetlands and field drains within the proposed site boundary. It is recommended that due consideration be given to this in the preparation of the construction management plans and appropriate mitigation measures adopted accordingly. There should also a description of measures to be put in place to control rodent activity.

The **Department of Culture, Heritage and the Gaeltacht** notes that the proposed development is large in scale and will require groundworks in proximity to the Zone of Archaeological Potential established around the historic town of Thomastown. It is possible that previously unrecorded subsurface archaeological remains may be encountered during the course of groundworks for the development. It is recommended that archaeological monitoring be carried out as a condition of planning permission.

5.0 Observations

A submission was received from Paddy Ryan who raised issues regarding potential overlooking from the apartment block (Units 22-25) to the north of his property and from Units 1-5 to the rear. He questioned the appropriateness of a two-storey block between two single-storey houses. He stated that concerns would be addressed if all of the units were single-storey.

Mr Ryan raised regarding issues regarding the timing of the traffic survey which was taken outside school term time when significant traffic would be generated. There is traffic generated by a busy filling station/shop in the vicinity, and Lady's Well Street has

been narrowed at the entrance to the proposed development to mark the beginning of the one-way traffic system. Traffic is also generated by a new medical centre further south on Lady's Well Street and an apartment development opposite the school. Some of these concerns were raised in a previous appeal where planning permission was overturned by the Board (10.208653).

It is also noted that Kilkenny Co. Council have dug multiple test trenches and state that no rock has been encountered on the site. Mr Ryan has expressed concern that if rock is encountered rock breakers would have to be employed and that vibrations could compromise the foundations of the house.

6.0 Planning History

03/2031 - Planning permission granted for 13 no. units on part of the site accessing onto Lady's Well Street. The decision was overturned by the Board (10.208653) on the grounds of overlooking and loss of residential amenity and inadequate provision of public and private open space to serve the development.

7.0 Legislative and Policy Context

The EU Habitats Directive (92/43/EEC): This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

European Communities (Birds and Natural Habitats) Regulations 2011: These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code

of legislation is required to take account of the appropriate assessment of the first authority.

National nature conservation designations: The Department of Culture, Heritage and the Gaeltacht and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

European sites located in proximity to the subject site include:

- River Barrow and River Nore SAC (Site Code: 002162).
- River Nore SPA (Site Code: 004233).
- Thomastown Quarry SAC (Site Code: 002252).
- Hugginstown Fen SAC (Site Code: 000404).

Planning and Development Acts 2000 (as amended): Part XAB of the Planning and Development Acts 2000-2017 sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura Impact Statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura impact assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.

- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
 - The likely effects on the environment.
 - The likely consequences for the proper planning and sustainable development of the area.
 - The likely significant effects on a European site.

National Planning Framework – Project Ireland 2040 published in 2018 is the Government’s plan for shaping the future growth and development of Ireland out to 2040. It is envisaged that the population of Ireland will increase by up to 1 million by that date and the strategy seeks to plan for the demands this growth will place on the environment and the social and economic fabric of the country. It sets out 10 no. goals, referred to as National Strategic Outcomes.

Under National Strategic Outcome 1(Compact Growth), the focus is on pursuing a compact growth policy at national, regional and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas of cities, towns and villages, to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards. Relevant policies include NPO 4, 6,11,13, 18a, 18b & 35.

The Regional Spatial and Economic Strategy for the Southern Region

The primary aim of the Regional Spatial and Economic Strategy (RSES) is to support at a regional level the delivery of the programme for change set out in Project Ireland 2040. The Strategy seeks to build a strong, resilient and sustainable region and sets out 11 no. Strategy Statements to achieve this. Statement No 1 is concerned with strengthening and growing cities and metropolitan areas as a counterbalance to the GDA through quality development, regeneration and compact

growth and building on the strong network of towns and supporting villages and rural areas.

A key component of the RSES is to strengthen the settlement structure of the Region and to capitalise on the individual and collective strengths of settlements and rural communities. It recognises the need to provide housing, with a focus on compact growth.

Thomastown Local Area Plan 2019

The statutory plan for the area is the Thomastown Local Area Plan 2019. The site is located in an area zoned 'New Residential' with the following objective:

'To allow for new residential development and other services incidental to residential development. While housing is the primary use in this zone, childcare facilities and recreation will also be considered (20-40 units per hectare/8-16 per acre).

Under the Core Strategy it is the policy of the Council to support the sustainable long-term growth of Thomastown and continued consolidation of development within the town boundary (Policy CS1). It is an objective (CSO1.1) to support and facilitate development on zoned lands at appropriate locations and deliver at least 30% of all new homes within the existing built-up footprints in Thomastown to satisfy the housing needs of the town over the plan period.

Under the Core Strategy, the requirement is to provide c. 100 additional housing units over the lifetime of the Plan to accommodate the projected population growth in addition to c 62 units required to address social housing requirements. Over c 6.7 ha of land is zoned 'New Residential' to facilitate this growth. Table 4.3 of the LAP identifies locations where housing to meet this requirement would be accommodated and include NR1-Ladyswell Street (3.7ha) capable of delivering 74 units with a density of 20 units/ha.

Relevant policies include the following:

S01: To provide for the proportionate growth of Thomastown to maintain its 2.46% of the County's population allocation to 2026 in accordance with the National Planning Framework and the County Development Plan Settlement Strategy.

S03: To facilitate the development of high quality, integrated residential neighbourhoods that cater for an appropriate demographic mix and deliver where possible, community, recreation and amenity facilities in tandem with housing and to

encourage through new development and road schemes, improvements to enhance the approach roads to the town.

SO7: To phase future growth in line with the capacity of supporting physical infrastructure and to ensure that it occurs in accordance with proper planning and sustainable development.

SO8: To ensure development proposals conform to best practice urban design principles to deliver well planned and integrated development including renewal and regeneration that will enhance the town and improve the quality of life of its residents.

RDO1.2: To ensure that all new residential development provides for a sustainable mix of house types, sizes and tenures and that new residential development complements the existing residential mix.

8.0 Consultations

The application was circulated to the following bodies:

- Arts Council
- Failte Ireland
- An Taisce
- Heritage Council
- Irish Water
- Inland Fisheries Ireland
- Transport Infrastructure Ireland
- Health Service Executive
- Health & Safety Authority, and
- Department of Culture, Heritage and the Gaeltacht.

9.0 Assessment

The likely consequences for the proper planning and sustainable development of the area:

Principle of the development

The site lies within the development envelop of the town as defined by the Thomastown LAP 2019 and is zoned for residential purposes. It will deliver a proportion of the housing required for the town under the current core strategy. It will consolidate the towns compact urban form and accords with national, regional and local policy which seeks to deliver a greater proportion of residential development and optimise use of under-developed land in existing built up areas. I consider that the proposed development is, therefore, acceptable in principle in this location.

Layout and development strategy

The site is located at the edge of the town and the proposal which will deliver 27 units per hectare accords with the density standards (20-40 units/ha) on lands zoned 'New Residential'.

The layout and design response has been significantly influenced by the ground level changes that occur on the site. As stated in the application documentation the western side of the site consists of a tapered plateau which slopes west/east and north/south. The eastern section of the site, which contains the derelict house and outbuilding, addresses Lady's Well Street and has a significant upslope gradient.

The layout provides for development to occur on two levels in response to site levels. The larger two-storey houses would be accommodated to the rear on the upper section of the site, backing onto the playing field and taking advantage of the views over the town. On the lower section, bungalows would be provided to minimise the impacts on existing properties and the two-storey apartment block would provide suitable infill development on a derelict site addressing Lady's Well Road. I consider that the design and scale of the development is acceptable and will not detract from the visual amenities of the area.

The proposal includes an appropriate mix of houses and apartments. The 17 no. houses include single and two-storey houses consisting of 1, 2, and 3 bed units. The apartments are either 1 or 2 bed units. The scheme provides a variety of building

typologies, which will provide a number of options for different people and household types.

The individual apartments substantially comply with the requirements of the *Sustainable Urban Housing: Design Standards for New Apartments* (DoHPLG, 2018) in terms of aggregate floor areas, room sizes, floor to ceiling heights and internal storage space. All of the units are dual aspect ensuring good daylight and sunlight penetration. The external finishes, which include a mixture of nap plaster/stone finish and concrete roof tiles, is considered acceptable.

The level of open space provision (17%) exceeds standard requirements. It will be provided in two main areas of the site. It will be located centrally within the scheme, will be passively supervised and will provide safe, usable and accessible open space for residents of the scheme. Pathways will be provided to the playing pitches to the rear and to Lady's Well Street, connecting the development to the town and local amenities.

I note that the Kilkenny County Development Plan 2014-2020 (section 12.8.1) requires that a minimum of 10m² of dedicated playable space per residential unit be provided as an integral part of the required open space for each new development. Should the Board be minded to grant approval for the development, I recommend that a condition be attached requiring that a suitable area of local playable space be provided as part of the scheme.

Private open space is provided for each of the dwelling/apartment units on the site. This is in the form of rear garden space which ranges in size from 56 m² to 169m². This provides an adequate level of private and amenity for each residential unit.

I note that 51 no. parking space are proposed to serve the development. This accords with the standards set out in the Kilkenny Co Council Development Plan which also applies to development within the LAP area. Car parking standards are set out in Table 11.2 of the county development plan and there is a requirement of 2 spaces per dwelling and 1.25 spaces per apartment and 0.25 spaces for visitor parking for both houses and apartments.

Residential amenity

The proposed development backs onto the existing houses on Lady's Well Street. Mr Paddy Ryan who resides immediately to the south of the development has concerns

that he will be overlooked by the new apartment block to the north of his house (Units 22-25 Type E) and by the two-storey houses to the rear (Units 1-5). His house, which is single-storey has a window in the northern gable and is located proximate to the common boundary.

The apartment block will contain windows at ground floor level in both gables. Any potential for overlooking will be curtailed by the boundary wall separating the apartments from adjacent dwellings and proposed screening. No windows are proposed in the gables at first floor level.

The two-storey houses would be located at a higher elevation but not directly behind Mr Ryan's house. Having regard to the orientation of these houses and the significant separation distance (c 40m), I do not consider that the privacy of Mr Ryan's dwelling will be compromised such that its residential amenity would be significantly reduced.

Similarly, the proposed houses that are back to back with other houses fronting onto Lady's Well Road will not result in overlooking. These proposed houses (Units 16-21 – Type D) are all single-storey with no first-floor windows. Potential overlooking from the ground floor windows will be curtailed by boundary screening and existing vegetation.

The apartment block at the entrance to the proposed development to the north (Units 12-15 – Unit Type C) will contain windows in the rear elevation, including bedroom and bathroom windows at first floor level. There is an existing bungalow to the south which is built up tight against the common boundary. The first-floor windows of the apartments will be orientated to face the private amenity space associated with this house. While I accept that this would alter to some extent the conditions that the occupants of the house currently enjoy, I note that a 17m separation distance is achieved and this degree of overlooking is not unusual in an urban context. The residents of this house have not expressed any opposition to the proposed development.

Mr Ryan also contends that there will be vibration impacts on his house associated with the use of rock breakers. Information on ground conditions was obtained from geotechnical investigations carried out on the site. The results are contained in the Site Investigation Report (Appendix 3). Rock was encountered at depths varying from 4.5m bgl to 14.10m bgl. The investigations suggest that soils present on the site have adequate bearing capacity to accommodate foundations. There is no suggestion that

rock breaking would be required on any part of the site and the observers concerns regarding structural damage from vibrations are therefore unfounded.

The likely effects on the environment:

There is no provision under Section 177AE of the Planning and Development Act, 2000, as amended, to require Environmental Impact Assessment or to carry out a formal EIA Screening Determination for a local authority project which was submitted under this section of the Act. Having regard to the nature, scale and characteristics of the proposed development, I consider that the main environmental effects to be assessed, other than those covered under the Appropriate Assessment, are as follows:

Traffic and Transportation

The proposal will generate additional traffic movements onto the adjoining road network. It is proposed to create new access arrangements in the form of priority junctions to serve the proposed development. The main access to the site will be from Newtown Road to the north at the location of an existing field access. It joins the R700 to the east via a mini roundabout. The apartments to the east will be accessed from the existing access on Lady's Well Road in a redesigned arrangement.

Newtown Road to the north is narrow with no footpaths. The section of the road extending eastwards from the new site access to the regional road junction will be widened and provided with a footpath as part of the proposal. Adequate sightlines will be created in both direction from the new access point. It is proposed to extend the 50kph from the junction so that the new access is positioned within the lower speed limit.

A Transport Assessment was prepared for the development. It indicates that there will be negligible increase in traffic arising from the proposed development. The increase will be less than a 5% increase (maximum 2.68% increase in AM peak) in 2020. It is also indicated that junctions will continue to operate satisfactorily with no significant queuing of vehicles.

The Board will note that the observer raised issues with regard to the timing of the traffic survey. It was carried out outside school term time and therefore not considered to be representative of existing baseline conditions. The traffic survey, which covers the AM and PM peak period, was conducted on Wednesday June 19th, 2019.

While I would accept that the timing of the survey would have an influence on traffic flows and queuing times at the junction, this is a small-scale residential development in an urban setting. Based on the limited predicted traffic movements associated with the proposed development during the AM/PM peaks, I do not consider that the development will act in combination with school traffic to significant effects on the local transport network or traffic movement in the locality. Furthermore, I would note that the proposed development is not likely to increase school traffic due to the one-way system that operates northwards on Lady's Well Street and due to the pedestrian linkages that will be provided between the development and the school.

I would point out to the Board that the case referred to by the observer (10.208653) which proposed an access onto the regional road opposite the petrol filling station was not refused on traffic grounds, but on the grounds of serious overlooking and inadequate provision of public and private open space.

Architectural and archaeological heritage

The Archaeological Impact Assessment report included a desk-top and walkover survey which concluded that there were no known recorded archaeological monuments within the site and no obvious surface anomalies that could have archaeological potential.

The site lies outside the zone of archaeological potential which encompasses most of the town. The closest recorded monuments include a holy well (KK028-039) located c.75m to the south on Lady's Well Street and ecclesiastical remains (KK028-038) c.120m to the east. Neither of these monuments will be impacted by the proposed development. The Department of Culture, Heritage and the Gaeltacht have requested that archaeological monitoring of groundworks be undertaken, recognising the potential for previously unrecorded subsurface remains to exist on the site. This can be satisfactorily addressed by way of condition.

Both the northern and southern section of the site belonged to substantial properties including the former Newtown House, and Glebe House which is now in private ownership.

Glebe House is listed in the Record of Protected Structures (C632) and is described as follows:

'Detached, three-bay, two-storey over basement Board of First Fruits Glebe House, built 1806'.

The NIAH appraisal (Ref 12317086) describes the property as follows:

'A well-composed Classically-proportioned substantial house retaining the original composition attributes together with substantial quantities of the early fabric both to the exterior and interior, thereby contributing to the historic character of the locality. Positioned on a slightly elevated site the house forms a pleasant landmark in the outskirts of Thomastown. Having been sponsored by the Board of First Fruits (fl.c.1711-1833) the house remains of particular importance for the role as an ecclesiastical residence having associations with the nearby Church of Ireland church'.

The road widening proposals would involve the removal of part of the boundary wall (72m) that bounds the southern and eastern part of the property, including a 3.25m return at the junction with Lady's Well Street. The wall would be replaced in a stepped back location from its present position.

The house is set back significantly into the landscape and is screened from Newtown Road and the R 700 by existing trees. There will be no direct impacts on the protected structure or its setting arising from the proposed development. The wall is an important element, defining the boundary of the lands associated with the protected structure. However, as noted in the Conservation Assessment report the boundary wall is not entirely original, with evidence of rebuilding using various building styles. The section of the wall closest to the junction contains a Cock and Hen capped wall with rough coursed masonry with lime mortars. Further along the road sections of the wall have been topped, lowered and capped and the corner has been repointed many times as evidenced by the varying mortars and styles of masonry.

To mitigate potential impacts, it is proposed to record the Cock and Hen wall before dismantling. It is intended to rebuild the wall in the same style using traditional lime mortars on a reinforced strip foundation. Dismantling and rebuilding will be carried out by experienced stonemasons and supervised by a conservation engineer.

While I accept that it would be preferable that the works did not impact on the boundary wall associated with the protected structure, I do note that alternative options were considered and rejected. Widening on the south side of the road was not a feasible alternative due to the level of encroachment on the garden, driveway and parking areas

of the adjacent residential property. Consideration was also given to the provision of access arrangements directly onto Lady's Well Road which was rejected due to the constraints presented by existing site levels.

Subject to the appropriate reinstatement of the boundary wall, I consider an acceptable compromise can be achieved, providing safe and proper access to the site while minimising the impact on built heritage. I recommend, should the Board be minded to grant approval for the development, that a conservation method statement be prepared in advance of construction and that the works be conducted by an experienced stone mason and supervised by a qualified built heritage specialist, ensuring that the maximum amount of historic fabric is re-used in the realigned wall.

The likely significant effects on a European site

The requirements of Article 6(3) as related to appropriate assessment of a project considered under 177AE of the Planning and Development Act 2010 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive.
- Screening the need for Appropriate Assessment
- The Natura Impact Statement.
- Appropriate Assessment.

Compliance with Articles 6(3) of the EU Habitats Directive:

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with, or, necessary to the management of the site, but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

Screening the need for Appropriate Assessment

The first test of Article 6(3) is to establish if the proposed development could result in likely significant effects to a European site. This is considered Stage 1 of the appropriate assessment process i.e. screening. The screening stage is intended to be a preliminary examination. If the possibility of significant effects cannot be excluded on the basis of objective information, without extensive investigation or the application of mitigation, a plan or project should be considered to have a likely significant effect and Appropriate Assessment carried out.

Having regard to the information and submissions available, the nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source-pathway-receptor principle and sensitivities of the ecological receptors, the following European sites are considered relevant to include for the purposes of initial screening for the requirement for appropriate assessment on the basis of likely significant effects.

European sites considered for (Stage 1) by the applicant included the following:

- River Barrow and River Nore SAC (Site code 002162).
- River Nore SPA (Site code 004233).
- Thomastown Quarry SAC (Site code: 002252).
- Hugginstown Fen SAC (Site code 000404).

Hugginstown Fen SAC is located c 12.38 km south west of the site. It is selected for 'Alkaline Fens', a habitat listed on Annex 1 of the Habitats Directive. The site is described as follows in the site synopsis for the site:

'The site consists of a relatively large, isolated area of swamp and floating fen developed in a small valley in hilly country. The catchment is relatively small and iron rich springs are an important source of water for the wetland'.

This site is eliminated for further consideration as there is no hydrological connectivity between the proposed development and the designated site.

Thomastown Quarry SAC is located c 340m to the north of the site and is described in the site synopsis as 'a disused limestone quarry in which an excellent diversity of

calcareous habitat types has developed'. The site is designated for '*Petrifying springs with tufa formation*', a habitat with priority status on Annex 1 of the Habitats Directive.

The site is eliminated for further consideration as the proposed development will not result in any change in hydrology and no effects on the springs in the quarry.

With regard to the remaining 2 no. sites the site is hydrologically connected to the River Barrow and River Nore SAC and the River Nore SPA via a narrow drain which runs inside the roadside boundary of the road to be widened. The drain flows into a wetland which is fed by a number of springs. The water is culverted under the road at Lady's Well Road and discharges into the River Nore which is designated as part of the River Barrow and River Nore SAC and the River Nore SPA.

Based on my examination of the NIS report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for 2 no. of the European sites referred to above as the possibility for significant effects cannot be ruled out.

The remaining 2 no. sites can be screened out from further assessment because of the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and the European sites.

It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on Hugginstown Fen SAC (Site code: 000404) or Thomastown Quarry SAC (Site code: 002252) in view of the site(s) conservation objectives and Appropriate Assessment is not therefore required for these European sites.

The Natura Impact Statement

The application is supported by an NIS which describes the proposed development, the project site and the surrounding area. The NIS contained a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required.

The NIS outlined the methodology used for assessing potential impacts on the habitats and species within the European Sites that have the potential to be affected by the proposed development. It predicted the potential impacts for these sites and their conservation objectives, it suggested mitigation measures, assessed in-combination effects with other plans and projects and it identified any residual effects on the European sites and their conservation objectives.

The NIS was informed by examination of various GIS data sources including those from the NPWS, OSI, and the EPA and consultation and review of NPWS site synopsis and conservation objectives for relevant European sites and National Biodiversity Data Centre records.

The report concluded that, subject to the implementation of best practice and the recommended mitigation measures, the proposed development would not individually, or, in combination with other plans or projects adversely affect the integrity of any European site.

Having reviewed the NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, clearly identifies the potential impacts, and uses best scientific information and knowledge. Details of mitigation measures are provided and they are summarised in Section 3.6 of the NIS and in the OCEMP. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

Appropriate Assessment of implication of the proposed development

The following is an objective scientific assessment of the implications of the project on the relevant conservation objectives of the European sites using the best scientific knowledge in the field (NIS). All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are examined and assessed.

Relevant European sites

Details of the 2 no. sites brought forward for Appropriate Assessment together with their Qualifying Interests and the distance from the development site are set out below. A description of these sites and their Conservation Objectives and Qualifying Interests/Special Conservation Interests, including relevant attributes and targets for these sites are set out in Section 3.1 of the NIS.

Table 1

Site Name	Qualifying Interests	Distance
<p>River Barrow and River Nore SAC (Site code: 002162)</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Reefs [1170]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows [1330]</p> <p>Mediterranean salt meadows [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>European dry heath [4030]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation [7220] *</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior [91E0]*</p> <p>Desmoulin's Whorl Snail [1016]</p> <p>Freshwater Pearl Mussel [1029]</p> <p>White-clawed Crayfish [1092]</p>	<p>7km</p>

Site Name	Qualifying Interests	Distance
	Sea Lamprey [1095] Brook Lamprey [1096] River Lamprey [1099] Twaite Shad [1103] Salmon [1106] Otter [1355] Killarney Fern [1421] Nore Pear Mussel [1990]	
River Nore SPA (Site code:004233)	Kingfisher	8km

Note (* =priority)

River Barrow and River Nore SAC

The development site is located to the north of the River Nore which flows through Thomastown. The River Nore is part of the River Barrow and River Nore SAC which consists of the freshwater stretches of the Barrow and Nore River catchments and the tidal elements of the estuary. It is of significant ecological importance and hosts a range of species and habitats, including priority habitat.

Detailed site-specific conservation objectives have been published for the site, with the overall objective being to maintain or restore the favourable conservation condition of the Annex 1 habitat and Annex 11 species for which the site is selected.

River Nore SPA

The site is a long linear site that includes the river channel and marginal vegetation.

The site is of special conservation interest for Kingfisher.

The generic objective is:

'To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Potential adverse effects during construction on qualifying species and habitats of the designated sites.

The proposed development which would take place within the boundaries of the site would not result in any direct impacts on the SAC, the SPA or their qualifying interests. There will be no loss/fragmentation of habitat or impacts on the integrity of the site structure of the designated sites. There would be no direct impacts on Kingfisher within the SPA, as the site is located outside its normal feeding territory (3-5km).

There is potential for indirect effects associated with the road widening proposals which will necessitate the re-routing of the internal water course. These works have the potential to release sediment and other contaminants to the existing field drain which feeds into the River Nore. The site is therefore hydrologically connected to the SPA and the SAC which creates the potential, in the absence of mitigation, for indirect impacts arising from a deterioration in water quality and the water dependent habitats/species for which the sites' are selected.

Mitigation measures during construction

The road widening works impact on a field drain located at the back of the existing wall which will be set back as part of the road widening proposals. The field drain flows into a wetland area that is fed by a number of springs. The water is culverted under the boundary wall where it directed under the road which connects into a local watercourse that flows into the River Nore. According to the documentation on the file, the well, wetland and water channels would not be located within the works area. The existing and proposed layouts of the drain are shown on Dwg No's 110 and 111 respectively. Cross sections are provided in Dwg No 112.

To reduce potential impacts, the works to re-locate the existing drain will be carried out during the summer months during period of low flow in the drainage channel and when the risk off run-off to the drainage channel is at a minimum. The new channel will match the existing channel in depth and profile and will terminate in the same location as the existing channel at the rear of the existing stone boundary wall facing Lady's Well Street.

Standard best practice measures are proposed during construction to protect water quality, and these will be incorporated into a Surface Water Management Plan. This will include the provision of cut-off drains to prevent water from entering excavations, the use of temporary silt fences to prevent silt laden surface water from entering drainage systems, the use of a silt curtain at the point of discharge on Lady's Well Street, appropriate management/storage of excavated material/spoil and refuelling within dedicated compounds. Best practice measures will be employed in concrete and lime mortar management to ensure that they do not enter the field drain or water course. The impacts of construction activities will be managed in accordance with a Construction and Environmental Management Plan (Outline CEMP contained in Appendix 1).

It is considered that the implementation of these measures, which involve standard best practice methodologies and environmental controls are sufficient to address the potential adverse effects of the development and to ensure the protection of the River Barrow and River Nore SAC (Site code 002162) and the River Nore SPA (Site Code 004233).

Mitigation measures during operation

Following completion of the construction works it is not envisaged that the potential exists for any significant effects on the Natura site and no mitigation measures are therefore required.

Cumulative impacts

The potential for cumulative effects is considered in Section 3.7 of the NIS. Table 2 provides details of planning applications in the vicinity of the site. Screening for AA was completed in respect of the more recent applications, which concluded in each case that significant effects on a European site are not likely. It is concluded in the NIS that as best construction measures will be employed and enforced through the CEMP, the proposed development will have no predicted impacts on local ecology or biodiversity or on hydrologically linked European sites and therefore in-combination effects can be ruled out. I consider this is conclusion is reasonable.

I note that both the Kilkenny County Development Plan 2014-2020 and the Thomastown LAP 2019 have themselves been subject to Strategic Environmental

Assessment which have concluded that significant environmental impacts are not likely to arise from the adopted development scenario.

10. Conclusion

- I consider that the proposed development is acceptable in principle and will support consolidated growth within the town boundary in accordance with the provisions of the plan.
- I consider that the layout and design of the proposed development is acceptable and would provide a suitable level of amenity for future occupants and would not negatively impact on the residential amenity of adjoining properties.
- I consider that the design and scale of the development is acceptable and will not detract from the visual amenities of the area.
- Having regard to the nature and limited scale of the development, I consider that traffic generated by the proposed development can be accommodated within the existing road network and would be acceptable in terms of traffic safety and convenience.
- Subject to mitigation, the proposed development would not result in significant adverse impacts on the architectural, archaeological, or cultural heritage of the area.
- The proposed development, by itself, or in combination with other plans or projects would not adversely affect the integrity of European sites, in view of the site's conservation objectives.

11.0 Recommendation

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and consideration set out below and subject to the conditions requiring compliance with the submitted details and the mitigation measures set out in the NIS.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011-2015,
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the River Nore SPA (Site code: 004233) and the River Barrow and River Nore SAC (Site code: 002162),
- (e) the policies and objectives of the Thomastown Local Area 2019,
- (f) the nature and extent of the proposed works set out in the application for approval,
- (g) The submissions and observations received in relation to the proposed development,
- (h) The report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment

The Board agreed with and adopted the screening assessment and conclusion reached in the Inspector report that the River Nore SPA (site code: 004233) and the River Barrow and River Nore SAC (site code: 002162), are the only European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file. The Board completed an appropriate assessment of the implications of the proposed development for two European Sites, namely the River Nore SPA (site code: 004233) and the River Barrow and River Nore SAC (site code: 002162), in view of the site's conservation

objectives. The Board considered that the information before it was adequate to allow for a complete assessment of all aspects of the proposed development and enable them reach complete, precise and definitive conclusions for appropriate assessment.

In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's conservation objectives and there is no reasonable scientific doubt remaining as to the absence of such effects.

Proper Planning and Sustainable Development/Likely effects on the environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would be acceptable in terms of traffic safety and convenience. The proposed development is in accordance with the stated objectives of the Thomastown LAP 2018-2024 which seeks to accommodate residential development in suitable locations on zoned lands. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and the information contained in the Natura Impact Statement, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. No excavation of the existing drainage channel or the excavation/construction of the new drainage channel shall take place between October 1st and June 30th in any year.

Reason: In the interests of nature conservation and to ensure the protection of European sites.

3. The external finishes of the proposed houses and apartments shall be as submitted.

Reason: In the interests of visual amenity.

4. Prior to commencement of development, the local authority or any agent acting on its behalf shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP) incorporating all the mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to best practice and protocols. The plan shall include a Surface Water Management Plan including measures to protect the existing well and measures for the control of rodents. The plan shall be placed on the file and retained as part of the public record.

Reason: In the interests of protecting the environment, the landscape, European Sites and in the interests of public health.

5. The local authority and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and

washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

6. The local authority and any agent acting on its behalf shall facilitate the preservation, recording, protection or removal of archaeological materials or features that may exist within the site. In this regard, the County Council shall:
 - a) employ a suitably qualified archaeologist prior to commencement of the development who shall assess the site and monitor all site investigations and other excavation works, and
 - b) provide suitable arrangements acceptable to the Department of Culture, Heritage and the Gaeltacht for the recording and removal of any archaeological materials which is considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and secure the preservation and protection of any remains that may exist within the site.

7. (a) A conservation expert shall be employed to manage, and monitor the recording, dismantling and rebuilding of the roadside wall to the north side of the site and to ensure adequate protection of the historic fabric during the works. The works shall be carried out in accordance with a Conservation Method Statement which shall be placed on the file and retained as part of the public record.
 - (b) All repair work shall be carried out in accordance with best conservation practice as detailed in the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Arts, Heritage and the Gaeltacht in 2011. The repair works shall be designed to cause minimum interference to the masonry wall. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
 - (c) The replacement of any masonry stone or any works of re-pointing shall be undertaken so that it matches the original existing bridge and wall finish and

shall be in accordance with current Conservation Guidelines issued by the Department of Arts, Heritage and the Gaeltacht.

Reason: To ensure that the integrity of the masonry walls is maintained, that the structures are protected from unnecessary damage or loss of fabric and to ensure an appropriate standard of restoration works.

8. The internal road network serving the proposed development, including turning bays, junctions, sightlines, pedestrian routes, footpaths and kerbs shall comply in all respects with the provisions of the Design Manual for Roads and Streets.

Reason: In the interests of pedestrian and traffic safety and in order to comply with national policy in this regard.

9. All areas of open space shown on the submitted drawings shall be reserved for such use and shall be levelled, contoured, soiled, seeded and landscaped. The open space shall be laid out and landscaped prior to the occupation of any of the houses or apartments. An area of local playable space shall be provided within the area of open space including fixed equipment for children up to 12 years of age.

Reason: In the interests of proper development.

10. A comprehensive boundary treatment and landscaping scheme shall be prepared and placed on file as part of the public record. The scheme shall include the following:

- (a) details of all proposed hard surface finishes, including samples of proposed paving flags/materials for footpaths, kerbing and road surfaces within the development;
- (b) proposed locations of trees and other landscape planting in the development, including details of proposed species and settings;
- (c) details of proposed street furniture, including bollards and lighting fixtures;

(d) details of proposed boundary treatments at the perimeter of the site and at the boundaries with existing residential property, including heights, materials and finishes;

(e) measures to ensure the retention of the existing hedgerows where appropriate.

The boundary treatment and landscaping shall be carried out in accordance with the scheme.

Reason: In the interests of visual amenity.

10 Site development and building works shall be carried out only between 0800 to 1800 hours Monday to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Reason: In order to safeguard the amenities of properties in the vicinity.

11 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

12 The proposed development shall make provision for the charging of electrical vehicles. All car parking spaces serving the proposed development shall be provided with electrical connections, to allow for the future provision of future charging points. Details of how it is proposed to comply with these requirements, including details of the design of, and signage for, the electrical charging points (where they are not in the areas to be taken in charge) shall be placed on the file and retained as part of the public record.

Reason: In the interest of suitable transportation.

13 The construction of the development shall be managed in accordance with a Construction and Traffic Management Plan, which shall be placed on the file and retained as part of the public record. The plan shall provide details of the intended construction practice for the development, including

- (a) Location of the site and materials compounds(s) including area(s) identified for the storage of construction waste;
- (b) Location of areas for construction site offices and staff facilities;
- (c) Details of security fencing and hoardings;
- (d) 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 abnormal loads to the site;
- (e) Measures to obviate queuing of construction traffic on the adjoining road network;
- (f) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- (g) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of the public road or footpath during the course of site development works;
- (h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (i) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (j) Details of how it is proposed to manage excavated soil;

A record of daily checks that the works are being undertaken in accordance with the Construction and Traffic Management Plan shall be maintained on file as part of the public record.

Reason: In the interests of amenity, public health and safety.

Senior Planning Inspector
14th, September, 2020